



Senate

General Assembly

File No. 676

January Session, 2023

Substitute Senate Bill No. 1058

Senate, May 2, 2023

The Committee on Judiciary reported through SEN. WINFIELD of the 10th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT CONCERNING THE ATTORNEY GENERAL'S
RECOMMENDATIONS REGARDING CONSUMER PROTECTION AND
FINANCIAL REPORTING BY CHARITABLE ORGANIZATIONS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsections (c) to (f), inclusive, of section 42-110d of the
2 general statutes are repealed and the following is substituted in lieu
3 thereof (*Effective from passage*):

4 (c) In addition to other powers conferred upon the commissioner,
5 said commissioner may execute in writing and cause to be served by
6 certified mail an investigative demand upon any person suspected of
7 using, having used or about to use any method, act or practice declared
8 by section 42-110b to be unlawful or upon any person from whom said
9 commissioner wants assurance that section 42-110b has not, is not or
10 will not be violated. Such investigative demand shall contain a
11 description of the method, act or practice under investigation, provide
12 a reasonable time for compliance, and require such person to furnish
13 under oath or otherwise, as may be specified in said demand, a report

14 in writing setting forth relevant facts or circumstances together with
15 documentary material. Notwithstanding subsection (f) of this section,
16 responses to investigative demands issued under this subsection may
17 be withheld from public disclosure during the full pendency of the
18 investigation.

19 (d) Said commissioner, in conformance with sections 4-176e to 4-185,
20 inclusive, whenever [he] the commissioner has reason to believe that
21 any person has been engaged or is engaged in an alleged violation of
22 any provision of this chapter, shall mail to such person, by certified mail,
23 a complaint stating the charges and containing a notice of a hearing, to
24 be held upon a day and at a place therein fixed at least fifteen days after
25 the date of such complaint. The person so notified shall have the right
26 to file a written answer to the complaint and charges therein stated and
27 appear at the time and place so fixed for such hearing, in person or
28 otherwise, with or without counsel, and submit testimony and be fully
29 heard. Any person may make application, and upon good cause shown
30 shall be allowed by the commissioner to intervene and appear in such
31 proceeding by counsel or in person. The testimony in any such
32 proceeding, including the testimony of any intervening person, shall be
33 under oath and shall be reduced to writing by the recording officer of
34 the hearing and filed in the office of the commissioner. The
35 commissioner or [his] the commissioner's authorized representatives
36 shall have the power to require by subpoena the attendance and
37 testimony of witnesses and the production of any documentary material
38 at such proceeding. If upon such hearing the commissioner is of the
39 opinion that the method of competition or the act or practice in question
40 is prohibited by this chapter, the commissioner shall make a report in
41 writing to the person complained of in which [he] the commissioner
42 shall state [his] the commissioner's findings as to the facts and shall
43 forward by certified mail to such person an order to cease and desist
44 from using such methods of competition or such act or practice, or, if
45 the amount involved is less than ten thousand dollars, an order directing
46 restitution, or both. The commissioner may apply for the enforcement
47 of any cease and desist order, order directing restitution or consent
48 order issued under this chapter to the superior court for the judicial

49 district of Hartford, or to any judge thereof if the same is not in session,
50 for orders temporarily and permanently restraining and enjoining any
51 person from continuing violations of such cease and desist order, order
52 directing restitution or consent order. Such application for a temporary
53 restraining order, temporary and permanent injunction, order directing
54 restitution and for such other appropriate decree or process shall be
55 brought and the proceedings thereon conducted by the Attorney
56 General.

57 (e) In addition to any injunction issued pursuant to subsection (d) of
58 this section, the court may make such additional orders or judgments as
59 may be necessary to restore to any person in interest any moneys or
60 property, real or personal, which may have been acquired by means of
61 any practices prohibited by this chapter, including the appointment of a
62 receiver or the revocation of a license or certificate authorizing the
63 person subject to the order or injunction to engage in business in this
64 state, or both.

65 (f) The commissioner or the Attorney General or their employees
66 shall disclose, in accordance with the provisions of the Freedom of
67 Information Act, as defined in section 1-200, all records concerning the
68 investigation of any alleged violation of any provision of this chapter,
69 including, but not limited to, any complaint initiating an investigation
70 and all records of the disposition or settlement of a complaint. For
71 purposes of this section, "disposition" shall include the following action
72 or nonaction with respect to any complaints or investigations: [(A)] (1)
73 No action taken because of [(i)] (A) a lack of jurisdiction, [; (ii)] (B)
74 unsubstantiated allegations, or [(iii)] (C) a lack of sufficient information
75 to draw a conclusion, as determined by the commissioner, after
76 investigation; [(B)] (2) referral to another state agency, or to a federal or
77 local agency, or to law enforcement authorities; [(C)] (3) an acceptance
78 of an assurance of voluntary compliance in accordance with the
79 provisions of section 42-110j; and [(D)] (4) formal action taken, including
80 the institution of administrative proceedings pursuant to subsection (d)
81 of this section or court proceedings pursuant to section 42-110m, 42-110o
82 or 42-110p. The commissioner may withhold such records from

83 disclosure during the pendency of an investigation or examination held
84 in accordance with subsection (a) of this section, but in no event shall
85 the commissioner withhold any such records longer than a period of
86 eighteen months after the date on which the initial complaint was filed
87 with the commissioner or after the date on which the investigation or
88 examination was commenced, whichever is earlier. Nothing herein shall
89 be deemed to affect the rights of litigants, including parties to
90 administrative proceedings, under the laws of discovery of this state.

91 Sec. 2. Subsection (c) of section 35-42 of the general statutes is
92 repealed and the following is substituted in lieu thereof (*Effective July 1,*
93 *2023*):

94 (c) (1) All documentary material furnished to the Attorney General,
95 [his or her] the Attorney General's deputy or any assistant attorney
96 general designated by the Attorney General, pursuant to a demand
97 issued under subsection (a) of this section, shall be held in the custody
98 of the Attorney General, or the Attorney General's designee, and shall
99 not be available to the public. Such documentary material shall be
100 returned to the person furnishing such documentary material, or, if such
101 person furnishes such documentary material in an electronic format,
102 erased, upon the termination of the Attorney General's investigation or
103 final determination of any action or proceeding commenced thereunder.

104 (2) All documentary material or other information furnished
105 voluntarily to the Attorney General, [his or her] the Attorney General's
106 deputy or any assistant attorney general designated by the Attorney
107 General, for suspected violations of the provisions of this chapter, and
108 the identity of the person furnishing such documentary material or
109 other information, shall be held in the custody of the Attorney General,
110 or the Attorney General's designee, and shall not be available to the
111 public. Such documentary material or other information shall be
112 returned to the person furnishing such documentary material or other
113 information, or, if such person furnishes such documentary material or
114 other information in an electronic format, erased, upon the termination
115 of the Attorney General's investigation or final determination of any

116 action or proceeding commenced thereunder.

