

**Testimony Submitted by
Chris Coughlin, Policy Director
Oregon Consumer Justice
To the Senate Committee on Judiciary**

March 7, 2023

Regarding: Support for SB 619

Chair Prozanski, Vice-Chair Thatcher, and Members of the Committee,

For the record, my name is Chris Coughlin. I am the Policy Director for Oregon Consumer Justice, and I appreciate the opportunity to testify today in support of the redlined version Department of Justice has posted to OLIS of SB 619 which we expect is reflected in the -1 amendment.

Oregon Consumer Justice (OCJ) organizes, advocates, and supports litigation to advance a justice movement that puts people first, ensuring all have the freedom to thrive and equitably share in our abundance of resources. For too long, flawed systems and economic policies that favor profits over people have stood in the way of this reality, with communities of color most often experiencing the most significant harm. Strengthened through responsive and reciprocal community relationships, OCJ is building a future where financial and business transactions can be relied upon as safe and where all Oregonians know and have recourse to exercise their consumer rights.

OCJ supports the consumer-focused definitions and rights outlined in SB 619: The Oregon Consumer Privacy Act and there are three items that we urge you to maintain in the bill as it moves through the legislative process:

- 1. Section 2. (1) (a) it is critical that devices remain as one of the ways to reach the threshold for the bill to apply. The existing language should not be weakened.**

- 2. The definition of biometric data should not be narrowed beyond what is currently in the bill.**
- 3. The private right of action in the -1 amendment should remain in the bill.**

The value of the extensive, multi-year stakeholder process, which led to the development of this bill as introduced as well as the updates included in the -1 amendment and additional technical amendments that are expected, has been shared by others today. The Attorney General and her staff, particularly Kimberley McCullough and Kate Denison, have spent untold hours working with stakeholders to get the bill before you. We deeply appreciate all their efforts.

OCJ supports the basic consumer rights outlined in SB 619 including:

- Right to Know: Consumers will have the right to know whether controllers are processing their data, the categories of data being processed, and the third parties to which the data have been disclosed. Consumers will also have a right to obtain a copy of their personal data that a controller has or is processing.
- Right to Correction: Consumers will have the right to correct inaccuracies in their data.
- Right to Deletion: Consumers will have the right to require controllers to delete their held personal data .
- Right to Opt Out: Consumers will have the right to opt out of the processing of their personal data for targeted advertising, sale, or profiling of the consumer in a way that produces legal effects.
- Right to Data Portability: When consumers exercise their right to obtain a copy of their personal data held by a controller, it must be provided in a portable and useable format.

OCJ is also supportive of the heightened protections for "sensitive data." This is the requirement that data may not be processed without a consumer's affirmative "opt-in" consent, including:

- Personal data revealing race or ethnic background, national origin, religious beliefs, mental or physical condition or diagnosis, sexual

orientation, gender identity, crime victim status, or citizenship or immigration status

- Genetic or biometric data
- Precise geolocation data

OCJ additionally supports the heightened protections for children and youth under the Act.

There have been many discussions and compromises as the Task Force has worked on this bill. Yet, despite all the meetings and conversations, as you know there are some issues on which the Task Force could not agree. I want to take a few moments to speak to the issue of a private right of action.

Oregon Consumer Justice believes that every consumer protection law should provide recourse for consumers to take action when they are harmed, and we see SB 619 as a consumer protection law. Our view is that a private right of action should be structured in a way that allows an individual consumer or a class of consumers to access justice. Section 9 of the bill outlines an initial period of time when the Department of Justice notifies a company and gives a 30 day period to cure the violation, followed by a second year when there is only public enforcement. The Task Force discussed at length the need to give companies a chance to learn how the Act should be implemented and the phase-in with a period to cure violations provides a space for companies to implement the requirements.. While most companies will put the new protocols in place and follow the law, unfortunately, there are predatory actors in every sector. When these bad actors harm consumers, there should be recourse. We urge you to retain a private right of action with the -1 amendment language around harm in Section 10 (1) (a). Section 10 in the -1 amendment is essential to ensure that SB 619 truly centers the rights of consumers, including a right to enforcement through a private right of action.

Thank you for the opportunity to submit testimony and your service to Oregon communities