



# SUPPORT DATA PRIVACY LEGISLATION TO REGULATE DATA BROKERS: HB 4917 & SB 2105

## TEXANS DESERVE TO CONTROL PERSONAL AND ONLINE DATA

Current Texas law lacks the data privacy rights necessary to safeguard the personal and online data of its citizens. The lack of data privacy laws affects all Texans, but is particularly problematic for vulnerable populations, such as survivors of domestic violence, victims of human trafficking, youth, and older adults. The current state of the law enables and facilitates harmful actions by abusers, fraudsters, and scammers who can easily glean information from the Internet and use it to perpetuate abuse and fraud. Advances in digital technologies have allowed our behavior to be incessantly monitored. Every day, mass amounts of data are collected from us using a range of methods, including online cookies, registered loyalty cards, public social media platforms, device or browser identifiers, and more.<sup>1</sup> **Data brokers** are key players in collecting and selling our personal data.

### WHAT ARE DATA BROKERS?

Data brokers are businesses that have no direct relationship with an individual, yet they collect and sell personal information to third parties. Data brokers collect our data gleaned from tracking internet searches and from other parties with whom we do business. They then sell our data to interested parties, such as companies looking to advertise their products or businesses, as well as to any person who may be looking for information about us and willing to pay for it.



Data brokers collect expansive lists of data about individuals. Some<sup>2</sup> examples of this are:

- Full names,
- Home addresses (both current and previous),
- Telephone numbers and email addresses, and
- Social security numbers.

Data brokers then add a vast trove of *digital* information to the personal data they have collected, including web browser identification, web history, profile data, location information from mobile apps, and purchase history. Little to no accountability exists regarding what can be collected, who has access to the data, or how it is protected.



As our data gets passed around among countless third parties, there are more possibilities for our data to be leaked or breached in a way that causes real harm.<sup>3</sup> A lack of data privacy protections gives broad access to all our vulnerabilities. **Texas has the ability to protect individual privacy by enacting consumer data privacy laws and protections that give Texans the right to control their own data.**

<sup>1</sup> Lois Beckett, "Everything We Know About What Data Brokers Know About You." ProPublica, (June 13, 2014).

<sup>2</sup> Other examples include gender, marital status, education history, and household income.

<sup>3</sup> In recent years, we have seen major data breaches from [T-Mobile](#), [Equifax](#), [Robinhood](#), and [Edfinancial](#), which put millions of consumers' personal, private financial data at risk, and have brought about growing data privacy concerns from consumers.

# PROTECT VULNERABLE POPULATIONS FROM DATA BROKERS

## **SURVIVORS OF DOMESTIC VIOLENCE AND HUMAN TRAFFICKING**

Rapidly growing technology can bring risks to the well-being and security of survivors of domestic violence, victims of human trafficking, youth, and vulnerable older adults. The current use and abuse of personal data has significant ramifications for individual safety and protection. The digital age has enabled ingenious ways for abusers, fraudsters, and scammers to gain access to personal identifying information. As a result, we see significant impacts on financial stability and physical safety. Through economic exploitation, abusers can use the vast array of data available to continue to harass and harm survivors of domestic violence and human trafficking both when they are in the abusive relationship and long after they have escaped. Data show that economic exploitation is prevalent in abusive relationships, and this type of abuse is enabled by the ease of accessing and using the data of victims and survivors.<sup>4</sup>

## **VULNERABLE OLDER ADULTS**

A myriad of social and economic issues face the more than 3 million people over the age of 65 living in Texas today, including elder abuse through exploitation and fraud.<sup>5</sup> A common form of elder fraud is the “grandparent scam,” which takes advantage of a grandparent’s love and concern for their grandchildren to scam them out of money. Scammers now have access to an abundance of personal information about their targets, thus bolstering their impersonations by making them more believable. As it currently stands, Texas is a leader in terms of the losses of over 60 victims of elder fraud, with losses reaching more than \$100 million.<sup>6</sup>



## **POLICY RECOMMENDATIONS**

To allow Texans to gain control over their data, HB 4917/SB 2105 seeks to regulate data brokers that collect and sell Texans’ most personal and sensitive information. The bill would identify the data brokers that currently handle Texans’ data, give consumers a tool to help control the collection and sale of their personal data, and enhance the protection of personal data held by data brokers by requiring data brokers to:

- ✔ **Register annually with the Secretary of State;**
- ✔ **Provide a notice of who they are, what data they collect, and additional categories to the Secretary of State and on all online platforms they use to operate their businesses; and**
- ✔ **Develop, implement, and maintain a comprehensive information security program consistent with the safeguards for the protection of personal data.**

There are civil penalties for data brokers failing to register with the Secretary of State or failing to post an online notice of information or to the Secretary of State. Additionally, a violation of a data broker failing to comply with the comprehensive information security program would be considered a deceptive trade practice actionable under Chapter 17 of the Business and Commerce code.

<sup>4</sup> A 2019 report by the National Domestic Violence Hotline found that nearly one in three Texans who called the hotline disclosed experiencing economic/financial abuse, and 19% disclosed experiencing digital abuse, which was defined as abuse through “the use of technologies such as texting and social networking to bully, harass, stalk, or intimidate a partner.” See: National Domestic Violence Hotline, “[Texas State Report](#).” (2019).

<sup>5</sup> Elder “exploitation” is defined as “the fraudulent use or otherwise illegal, unauthorized, or improper act or process of an individual, including a caregiver or fiduciary, that uses the resources of an elder for monetary or personal benefit, profit, or gain, or that results in depriving an elder or rightful access to, or use of, benefits, resources, belongings, or assets.” See: Patient Protection and Affordable Care Act, Pub. L. No. 111-148, 124 Stat. 119, 111-148 (2010).

<sup>6</sup> Federal Bureau of Investigation, “[2021 Elder Fraud Report](#)” (2022).



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