117 Sec. 3. Subsection (d) of section 4-61dd of the general statutes is
118 repealed and the following is substituted in lieu thereof (*Effective July 1,*
119 *2023*):

120 (d) The Attorney General may summon witnesses, require the
121 production of any necessary books, papers or other documents and
122 administer oaths to witnesses, where necessary, for the purpose of an
123 investigation pursuant to this section or for the purpose of investigating
124 a suspected violation of subsection (a) of section 4-275 until such time as
125 the Attorney General files a civil action pursuant to section 4-276.
126 Service of a subpoena ad testificandum, subpoena duces tecum and a
127 notice of deposition, may be made by: (1) Personal service or service at
128 the usual place of abode; or (2) registered or certified mail, return receipt
129 requested, a duly executed copy thereof addressed to the person to be
130 served at such person's principal place of business in this state, or, if
131 such person has no principal place of business in this state, at such
132 person's principal office or such person's residence. Upon the
133 conclusion of the investigation, the Attorney General shall where
134 necessary, report any findings to the Governor, or in matters involving
135 criminal activity, to the Chief State's Attorney. In addition to the exempt
136 records provision of section 1-210, the Auditors of Public Accounts and
137 the Attorney General shall not, after receipt of any information from a
138 person under the provisions of this section or sections 4-276 to 4-280,
139 inclusive, disclose the identity of such person without such person's
140 consent unless the Auditors of Public Accounts or the Attorney General
141 determines that such disclosure is unavoidable, and may withhold
142 records of such investigation, during the pendency of the investigation.
143 All documentary material or other information furnished to the
144 Attorney General, [his or her] the Attorney General's deputy or any
145 assistant attorney general designated by the Attorney General, pursuant
146 to a demand issued under this subsection for the purpose of
147 investigating a suspected violation of subsection (a) of section 4-275,
148 shall be returned to the person furnishing such documentary material
149 or other information, or, if such person furnished such documentary

150 material or other information in an electronic format, erased, upon the
151 termination of the Attorney General's investigation or final
152 determination of any action or proceeding commenced thereunder.

153 Sec. 4. Section 36a-701b of the general statutes is repealed and the
154 following is substituted in lieu thereof (*Effective October 1, 2023*):

155 (a) For purposes of this section, (1) "breach of security" means
156 unauthorized access to or unauthorized acquisition of electronic files,
157 media, databases or computerized data, containing personal
158 information when access to the personal information has not been
159 secured by encryption or by any other method or technology that
160 renders the personal information unreadable or unusable; and (2)
161 "personal information" means an individual's (A) first name or first
162 initial and last name in combination with any one, or more, of the
163 following data: (i) Social Security number; (ii) taxpayer identification
164 number; (iii) identity protection personal identification number issued
165 by the Internal Revenue Service; (iv) driver's license number, state
166 identification card number, passport number, military identification
167 number or other identification number issued by the government that is
168 commonly used to verify identity; (v) credit or debit card number; (vi)
169 financial account number in combination with any required security
170 code, access code or password that would permit access to such
171 financial account; (vii) medical information regarding an individual's
172 medical history, mental or physical condition, or medical treatment or
173 diagnosis by a health care professional; (viii) health insurance policy
174 number or subscriber identification number, or any unique identifier
175 used by a health insurer to identify the individual; [or] (ix) biometric
176 information consisting of data generated by electronic measurements of
177 an individual's unique physical characteristics used to authenticate or
178 ascertain the individual's identity, such as a fingerprint, voice print,
179 retina or iris image; or (x) precise geolocation data, as defined in section
180 42-515; or (B) user name or electronic mail address, in combination with
181 a password or security question and answer that would permit access
182 to an online account. "Personal information" does not include publicly
183 available information that is lawfully made available to the general

184 public from federal, state or local government records or widely
185 distributed media.

186 (b) (1) Any person who owns, licenses or maintains computerized
187 data that includes personal information, shall provide notice of any
188 breach of security following the discovery of the breach to any resident
189 of this state whose personal information was breached or is reasonably
190 believed to have been breached. Such notice shall be made without
191 unreasonable delay but not later than sixty days after the discovery of
192 such breach, unless a shorter time is required under federal law, subject
193 to the provisions of subsection (d) of this section. If the person identifies
194 additional residents of this state whose personal information was
195 breached or reasonably believed to have been breached following sixty
196 days after the discovery of such breach, the person shall proceed in good
197 faith to notify such additional residents as expediently as possible. Such
198 notification shall not be required if, after an appropriate investigation
199 the person reasonably determines that the breach will not likely result
200 in harm to the individuals whose personal information has been
201 acquired or accessed.

202 (2) If notice of a breach of security is required by subdivision (1) of
203 this subsection:

204 (A) The person who owns, licenses or maintains computerized data
205 that includes personal information, shall, not later than the time when
206 notice is provided to the resident, also provide notice of the breach of
207 security to the Attorney General; and

208 (B) The person who owns or licenses computerized data that includes
209 personal information, shall offer to each resident whose personal
210 information under clause (i) or (ii) of subparagraph (A) of subdivision
211 (2) of subsection (a) of this section was breached or is reasonably
212 believed to have been breached, appropriate identity theft prevention
213 services and, if applicable, identity theft mitigation services. Such
214 service or services shall be provided at no cost to such resident for a
215 period of not less than [twenty-four months] two years. Such person
216 shall provide all information necessary for such resident to enroll in

217 such service or services and shall include information on how such
218 resident can place a credit freeze on such resident's credit file.

219 (c) Any person that maintains computerized data that includes
220 personal information that the person does not own shall notify the
221 owner or licensee of the information of any breach of the security of the
222 data immediately following its discovery, if the personal information of
223 a resident of this state was breached or is reasonably believed to have
224 been breached.

225 (d) Any notification required by this section shall be delayed for a
226 reasonable period of time if a law enforcement agency determines that
227 the notification will impede a criminal investigation and such law
228 enforcement agency has made a request that the notification be delayed.
229 Any such delayed notification shall be made after such law enforcement
230 agency determines that notification will not compromise the criminal
231 investigation and so notifies the person of such determination.

232 (e) Any notice to a resident, owner or licensee required by the
233 provisions of this section may be provided by one of the following
234 methods, subject to the provisions of subsection (f) of this section: (1)
235 Written notice; (2) telephone notice; (3) electronic notice, provided such
236 notice is consistent with the provisions regarding electronic records and
237 signatures set forth in 15 USC 7001; (4) substitute notice, provided such
238 person demonstrates in the notice provided to the Attorney General that
239 the cost of providing notice in accordance with subdivision (1), (2) or (3)
240 of this subsection would exceed two hundred fifty thousand dollars,
241 that the affected class of subject persons to be notified exceeds five
242 hundred thousand persons or that the person does not have sufficient
243 contact information. Substitute notice shall consist of the following: (A)
244 Electronic mail notice when the person has an electronic mail address
245 for the affected persons; (B) conspicuous posting of the notice on the
246 web site of the person if the person maintains one; and (C) notification
247 to major state-wide media, including newspapers, radio and television.

248 (f) (1) In the event of a breach of login credentials under
249 subparagraph (B) of subdivision (2) of subsection (a) of this section,

250 notice to a resident may be provided in electronic or other form that
251 directs the resident whose personal information was breached or is
252 reasonably believed to have been breached to promptly change any
253 password or security question and answer, as applicable, or to take
254 other appropriate steps to protect the affected online account and all
255 other online accounts for which the resident uses the same user name or
256 electronic mail address and password or security question and answer.

