

**Testimony in Support of LD 1822, An Act to Enact the Maine Online Data Privacy Act
In Opposition to LDs 1088, 1224, and 1284**

Committee on Judiciary

May 5, 2025

Dear Senator Carney, Representative Kuhn, and Distinguished Members of the Committee on Judiciary,

GLBTQ Legal Advocates & Defenders (GLAD Law) is a nonprofit legal organization that works in New England and nationally to create a just society free of discrimination based on gender identity and expression, HIV status, and sexual orientation. We appreciate the opportunity to submit this testimony together with EqualityMaine and MaineTransNet in support of LD 1822 and in opposition to LDs 1088, 1224, and 1284.

LD 1822 would be a major step forward in protecting the digital privacy of all Mainers. This is an especially urgent issue for LGBTQ+ people, who face heightened risks from digital surveillance, widespread data sharing, privacy breaches, algorithm-based decision-making, and other forms of data misuse. These risks include forced outing (the disclosure of a person's sexual orientation or transgender identity without their consent), targeted healthcare surveillance, and unlawful discrimination in housing, employment, lending, and other important settings.¹

Inappropriate collection and sale of personal data related to sexual orientation, gender identity, and transgender healthcare could also aid hostile governments in enforcing anti-transgender laws against Mainers.² As explained by the Project on Government Oversight, this threat is especially apparent in the healthcare context:

A huge array of personal information is derived from our digital footprints. . . . Digital surveillance techniques have clear applications for police investigations around gender-affirming care, experts say. Law enforcement agencies can access personal data in a number of ways when conducting criminal investigations. They can get geofence warrants (which allow police to obtain location data from cellular devices within a specified geographic area), . . . and they can purchase personal data without a warrant. Experts warn that law enforcement using personal data provided by tech companies like Google, Meta, and others, could identify people who have obtained, provided, or “aided and abetted” in providing gender-affirming care.

Police could “basically do a fishing expedition for anybody who may have been, for example, near a certain clinic or near a certain community center or near a

¹ See generally Chris Wood et al., *The Role of Data Protection in Safeguarding Sexual Orientation and Gender Identity Information*, Future of Privacy Forum (2022), <https://fpf.org/wp-content/uploads/2022/06/FPF-SOGI-Report-R2-singles-1.pdf>.

² See generally René Kladzyk, *Policing Gender: How Surveillance Tech Aids Enforcement of Anti-Trans Laws*, Project on Government Oversight (June 28, 2023), <https://www.pogo.org/investigations/policing-gender-how-surveillance-tech-aids-enforcement-of-anti-trans-laws>.

certain medical facility at a certain time, and use that as evidence as they're building their case," according to [Hayley] Tsukayama of the Electronic Frontier Foundation.³

Similar risks apply in the reproductive healthcare setting.⁴ Without comprehensive privacy protections in place, the risk that health data can be collected and sold to law enforcement in other jurisdictions, without patient consent, means that Mainers cannot fully and freely exercise their rights to aid or engage in legally protected healthcare activity.

More broadly, the fear that sensitive health information could be tracked, disclosed, or misused may cause LGBTQ+ individuals to delay or avoid seeking necessary healthcare, including gender-affirming and reproductive healthcare services, which undermines public health as well as individual wellbeing.⁵

LD 1822 protects against these risks. In addition to providing robust privacy protections for all forms of personal data, LD 1822 includes specific restrictions on the collection, processing, and sale of data revealing consumers' sexual orientation, gender identity, and location history. LD 1822 also imposes limits on geofencing around healthcare facilities. And it prohibits corporations from processing personal data in an unlawfully discriminatory manner, ensuring that algorithms and artificial intelligence are not used to exclude or harm Mainers because of their sexual orientation, gender identity, sex, or any other protected characteristic.

In sum, LD 1822 is an important step to prevent Mainers' most personal data from being misused for surveillance and discrimination, and it is necessary to protect LGBTQ+ Mainers from the unique risks they face. GLAD Law respectfully urges this committee to support this important legislation.

By contrast, LDs 1088, 1224, and 1284 would enable the kind of data collection, processing, and disclosure practices that threaten the privacy, safety, and wellbeing of LGBTQ+ Mainers. GLAD Law asks that this committee vote "ought not to pass" on these three bills.

Sincerely,
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³ *Id.*

⁴ See, e.g., Joseph Cox, *Location Data Firm Provides Heat Maps of Where Abortion Clinic Visitors Live*, Vice (May 5, 2022), <https://www.vice.com/en/article/location-data-firm-heat-maps-planned-parenthood-abortion-clinics-placer-ai/>.

⁵ Cf. HIPAA Privacy Rule to Support Reproductive Health Care Privacy, 89 Fed. Reg. 32976, 32978 (Apr. 26, 2024).