



Senator Carney, Representative Kuhn, and esteemed members of the Joint Standing Committee on the Judiciary, my name is Lisa Margulies, I serve as Vice President of Public Affairs, Maine, for Planned Parenthood of Northern New England, and I am here today to submit testimony in support of LD 1822 and in opposition to LDs 1088, 1224, and 1284.

Planned Parenthood of Northern New England provides comprehensive reproductive and sexual health care in approximately 10,000 visits per year in Maine at four health centers located in Biddeford, Portland, Sanford, and Topsham, as well as online via telehealth. People turn to us for affordable, high-quality care including wellness exams, birth control, disease testing and treatment, cancer screenings, behavioral health care, abortion care, gender-affirming care, in addition to a variety of primary care services.

As a mission driven health care provider, we fundamentally believe everyone should be able to access affordable, high quality sexual and reproductive health care in their communities, no matter where they live or how much money they make, and we advocate for policies that help make this vision a reality. All people deserve to access comprehensive reproductive health care, including abortion and gender-affirming care, free from shame, stigma, and intimidation. We see everyone who comes to us regardless of ability to pay, and in a typical year, we provide more than \$1.2 million in free and discounted care to our communities in Maine. For many, we are their only access to the health care system.

Sensitive personal information, including reproductive health data, must be private. Ensuring privacy protections for and personal control over the collection and use of our own data is even more important as the breadth of information collected and inferred from our personal data grows. No one should fear that their sensitive data will be compromised or used against them.

Sadly, this information is already being weaponized to surveil and prosecute pregnant people, including those seeking abortions, and there are similar threats to trans and non-binary people seeking care along with their providers. In all these cases, people of color and people with low incomes are disproportionately impacted. Examples pre-date the repeal of *Roe* and include:

- Use of geolocation data to identify visitors to 140 abortion clinics in order to send those individuals ads for anti-abortion pregnancy counseling;<sup>i</sup>
- The sale of aggregated location data of people who visited abortion clinics, including more than 600 Planned Parenthoods over a one-week period for just \$160;<sup>ii</sup>
- The prosecution of a woman who experienced a pregnancy loss based on cell phone information after she searched online for medication abortion information;<sup>iii</sup>
- Usage of geolocation data to charge a mother and son in Idaho with "abortion trafficking" for helping the son's girlfriend access abortion in Oregon;<sup>iv</sup>

- Allegations that one of the most popular period tracking apps shared health information on its 100 million users with third-party data analytics firms, resulting in an FTC settlement.<sup>v</sup>

Despite the widespread use of personal data, just 6% of adults report that they have a strong understanding of what companies do with the data they collect,<sup>vi</sup> and the large majority of consumers (nearly 68%) are somewhat or very concerned about their online privacy.<sup>vii</sup>

Planned Parenthood broadly supports policies that protect our individuals' right to privacy and control over their personal information. As states across the country ban access to abortion and gender-affirming care, Maine plays a critical role as a safe harbor for patients and their loved ones from throughout the country. Improving privacy protections for personal data is essential in safeguarding health care access.

### **LD 1284**

Given our current national landscape, LD 1284 is, quite simply, a step in the wrong direction. By repealing Maine's current requirements that broadband Internet Service Providers protect customers' personal data and removing the prohibition on the sale of customer data without explicit consent, this bill actively worsens Maine's current data privacy protections at a time when they are increasingly needed.

### **LDs 1088, 1224, and 1822**

Planned Parenthood of Northern New England supports the legislature's interest in increasing data protections in the state. While LDs 1088 and 1224 are laudable attempts to protect the data of Maine's citizens, we feel that the protections offered by these bills fall short of the demands of the present moment.