257 (2) Any person that furnishes an electronic mail account shall not
258 comply with this section by providing notification to the electronic mail
259 account that was breached or reasonably believed to have been
260 breached if the person cannot reasonably verify the affected resident's
261 receipt of such notification. In such an event, the person shall provide
262 notice by another method described in this section or by clear and
263 conspicuous notice delivered to the resident online when the resident is
264 connected to the online account from an Internet protocol address or
265 online location from which the person knows the resident customarily
266 accesses the account.

267 (g) Any person that maintains such person's own security breach
268 procedures as part of an information security policy for the treatment of
269 personal information and otherwise complies with the timing
270 requirements of this section, shall be deemed to be in compliance with
271 the security breach notification requirements of this section, provided
272 such person notifies, as applicable, residents of this state, owners and
273 licensees in accordance with such person's policies in the event of a
274 breach of security and in the case of notice to a resident, such person
275 also notifies the Attorney General not later than the time when notice is
276 provided to the resident. Any person that maintains such a security
277 breach procedure pursuant to the rules, regulations, procedures or
278 guidelines established by the primary or functional regulator, as defined
279 in 15 USC 6809(2), shall be deemed to be in compliance with the security
280 breach notification requirements of this section, provided (1) such
281 person notifies, as applicable, such residents of this state, owners, and
282 licensees required to be notified under and in accordance with the
283 policies or the rules, regulations, procedures or guidelines established

284 by the primary or functional regulator in the event of a breach of
285 security, and (2) if notice is given to a resident of this state in accordance
286 with subdivision (1) of this subsection regarding a breach of security,
287 such person also notifies the Attorney General not later than the time
288 when notice is provided to the resident.

289 (h) Any person that is subject to and in compliance with the privacy
290 and security standards under the Health Insurance Portability and
291 Accountability Act of 1996 and the Health Information Technology for
292 Economic and Clinical Health Act ("HITECH") shall be deemed to be in
293 compliance with this section, provided that (1) any person required to
294 provide notification to Connecticut residents pursuant to HITECH shall
295 also provide notice to the Attorney General not later than the time when
296 notice is provided to such residents if notification to the Attorney
297 General would otherwise be required under subparagraph (A) of
298 subdivision (2) of subsection (b) of this section, and (2) the person
299 otherwise complies with the requirements of subparagraph (B) of
300 subdivision (2) of subsection (b) of this section.

301 (i) All documents, materials and information provided in response to
302 an investigative demand issued pursuant to subsection (c) of section 42-
303 110d, as amended by this act, in connection with the investigation of a
304 breach of security as defined by this section shall be exempt from public
305 disclosure under subsection (a) of section 1-210, provided the Attorney
306 General may make such documents, materials or information available
307 to third parties in furtherance of such investigation.

308 (j) Failure to comply with the requirements of this section shall
309 constitute an unfair trade practice for purposes of section 42-110b and
310 shall be enforced by the Attorney General.

311 (k) Any civil penalties collected for failure to comply with the
312 requirements of this section may be deposited into the privacy
313 protection guaranty and enforcement account established pursuant to
314 section 42-472a, as amended by this act.

315 Sec. 5. Subsections (d) to (h), inclusive, of section 42-471 of the general

316 statutes are repealed and the following is substituted in lieu thereof
317 (*Effective July 1, 2023*):

318 (d) [For] (1) Except as provided in subdivision (2) of this subsection,
319 for persons who hold a license, registration or certificate issued by, or a
320 charter subject to the supervision of, a state agency other than the
321 Department of Consumer Protection, this section shall be enforceable
322 only by such other state agency pursuant to such other state agency's
323 existing statutory and regulatory authority.

324 (2) The provisions of subdivision (1) of this subsection shall not apply
325 to actions undertaken by the Attorney General.

326 (e) [Any person or entity that violates the provisions of this section
327 shall be subject to a civil penalty of five hundred dollars for each
328 violation, provided such civil penalty shall not exceed five hundred
329 thousand dollars for any single event. It shall not be a violation of this
330 section if such violation was unintentional.] A violation of this section
331 shall constitute an unfair trade practice under subsection (a) of section
332 42-110b.

333 (f) The provisions of this section shall not apply to any agency or
334 political subdivision of the state.

335 (g) If a financial institution has adopted safeguards that comply with
336 the standards established pursuant to Section 501(b) of the Gramm-
337 Leach-Bliley Act of 1999, 15 USC 6801, then such compliance shall
338 constitute compliance with the provisions of this section.

339 (h) Any civil penalties received pursuant to this section [shall] may
340 be deposited into the privacy protection guaranty and enforcement
341 account established pursuant to section 42-472a, as amended by this act.

342 Sec. 6. Section 42-472a of the general statutes is repealed and the
343 following is substituted in lieu thereof (*Effective October 1, 2023*):

344 (a) There is established a "privacy protection guaranty and
345 enforcement account" which shall be a nonlapsing account within the

346 General Fund. The account may contain any moneys required by law to
347 be deposited in the account. The account shall be used by the
348 Commissioner of Consumer Protection: (1) For the reimbursement of
349 losses (A) sustained by individuals injured by a violation of the
350 provisions of section 42-470, 42-471, as amended by this act, 42-471a, [or]
351 42-472b, 52-571h or 53-454 or any regulation adopted pursuant to
352 section 42-472d, or (B) pursuant to the claims process established in
353 subsections (f) and (g) of this section; (2) for the assignment of restitution
354 ordered by a court of competent jurisdiction as the result of a violation
355 of the provisions of section 21-120, 21-121, subsection (e) of section 42-
356 470, section 53a-127, 53a-129b, 53a-129c, 53a-129d, 53a-129e or 53a-130,
357 18 USC 1028 or 18 USC 1028A, where such restitution is owed to a victim
358 who is a resident of this state on the date of such order or the date of
359 such violation; and [(2)] (3) for the enforcement of the provisions of (A)
360 section 36a-701b, as amended by this act, 42-470, 42-471, as amended by
361 this act, 42-471a or 42-472b or any regulation adopted by the
362 Commissioner of Consumer Protection pursuant to section 42-472d, or
363 (B) section 53-454 by the Attorney General.

364 (b) Payments received pursuant to subsection (g) of section 36a-701b,
365 as amended by this act, section 42-470, 42-471, as amended by this act,
366 42-471a, [or] 42-472b or 54-360 or any regulation adopted pursuant to
367 section 42-472d, shall be credited to the privacy protection guaranty and
368 enforcement account until the balance in said account equals two
369 hundred fifty thousand dollars, and any portion of such balance that
370 exceeds such amount shall be deposited in the General Fund. Any
371 money in the privacy protection guaranty and enforcement account
372 may be invested or reinvested and any interest arising from such
373 investments shall be credited to said account.

