Texas Privacy and Artificial Intelligence Legislation

88th Legislative Session

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Texas Department of Information Resources

Transforming How Texas Government Serves Texans

Texas Data Privacy and Security Act

Texas Data Privacy and Security Act – HB 4

- Texas' new comprehensive data privacy and security law for Texas businesses

- Authored by Rep. Giovanni Capriglione

- Enacted June 2023

- Effective July 1, 2024

Consumer Privacy Rights

The Act grants consumers rights regarding their data, including rights to:

- Access

- Correction

- Deletion

- Portability

- Opt-out of processing for:
  - Targeted advertising
  - Sale of personal data
  - Profiling in furtherance of a decision that produces a legal or similarly significant effect concerning the consumer

Business Obligations

Transparency

- A controller shall provide consumers with a reasonably accessible and clear privacy notice that explains the data collected, how it is shared or sold, how to exercise consumer rights.

Minimization

- A controller shall limit the collection of personal data to what is adequate, relevant, and reasonably necessary in relation to the purposes for which that personal data is processed, as disclosed to the consumer.

Purpose Specification and Use Limitation

- A controller may not process personal data for a purpose that is neither reasonably necessary to nor compatible with the disclosed purpose for which the personal data is processed, as disclosed to the consumer, unless the controller obtains the consumer 's consent.

No Discrimination

- A controller may not discriminate against a consumer for exercising any of the consumer rights contained in the Act.

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Unique Applicability Requirements

The law applies to a person that:

(1) conducts business in Texas or produces a product or service consumed by residents of Texas;

(2) processes or engages in the sale of personal data; and

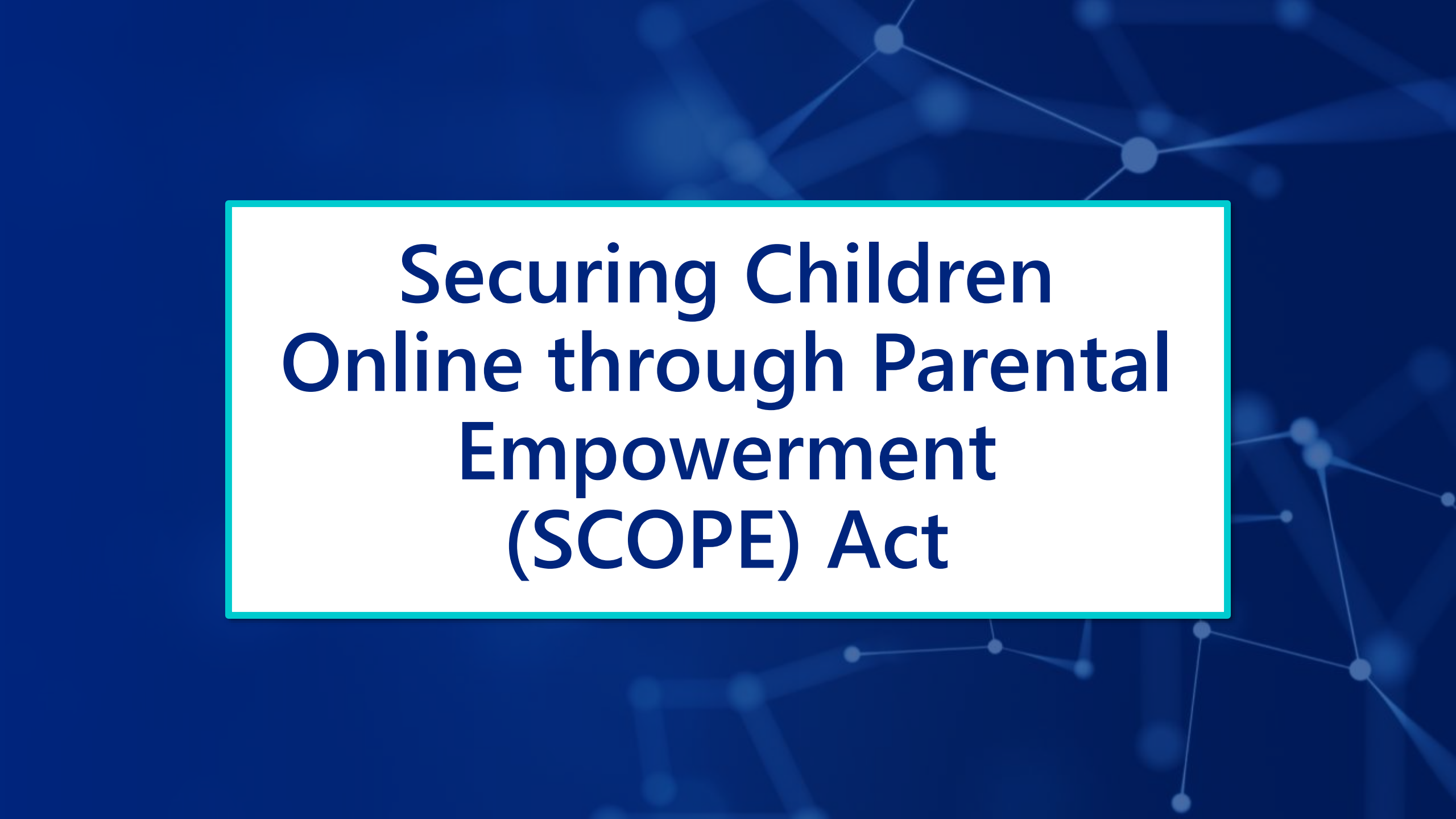(3) is not a small business as defined by the United States Small Business Administration.

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Restrictions on the Sale of Sensitive Personal Data

"Sale of personal data" means the sharing, disclosing or transferring of personal data for monetary or other valuable consideration by the controller to a third party.

Businesses, including small businesses otherwise exempted from the Act's requirements, must obtain opt-in consent to sell an individual's sensitive personal data.

SCOPE Act – HB 18

- Aims to protect minors from harmful, deceptive, or unfair trade practices in connection with the use of certain digital services and electronic devices

- Requires parental consent for digital service providers to collect certain PII from minors or share, disclose, or sell the minors' PII in certain circumstances

- Requires digital service providers to create parental tools that allow the parent to supervise their minor's use of a digital service

Texas Artificial Intelligence Advisory Council

Texas AI Advisory Council – HB 2060

- Creates the Artificial Intelligence Advisory Council to study and monitor AI systems developed, employed, or procured by state agencies.

- Composed of seven members, including:
  - a member of the Texas House
  - a member of the Texas Senate
  - four professionals with expertise in different areas impacted by AI
  - the Executive Director of the Department of Information Resources.

Automated Decision Systems Inventories

Each state agency in the executive and legislative branches must submit an inventory to the council that identifies:

- The name and vendor of each automated decision system
- The capabilities of the system
- Types of data inputs the system uses
- How the data inputs are generated, collected, and processed
- Types of data the system generates
- Whether the system has been tested by an independent third party, has bias, and has been tested for bias
- The purpose and proposed use of the system
- The fiscal impacts of the system

Duties of the AI Advisory Council

Assess the need for a state code of ethics for artificial intelligence systems in state government

Review automated decision systems inventory reports submitted by state agencies

Assess the impact of using artificial intelligence systems in state government on the liberty, finances, livelihood, and privacy interests of the residents of this state

Recommend policies necessary to protect the privacy interests of Texans and prevent unfair discrimination caused by the employment of AI

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Thank You

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