By contrast, LD 1822 by represents a broader and more robust approach to consumer protection, with specific protections for our patients, staff, and volunteers, by:

- Prohibiting sale of sensitive data, which is defined more broadly than in either LDs 1088 or 1224 and includes consumer health data (not included in LD 1224) and gender identity (not included in LDs 1088 or 1224);
- Requiring specific protections for "consumer health data" (not included in LD 1224), defined as personal data used to identify a consumer's physical or mental health status, and explicitly naming and including data related to gender-affirming health care services and reproductive health care services (not included in either LDs 1088 or 1224);
- Prohibiting geofencing a clinic offering in-person health services for purposes of identifying or collecting data or to send a notification to a consumer regarding consumer health data (not included in 1224);

- Allowing consumers to obtain a list of any third-party sales of their data (not included in LDs 1088 or 1224);
- Applying to a broader range of entities than LD 1088 or 1224, with both containing the same higher threshold for applicability (on the order of thousands of users);
- Authorizing enforcement action by the Attorney General, allowing the notice and the right to cure the violation if it is possible to cure, versus less discretion for enforcement under LD 1224, which requires notice and right to cure, and LD 1088, which requires notice and an opportunity to confer unless there is a showing of irreparable harm to consumers.

We believe that LD 1822's comprehensive approach is the right one, with such protections necessary given the extraordinary level of hostility facing reproductive and gender-affirming health care patients and providers.

Data has been referred to as the oil of the digital era<sup>viii</sup> and as with oil in past centuries this modern commodity is ripe for exploitation, with extraordinary potential for misuse and harm. Following the example of other states such as Oregon and Maryland, we urge the legislature to pass a comprehensive data protection law that will safeguard the rights of all Mainers, enabling them to determine how their own personal information will be utilized by those who may exploit it.

We ask that the committee vote Ought to Pass on LD 1822 and Ought not to Pass on LDs 1088, 1224 and 1284. Thank you for your efforts to protect Mainers' privacy and ensure that no one fears harassment, investigation, or prosecution for seeking, providing, or assisting another in accessing health care.

---

<sup>i</sup> Coutts, Sharona; "Anti-Choice Groups Use Smartphone Surveillance to Target 'Abortion-Minded Women' During Clinic Visits"; *Rewire News Group*; May 25, 2016; <https://rewirenewsgroup.com/2016/05/25/anti-choice-groups-deploy-smartphone-surveillance-target-abortion-minded-women-clinic-visits/>

<sup>ii</sup> Cox, Joseph; "Data Broker is Selling Location Data of People Who Visit Abortion Clinics"; *Vice News*; May 3, 2022; <https://www.vice.com/en/article/location-data-abortion-clinics-safegraph-planned-parenthood/>

<sup>iii</sup> Rankin, Lauren; "How an online search for abortion pills landed this woman in jail"; *Fast Company*; February 26, 2020; <https://www.fastcompany.com/90468030/how-an-online-search-for-abortion-pills-landed-this-woman-in-jail>

<sup>iv</sup> Frye, Jocelyn, Reeve Givens, Alexandra; "Digital Surveillance Supercharges Abortion Criminalization. Closing the Data Broker Loophole Is Urgent"; *National Partnership for Women & Families*; September 9, 2024; <https://nationalpartnership.org/digital-surveillance-supercharges-abortion-criminalization-closing-data-broker-loophole-urgent/>

<sup>v</sup> "FTC Finalizes Order with Flo Health, a Fertility-Tracking App that Shared Sensitive Health Data with Facebook, Google and Others"; *Federal Trade Commission: Press Releases*; June 22, 2021; <https://www.ftc.gov/news-events/news/press-releases/2021/06/ftc-finalizes-order-flo-health-fertility-tracking-app-shared-sensitive-health-data-facebook-google>

- 
- <sup>vi</sup> Auxner, Brooke, Rainie, Lee, Anderson, Monica, Perrin, Andrew, Kumar, Madhu, Turner, Erica; “Americans and Privacy: Concerned, Confused and Feeling Lack of Control Over Their Personal Information”; *Pew Research Center*; November 15, 2019; <https://www.pewresearch.org/internet/2019/11/15/americans-and-privacy-concerned-confused-and-feeling-lack-of-control-over-their-personal-information/>
- <sup>vii</sup> Fazlioglu, Müge; “Privacy and Consumer Trust”; *International Association of Privacy Professionals*; March 2023; [https://iapp.org/media/pdf/resource\\_center/privacy\\_and\\_consumer\\_trust\\_report\\_summary.pdf](https://iapp.org/media/pdf/resource_center/privacy_and_consumer_trust_report_summary.pdf)
- <sup>viii</sup> “The world’s most valuable resource is no longer oil, but data”; *The Economist*; May 6, 2017; <https://www.economist.com/leaders/2017/05/06/the-worlds-most-valuable-resource-is-no-longer-oil-but-data>