374 (c) Whenever an individual obtains a court judgment against any
375 person or entity for a violation of section 42-470, 42-471, as amended by
376 this act, 42-471a, [or] 42-472b, 52-571h or 53-454 or any regulation
377 adopted pursuant to section 42-472d, such individual may, upon the
378 final determination of, or expiration of time for appeal in connection
379 with any such judgment, apply to the Commissioner of Consumer

380 Protection for an order directing payment out of [said] the privacy
381 protection guaranty and enforcement account of the amount unpaid
382 upon the judgment for actual damages and costs taxed by the court
383 against the person or entity, exclusive of punitive damages. The
384 application shall be made on forms provided by the commissioner and
385 shall be accompanied by a certified copy of the court judgment, order or
386 decree obtained against the person or entity, together with a notarized
387 affidavit, signed and sworn to by the individual, affirming that the
388 individual: (1) Has complied with all the requirements of this
389 subsection; (2) has obtained a judgment, order or decree stating the
390 amount thereof and the amount owing thereon at the date of
391 application; and (3) except for a judgment obtained by the individual in
392 small claims court, has caused to be issued a writ of execution upon such
393 judgment, and the officer executing the same has made a return
394 showing that no bank accounts or real property of the person or entity
395 liable to be levied upon in satisfaction of the judgment could be found,
396 or that the amount realized on the sale of them or of such of them as
397 were found, under the execution, was insufficient to satisfy the actual
398 damage portion of the judgment, or stating the amount realized and the
399 balance remaining due on the judgment after application thereon of the
400 amount realized. A true and attested copy of such executing officer's
401 return, when required, shall be attached to such application and
402 affidavit.

403 (d) Whenever an individual who is a victim of identity theft receives
404 an order of restitution for a violation of section 21-120, 21-121,
405 subsection (e) of section 42-470, section 53a-127g, 53a-129b, 53a-129c,
406 53a-129d, 53a-129e or 53a-130, 18 USC 1028 or 18 USC 1028A, where
407 such victim is a resident of this state on the date of such order or the date
408 of such violation, such victim may apply to the Commissioner of
409 Consumer Protection for an order directing payment out of the privacy
410 protection guaranty and enforcement account. Such victim shall make
411 such application on forms provided by the commissioner, and such
412 application shall be accompanied by: (1) A copy of the court judgment,
413 order or decree obtained against the person who, or entity that,
414 committed such identity theft; and (2) a notarized affidavit, signed and

415 sworn to by such victim, affirming that such victim (A) has complied
416 with the requirements established in this subsection, and (B) has been
417 awarded an order of restitution, and stating (i) the amount of such
418 judgment, order or decree, and (ii) the amount owing on such judgment,
419 order or decree on the date of such application.

420 [(d)] (e) Upon receipt of such application made pursuant to
421 subsection (c) or (d) of this section together with such certified copy of
422 the court judgment, notarized affidavit and true and attested copy of the
423 executing officer's return, when applicable and required, the
424 [commissioner] Commissioner of Consumer Protection or the
425 commissioner's designee shall inspect such documents for their veracity
426 and upon a determination that such documents are complete and
427 authentic, and a determination that the individual has not been paid, the
428 commissioner shall order payment out of [said] the privacy protection
429 guaranty and enforcement account of the amount unpaid upon the
430 judgment for actual damages and costs taxed by the court against the
431 person or entity, exclusive of punitive damages.

432 [(e)] (f) Whenever an individual is awarded an order of restitution
433 against any person or entity for loss or damages sustained by reason of
434 a violation of section 42-470, 42-471a, [or] 42-472b, 52-571h or 53-454 or
435 any regulation adopted pursuant to section 42-472d in a proceeding
436 brought by the Attorney General at the request of the [commissioner]
437 Commissioner of Consumer Protection pursuant to section 42-470 or 42-
438 471, as amended by this act, or in a proceeding brought by the Attorney
439 General, such individual may, upon the final determination of [,] or
440 expiration of time for appeal in connection with any such order of
441 restitution, apply to the commissioner for an order directing payment
442 out of [said] the privacy protection guaranty and enforcement
443 account of the amount unpaid upon the order of restitution. The commissioner
444 may issue such order upon a determination that the individual has not
445 been paid.

446 (g) (1) Subject to the provisions of subdivision (2) of this subsection,
447 in the event that an individual who is a victim of identity theft, as

448 defined in section 53a-129a, would not otherwise qualify for payment
449 from the privacy protection guaranty and enforcement account
450 pursuant to subsection (c) or (d) of this section, such individual may
451 apply to the Commissioner of Consumer Protection for an order
452 directing payment out of the privacy protection guaranty and
453 enforcement account in the amount incurred or lost by such individual
454 due to such identity theft within the prior three years in an amount not
455 to exceed (A) five thousand dollars to reimburse such individual for
456 reasonable costs, including, but not limited to, documented lost wages
457 or costs to resolve or mitigate the effects of such identity theft, and (B)
458 fifteen thousand dollars for actual losses.

459 (2) An individual who submits an application to the commissioner
460 pursuant to subdivision (1) of this subsection shall attest to the
461 commissioner, on a form provided by the commissioner, that (A) the
462 individual is a victim of identity theft, as defined in section 53a-129a,
463 and (B) the person or persons who committed such identity theft (i)
464 cannot reasonably be determined or identified, or (ii) have been
465 identified, but such person or persons have not been prosecuted due to
466 any reason other than the noncooperation of such individual except
467 where such noncooperation is due to domestic violence as defined in
468 subsection (b) of section 46b-1.

469 (h) (1) Upon receipt of an application made pursuant to subsection
470 (g) of this section and any supporting evidence required by the
471 Commissioner of Consumer Protection, the commissioner or the
472 commissioner's designee shall inspect such application and supporting
473 evidence for their veracity and issue an order directing payment out of
474 the privacy protection guaranty and enforcement account upon a
475 reasonable determination that (A) the individual who submitted such
476 application is likely a victim of identity theft, as defined in section 53a-
477 129a, and (B) the person or persons who committed such identity theft
478 (i) cannot reasonably be determined or identified, or (ii) have been
479 identified, but such person or persons have not been prosecuted due to
480 any reason other than the noncooperation of such individual except
481 where such noncooperation is due to domestic violence as defined in

482 subsection (b) of section 46b-1.

483 (2) The amount of the payment made pursuant to subdivision (1) of
484 this subsection shall be in the amount incurred or lost by the individual
485 due to the identity theft within the prior three years, which amount shall
486 not exceed (A) five thousand dollars to reimburse such individual for
487 reasonable costs, including, but not limited to, time spent and efforts
488 made to resolve or mitigate the effects of such identity theft, and (B)
489 fifteen thousand dollars for actual losses.

490 [(f)] (i) Before the [commissioner] Commissioner of Consumer
491 Protection shall issue any order directing payment out of the privacy
492 protection guaranty and enforcement account to an individual pursuant
493 to subsections (a) to (g), inclusive, and (j) to (q), inclusive, of this section,
494 the commissioner shall first notify the person or entity of the
495 individual's application for an order directing payment out of the
496 account and of the person or entity's right to a hearing to contest the
497 disbursement in the event that the person or entity has already paid the
498 individual. Such notice shall be given to the person or entity not later
499 than fifteen days after the receipt by the commissioner of the
500 individual's application for an order directing payment out of said
501 account. If the person or entity requests a hearing in writing by certified
502 mail not later than fifteen days after receipt of the notice from the
503 commissioner, the commissioner shall grant such request and shall
504 conduct a hearing in accordance with the provisions of chapter 54. If the
505 commissioner receives no written request by certified mail from the
506 person or entity for a hearing not later than fifteen days after the
507 person's or entity's receipt of such notice, the commissioner shall
508 determine that the individual has not been paid, and the commissioner
509 shall issue an order directing payment out of said account for the
510 amount unpaid upon the judgment for actual damages and costs taxed
511 by the court against the person or entity, exclusive of punitive damages,
512 or for the amount unpaid upon the order of restitution.

513 [(g)] (j) The [commissioner] Commissioner of Consumer Protection
514 or the commissioner's designee may proceed against any person or

515 entity for an order of restitution arising from loss or damages sustained
516 by any individual by reason of such person's or entity's violation of any
517 of the provisions of section 42-470, 42-471, as amended by this act, 42-
518 471a or 42-472b or any regulation adopted pursuant to section 42-472d.
519 Any such proceeding shall be held in accordance with the provisions of
520 chapter 54. In the course of such proceeding, the commissioner or the
521 commissioner's designee shall decide whether to order restitution
522 arising from such loss or damages, and whether to order payment out
523 of [said] the privacy protection guaranty and enforcement account. The
524 commissioner or the commissioner's designee may hear complaints of
525 all individuals submitting claims against a single person or entity in one
526 proceeding.

527 [(h)] (k) No application for an order directing payment out of [said]
528 the privacy protection guaranty and enforcement account shall be made
529 later than three years from the final determination of or expiration of
530 time for appeal in connection with any judgment or order of restitution
531 or, for an application made pursuant to subsection (g) of this section,
532 more than three years after the date of the loss or damages.

533 [(i)] (l) Whenever an individual satisfies the [commissioner]
534 Commissioner of Consumer Protection or the commissioner's designee
535 that it is not practicable to comply with the requirements of subdivision
536 (3) of subsection (c) of this section and that the individual has taken all
537 reasonable steps to collect the amount of the judgment or the unsatisfied
538 part thereof and has been unable to collect the same, said commissioner
539 or said designee may, in [his or her] said commissioner's or designee's
540 discretion, dispense with the necessity for complying with such
541 requirement.

542 [(j)] (m) In order to preserve the integrity of [said] the privacy
543 protection guaranty and enforcement account, the [commissioner]
544 Commissioner of Consumer Protection, in [his or her] the
545 commissioner's sole discretion, may order payment out of said account
546 of an amount less than the actual loss or damages incurred by the
547 individual or less than the order of restitution awarded by the

548 commissioner or the Superior Court.

549 [(k)] (n) If the money deposited in [said] the privacy protection
550 guaranty and enforcement account is insufficient to satisfy any duly
551 authorized claim or portion thereof, the [commissioner] Commissioner
552 of Consumer Protection shall, when sufficient money has been
553 deposited in the account, satisfy such unpaid claims or portions thereof,
554 in the order that such claims or portions thereof were originally
555 determined.

556 [(l) When] (o) Except as provided in subsection (h) of this section,
557 when the [commissioner] Commissioner of Consumer Protection has
558 caused any sum to be paid from [said] the privacy protection guaranty
559 and enforcement account to an individual, the commissioner shall be
560 subrogated to all of the rights of the individual up to the amount paid
561 plus reasonable interest, and prior to receipt of any payment from said
562 account, the individual shall assign all of this right, title and interest in
563 the claim up to such amount to the commissioner, and any amount and
564 interest recovered by the commissioner on the claim shall be deposited
565 in said account.

566 [(m)] (p) If the [commissioner] Commissioner of Consumer
567 Protection orders the payment of any amount as a result of a claim
568 against any party, said commissioner shall determine if the person or
569 entity is possessed of assets liable to be sold or applied in satisfaction of
570 the claim on [said] the privacy protection guaranty and enforcement
571 account. If the commissioner discovers any such assets, the Attorney
572 General shall take any action necessary for the reimbursement of said
573 account.

574 [(n)] (q) If the [commissioner] Commissioner of Consumer Protection
575 orders the payment of an amount as a result of a claim against any party,
576 said commissioner may enter into an agreement with the party whereby
577 the party agrees to repay [said] the privacy protection guaranty and
578 enforcement account in full in the form of periodic payments over a set
579 period of time.

580 Sec. 7. Subsection (a) of section 42-520 of the general statutes is
581 repealed and the following is substituted in lieu thereof (*Effective July 1,*
582 *2023*):

583 (a) A controller shall: (1) Limit the collection of personal data to what
584 is adequate, relevant and reasonably necessary in relation to the
585 purposes for which such data is processed, as disclosed to the consumer;
586 (2) except as otherwise provided in sections 42-515 to 42-525, inclusive,
587 not process personal data for purposes that are neither reasonably
588 necessary to, nor compatible with, the disclosed purposes for which
589 such personal data is processed, as disclosed to the consumer, unless the
590 controller obtains the consumer's consent; (3) establish, implement and
591 maintain reasonable administrative, technical and physical data
592 security practices to protect the confidentiality, integrity and
593 accessibility of personal data appropriate to the volume and nature of
594 the personal data at issue; (4) not process sensitive data concerning a
595 consumer without obtaining the consumer's consent, or, in the case of
596 the processing of sensitive data concerning a known child, without
597 processing such data in accordance with COPPA; (5) not process
598 personal data in violation of the laws of this state and federal laws that
599 prohibit unlawful discrimination against consumers; (6) provide an
600 effective mechanism for a consumer to revoke the consumer's consent
601 under this section that is at least as easy as the mechanism by which the
602 consumer provided the consumer's consent and, upon revocation of
603 such consent, cease to process the data as soon as practicable, but not
604 later than fifteen days after the receipt of such request; and (7) not
605 process the personal data of a consumer for purposes of targeted
606 advertising, or sell the consumer's personal data without the consumer's
607 consent, under circumstances where a controller has actual knowledge,
608 [and] or wilfully disregards, that the consumer is at least thirteen years
609 of age but younger than sixteen years of age. A controller shall not
610 discriminate against a consumer for exercising any of the consumer
611 rights contained in sections 42-515 to 42-525, inclusive, including
612 denying goods or services, charging different prices or rates for goods
613 or services or providing a different level of quality of goods or services
614 to the consumer.

615 Sec. 8. Section 53-289a of the general statutes is repealed and the
616 following is substituted in lieu thereof (*Effective October 1, 2023*):

617 (a) As used in this section, "service charge" means any additional fee
618 or charge that is designated as an "administrative fee", "service fee" or
619 "surcharge" or by using another substantially similar term.

620 (b) No person shall advertise the prices of tickets to any
621 entertainment event, including, but not limited to, any place of
622 amusement, arena, stadium, theater, performance, sport, exhibition or
623 athletic contest given in this state for which a service charge is imposed
624 for the sale of a ticket at the site of the event, without conspicuously
625 disclosing in such advertisement, whether displayed at the site of the
626 event or elsewhere, the total price for each ticket and what portion of
627 each ticket price, stated in a dollar amount, represents a service charge.

628 (c) If a price is charged for admission to a place of entertainment, the
629 operator of the place of entertainment shall print or endorse on the face
630 of each ticket to an entertainment event at such place of entertainment
631 (1) the price established for such ticket, or (2) if such operator, or such
632 operator's agent, sells or resells such ticket at auction, the final auction
633 price of such ticket.

634 (d) (1) Any person that facilitates the sale or resale of a ticket to an
635 entertainment event shall (A) disclose the total price of such ticket,
636 which total price shall include all service charges required to purchase
637 such ticket, and (B) disclose, in a clear and conspicuous manner, to the
638 purchaser of such ticket the portion of the total ticket price, expressed
639 as a dollar amount, that is attributable to service charges charged to such
640 purchaser for such ticket.

641 (2) The disclosures required under subdivision (1) of this subsection
642 shall be displayed in the ticket listing before the ticket is selected for
643 purchase. The total ticket price shall not increase during the ticket
644 purchasing process, except a reasonable fee may be charged for delivery
645 of a nonelectronic ticket if (A) such fee is based on the delivery method
646 selected by the ticket purchaser, and (B) such delivery fee is disclosed to

647 such purchaser before such purchaser purchases such ticket.

648 (3) No disclosure required under this subsection shall be (A) false or
649 misleading, (B) presented more prominently than the total ticket price,
650 or (C) displayed in a font size that is as large or larger than the font size
651 in which the total ticket price is displayed.

652 Sec. 9. Section 42-284 of the general statutes is repealed and the
653 following is substituted in lieu thereof (*Effective October 1, 2023*):

654 As used in this section and sections [42-284] 42-285 to 42-288,
655 inclusive, as amended by this act:

656 (1) "Automated dialing system or recorded message device" means a
657 device that (A) automatically dials a telephone number and plays a
658 recorded message once a connection is made, or (B) makes a connection
659 to an end user by means of an automated system that is used to dial a
660 telephone number and transmit a voice communication;

661 [(1)] (2) "Consumer" means an actual or prospective purchaser, lessee
662 or recipient of goods or services;

663 (3) "Consumer goods or services" means articles or services that are
664 purchased, leased, exchanged or received primarily for personal, family
665 or household purposes, and includes, but is not limited to, warranties,
666 gift cards, stocks, bonds, mutual funds, annuities and other financial
667 products;

668 (4) "Marketing or sales solicitation" means the initiation of a
669 communication, including, but not limited to, a communication made
670 using a telephone call or message, an automated dialing system or
671 recorded message device, a call using soundboard technology, an over-
672 the-top message or a text or media message, to encourage the purchase
673 or rental of, or investment in, property, goods or services that is
674 transmitted to any consumer residing in this state, but does not include
675 the initiation of any such communication (A) to any such consumer with
676 such consumer's prior express written consent, or (B) to any such
677 consumer in response to a visit made by such consumer to an

678 establishment selling, leasing or exchanging consumer goods or services
679 at a fixed location;

680 (5) "Over-the-top message" means a text-based communication on a
681 platform that uses existing Internet services to deliver messages;

682 [(2)] (6) "Person" means [a natural person] an individual, corporation,
683 trust, partnership, incorporated or unincorporated association and any
684 other legal entity; [and]

685 (7) "Prior express written consent" means a written agreement
686 bearing (A) the signature of a consumer residing in this state whom a
687 telemarketer or telephone solicitor calls or contacts that clearly and
688 conspicuously authorizes the telemarketer or telephone solicitor to
689 deliver, or cause to be delivered, to such consumer advertisements or
690 telemarketing messages by using a telephone system, an automated
691 dialing system or recorded message device, a call using soundboard
692 technology, an over-the-top message or a text or media message, and (B)
693 the telephone number to which such consumer authorizes such
694 telemarketer or telephone solicitor to deliver, or cause to be delivered,
695 such advertisements or telemarketing messages;

696 (8) "Soundboard technology" means a technology that allows an
697 individual to communicate with a call recipient in real-time by playing
698 a recorded audio message instead of using the individual's voice;

699 [(3)] (9) "Telemarketer" means any person who initiates the sale, lease
700 or rental of consumer goods or services, or offers gifts or prizes with the
701 intent to sell, lease or rent consumer goods by: (A) Telephonic means;
702 [or] (B) use of television, radio or printed advertisement, postcard or
703 other written notice with requests that the consumer contact the seller
704 by telephone to inquire about goods or services and such advertisement,
705 postcard or notice does not contain the price or a description of the
706 goods or services; (C) automated dialing system or recorded message
707 device; (D) soundboard technology; (E) over-the-top message; or (F) text
708 or media message;

709 (10) "Telephone solicitor" means any individual, association,
710 corporation, partnership, limited partnership, limited liability company,
711 nonprofit corporation or other business entity, or a subsidiary or affiliate
712 thereof, doing business in this state that makes, or causes to be made, a
713 telephonic sales call;

714 (11) "Telephonic sales call" (A) means a telephone call made to a
715 consumer residing in this state by or on behalf of a telephone solicitor
716 regardless of whether such call is made using an automated dialing
717 system or recorded message device or soundboard technology, or an
718 over-the-top message or a text or media message, for the purpose of (i)
719 engaging in a marketing or sales solicitation, (ii) soliciting an extension
720 of credit for consumer goods or services, (iii) obtaining information that
721 will or may be used for a marketing or sales solicitation or an exchange
722 or extension of credit for consumer goods or services, (iv) encouraging
723 such consumer to share any personally identifying information or
724 purchase or invest in any property, goods, services or other thing of
725 value if such consumer did not previously express any interest in
726 sharing such personally identifying information or purchasing or
727 investing in such property, goods, services or other thing of value, or (v)
728 soliciting such consumer to donate any money, property, goods,
729 services or other thing of value if such consumer did not previously
730 express any interest in donating such money, property, goods, services
731 or other thing of value, and (B) does not include a telephone call or
732 message described in subparagraph (A) of this subdivision if such call
733 is made or message is sent (i) in response to a request or inquiry made
734 by a consumer residing in this state, including a call or message
735 concerning an item that such consumer purchased from the telephone
736 solicitor during the twelve-month period preceding such call or
737 message, (ii) a call made or message sent by a nonprofit organization to
738 a consumer residing in this state who is on a list of bona fide or active
739 members of such nonprofit organization, (iii) a call or message that is
740 limited to polling or soliciting votes or the expression of an idea or
741 opinion, (iv) a call made or message sent as part of a business-to-
742 business contact, (v) a call made or message sent to a consumer residing
743 in this state who granted prior express written consent to receiving such

744 call or message, (vi) a call made or message sent primarily in connection
745 with an existing debt or contract, payment or performance of which has
746 not been completed at the time of such call or message, (vii) a call made
747 or message sent to an existing customer of a telephone solicitor unless
748 such customer previously informed the telephone solicitor, orally or in
749 writing, that such customer no longer wishes to receive such calls or
750 messages from such telephone solicitor, or (viii) a call made or message
751 sent for a religious, charitable, political or other noncommercial
752 purpose; and

753 (12) "Text or media message" (A) means a message that consists of
754 text or any image, sound or other information that is transmitted by or
755 to a device that is identified as the device that sent or received such text,
756 image, sound or information by using a ten-digit telephone number or
757 a N11 service code, (B) includes a short message and multimedia
758 message service that contains written, audio, video or photographic
759 content and is sent electronically to a mobile telephone or mobile
760 electronic device telephone number, and (C) does not include electronic
761 mail sent to an electronic mail address.

762 Sec. 10. Subsection (b) of section 42-285 of the general statutes is
763 repealed and the following is substituted in lieu thereof (*Effective October*
764 *1, 2023*):

765 (b) The contract shall include, but shall not be limited to, the
766 following information:

767 (1) The telemarketer's legal name, address, [and] telephone number,
768 [of the telemarketer] headquarters location and home state or country
769 for entity registration purposes;

770 (2) A list of all prices or fees being charged including any handling,
771 shipping, delivery or other charges;

772 (3) The date of the transaction;

773 (4) A detailed description of the goods or services being sold, leased
774 or rented; and

775 (5) In ten-point boldface type, in a space immediately preceding the
776 space allotted for the consumer's signature, the following statement:
777 "YOU ARE NOT OBLIGATED TO PAY ANY MONEY UNLESS YOU
778 SIGN THIS CONTRACT AND RETURN IT TO THE ADDRESS
779 CONTAINED IN THIS CONTRACT".

780 Sec. 11. Section 42-286 of the general statutes is repealed and the
781 following is substituted in lieu thereof (*Effective October 1, 2023*):

782 (a) A telemarketer shall not accept payment in any form from a
783 consumer, or make or submit any charge to the consumer's credit card,
784 charge card, debit card or electronic payment platform account, unless
785 the telemarketer has received from the consumer a contract, signed by
786 the consumer, which complies with section 42-285, as amended by this
787 act.

788 (b) In the event that the consumer sends payment to the telemarketer,
789 or the telemarketer makes or submits a charge to the consumer's
790 account, including, but not limited to, a credit card, charge card, debit
791 card or electronic payment platform account, and the telemarketer has
792 not received a signed contract from the consumer which complies with
793 section 42-285, as amended by this act, the telemarketer shall fully
794 refund the consumer's payment or fully credit the consumer's [credit
795 card] account.

796 Sec. 12. Section 42-288 of the general statutes is repealed and the
797 following is substituted in lieu thereof (*Effective October 1, 2023*):

798 (a) For the purposes of sections 42-284 to 42-287, inclusive, as
799 amended by this act, any transaction which occurs between a
800 telemarketer and a consumer shall be considered to have taken place in
801 this state if [either] (1) the telemarketer is a resident of, or a business
802 entity registered with the Secretary of the State to do business in, this
803 state, or (2) the consumer is [domiciled in] a resident of this state.

804 (b) Violation of any provision of sections 42-284 to 42-287, inclusive,
805 as amended by this act, shall be an unfair or deceptive act or practice in

806 violation of subsection (a) of section 42-110b.

807 (c) There shall be a rebuttable presumption that a telephonic sales call
808 made, a call using an automated dialing system or recorded message
809 device made, an over-the-top message sent, a text or media message sent
810 or a call using soundboard technology made to a Connecticut area code,
811 or to a consumer who is a resident of this state, has taken place in this
812 state.

813 Sec. 13. Section 42-288a of the general statutes is repealed and the
814 following is substituted in lieu thereof (*Effective October 1, 2023*):

815 (a) As used in this section and section 42-288b:

816 (1) "Automated dialing system or recorded message device" has the
817 same meaning as provided in section 42-284, as amended by this act;

818 (2) "Caller identification service or device" means any telephone
819 service or device which permits a consumer to see the telephone
820 number, caller name or location of an incoming telephonic sales call;

821 ~~[(1)]~~ (3) "Commissioner" means the Commissioner of Consumer
822 Protection;

823 ~~[(2)]~~ (4) "Consumer" means any individual who is a resident of this
824 state and a prospective recipient of consumer goods or services;

825 ~~[(3)]~~ (5) "Consumer goods or services" [means any article or service
826 that is purchased, leased, exchanged or received primarily for personal,
827 family or household purposes, and includes, but is not limited to, stocks,
828 bonds, mutual funds, annuities and other financial products] has the
829 same meaning as provided in section 42-284, as amended by this act;

830 ~~[(4)]~~ (6) "Department" means the Department of Consumer
831 Protection;

832 ~~[(5)]~~ (7) "Doing business in this state" [means] includes, but is not
833 limited to, conducting telephonic sales calls or making calls using an
834 automated dialing system or recorded message device or soundboard

835 technology, or sending over-the-top messages or text or media
836 messages, (A) from a location in this state, or (B) from a location outside
837 of this state to consumers residing in this state;

838 (8) "Marketing or sales solicitation" has the same meaning as
839 provided in section 42-284, as amended by this act;

840 (9) "Over-the-top message" has the same meaning as provided in
841 section 42-284, as amended by this act;

842 [(6)] (10) "Prior express written consent" [has the meaning provided
843 in 47 CFR 64.1200, as amended from time to time] has the same meaning
844 as provided in section 42-284, as amended by this act;

845 [(7) "Marketing or sales solicitation" means the initiation of a
846 telephone call or message, including, but not limited to, a text or media
847 message, to encourage the purchase or rental of, or investment in,
848 property, goods or services, that is transmitted to any consumer, but
849 does not include a telephone call or message, including, but not limited
850 to, a text or media message (A) to any consumer with such consumer's
851 prior express written consent, (B) by a tax-exempt nonprofit
852 organization, or (C) to a consumer in response to a visit made by such
853 consumer to an establishment selling, leasing or exchanging consumer
854 goods or services at a fixed location;]

855 (11) "Soundboard technology" has the same meaning as provided in
856 section 42-284, as amended by this act;

857 (12) "Telemarketer" has the same meaning as provided in section 42-
858 284, as amended by this act;

859 [(8)] (13) "Telephonic sales call" [means a telephone call made by a
860 telephone solicitor, or a text or media message sent by or on behalf of a
861 telephone solicitor, to a consumer for the purpose of (A) engaging in a
862 marketing or sales solicitation, (B) soliciting an extension of credit for
863 consumer goods or services, or (C) obtaining information that will or
864 may be used for marketing or sales solicitation or exchange of or
865 extension of credit for consumer goods or services] has the same

866 meaning as provided in section 42-284, as amended by this act;

867 [(9)] (14) "Telephone solicitor" [means any individual, association,
868 corporation, partnership, limited partnership, limited liability company
869 or other business entity, or a subsidiary or affiliate thereof, doing
870 business in this state that makes or causes to be made a telephonic sales
871 call, including, but not limited to, sending or causing to be sent a text or
872 media message to a consumer's mobile telephone or mobile electronic
873 device;] has the same meaning as provided in section 42-284, as
874 amended by this act; and

875 [(10)] (15) "Text or media message" [means a message that contains
876 written, audio, video or photographic content and is sent electronically
877 to a mobile telephone or mobile electronic device telephone number, but
878 does not include electronic mail sent to an electronic mail address;] has
879 the same meaning as provided in section 42-284, as amended by this act.

880 [(11) "Unsolicited telephonic sales call" means any telephonic sales
881 call other than a telephonic sales call made: (A) Pursuant to the prior
882 express written consent of the consumer who is called or sent a text or
883 media message; (B) primarily in connection with an existing debt or
884 contract, payment or performance of which has not been completed at
885 the time of the telephonic sales call; or (C) to an existing customer, unless
886 such customer has stated to the telephone solicitor that such customer
887 no longer wishes to receive the telephonic sales calls of such telephone
888 solicitor; and

889 (12) "Caller identification service or device" means any telephone
890 service or device which permits a consumer to see the telephone number
891 of incoming telephone calls or text or media messages.]

892 (b) The department shall establish and maintain a "no sales
893 solicitation calls" listing of consumers who do not wish to receive
894 [unsolicited] telephonic sales calls. The department may contract with a
895 private vendor to establish and maintain such listing, provided (1) the
896 private vendor has maintained national "no sales solicitation calls"
897 listings for more than two years, and (2) the contract requires the vendor

898 to provide the "no sales solicitation calls" listing in a printed hard copy
899 format and in any other format offered at a cost that does not exceed the
900 production cost of the format offered. The department shall provide
901 notice to consumers of the establishment of a "no sales solicitation calls"
902 listing. Any consumer who wishes to be included on such listing shall
903 notify the department by calling a toll-free number provided by the
904 department, or in any other such manner and at such times as the
905 commissioner may prescribe. A consumer on such listing shall be
906 deleted from such listing upon the consumer's written request. The
907 department shall update such listing not less than quarterly and shall
908 make such listing available to telephone solicitors and other persons
909 upon request.

910 (c) No telemarketer or telephone solicitor may make or cause to be
911 made any [unsolicited] telephonic sales call to any consumer [(1)
912 residential, mobile or telephonic paging device telephone number if the
913 consumer's name and telephone number or numbers appear on the
914 [then current quarterly "no sales solicitation calls" listing made available
915 by the department under] National Do Not Call Registry maintained by
916 the Federal Trade Commission pursuant to 15 USC 6102(a), as amended
917 from time to time, that establishes a national database listing the
918 telephone numbers of subscribers who do not wish to receive telephone
919 solicitations, which number or numbers the department shall include in
920 the listing established and maintained, and made available, pursuant to
921 subsection (b) of this section. [, unless (A) such call was made by a
922 telephone solicitor that first began doing business in this state on or after
923 January 1, 2000, (B) a period of less than one year has passed since such
924 telephone solicitor first began doing business in this state, and (C) the
925 consumer to whom such call was made had not on a previous occasion
926 stated to such telephone solicitor that such consumer no longer wishes
927 to receive the telephonic sales calls of such telephone solicitor, (2) for
928 telephone calls, to be received between the hours of nine o'clock p.m.
929 and nine o'clock a.m., local time, at the consumer's location or, for text
930 or media messages, to be received on the consumer's mobile telephone
931 or mobile electronic device at any time, (3) in the form of electronically
932 transmitted facsimiles, or (4) by use of a recorded message device.]

933 (d) Telephonic sales calls made to any consumer residential, mobile
934 or telephonic paging device telephone number not otherwise prohibited
935 by this section shall be limited to being conducted within the hours of
936 nine o'clock a.m. and eight o'clock p.m. local time.

937 (e) Any person making a telephonic sales call to a consumer's
938 residential, mobile or telephonic paging device telephone number that
939 is not otherwise prohibited by this section shall disclose such person's
940 identity, the purpose of such telephonic sales call and the identity of the
941 entity for which such person is making such telephonic sales call, if any,
942 not later than ten seconds after such telephonic sales call begins.

943 (f) If a telephone solicitor makes a telephonic sales call to a consumer
944 and requests that the consumer donate or gift money or anything of
945 value, the telephone solicitor shall, at the beginning of such telephonic
946 sales call, ask such consumer whether such consumer wishes to
947 continue such telephonic sales call, end such telephonic sales call or be
948 removed from such telephone solicitor's list.

949 (g) A telephone solicitor shall end a telephonic sales call not later than
950 ten seconds after a consumer states or otherwise indicates that the
951 consumer wishes to end such telephonic sales call.

952 (h) If a consumer informs a telephone solicitor, at any point during a
953 telephonic sales call, that the consumer does not wish to receive future
954 telephonic sales calls from the telephone solicitor, or wishes such
955 telephone solicitor to remove such consumer's name, telephone number
956 or other contact information from such telephone solicitor's list, such
957 telephone solicitor shall: (1) Inform such consumer that such consumer's
958 contact information will be removed from such telephone solicitor's list
959 for at least one full year; (2) end such telephonic sales call not later than
960 ten seconds after such consumer expresses such wish; (3) refrain from
961 making any additional telephonic sales calls to such consumer at any
962 telephone number associated with such consumer for at least one full
963 year; and (4) not give or sell such consumer's name, telephone number
964 or other contact information to any other entity, or receive anything of
965 value from any other entity in exchange for such consumer's name,

966 telephone number or other contact information.

967 [(d)] (i) No telemarketer or telephone solicitor may [intentionally]
968 cause to be installed or [may intentionally] use any blocking device or
969 service to circumvent a consumer's use of a caller identification service
970 or device. No telephone solicitor may intentionally transmit inaccurate
971 or misleading caller identification information.

972 [(e)] (j) (1) Any person who obtains the name, residential address or
973 telephone number of any consumer from published telephone
974 directories or from any other source and republishes or compiles such
975 information, electronically or otherwise, and sells or offers to sell such
976 publication or compilation to telephone solicitors for marketing or sales
977 solicitation purposes, shall exclude from any such publication or
978 compilation, and from the database used to prepare such publication or
979 compilation, the name, address and telephone number or numbers of
980 any consumer if the consumer's name and telephone number or
981 numbers appear [in the then current quarterly "no sales solicitation
982 calls" listing made available by the department under subsection (b) of
983 this section] on the National Do Not Call Registry maintained by the
984 Federal Trade Commission pursuant to 15 USC 6102(a), 16 CFR Part 310
985 and 47 CFR 64.1200, as amended from time to time, that establishes a
986 national database listing the telephone numbers of subscribers who do
987 not wish to receive telephone solicitations.

988 (2) This subsection does not apply to (A) any telephone company, as
989 defined in section 16-1, for the sole purpose of compiling, publishing or
990 distributing telephone directories or causing the compilation,
991 publication or distribution of telephone directories or providing
992 directory assistance, and (B) any person, for the sole purpose of
993 compiling, publishing or distributing telephone directories for such
994 telephone company pursuant to an agreement or other arrangement
995 with such telephone company.

996 [(f)] (k) The commissioner may adopt regulations, in accordance with
997 chapter 54, to carry out the provisions of this section. Such regulations
998 may include, but shall not be limited to, provisions governing the

999 availability and distribution of the listing established under subsection
1000 (b) of this section and notice requirements for consumers wishing to be
1001 included on the listing established under subsection (b) of this section
1002 consistent with information on the National Do Not Call Registry
1003 maintained by the Federal Trade Commission pursuant to 15 USC
1004 6102(a), 16 CFR Part 310 and 47 CFR 64.1200, as amended from time to
1005 time.

1006 [(g)] (l) A violation of any of the provisions of this section shall be
1007 deemed an unfair or deceptive trade practice under subsection (a) of
1008 section 42-110b. [, except that no telephone solicitor may be liable under
1009 this section for a call made in violation of subdivision (1) of subsection
1010 (c) of this section if such telephone solicitor demonstrates that: (1) Such
1011 telephone solicitor established and implemented written procedures
1012 and trained its employees to follow such procedures to comply with
1013 subdivision (1) of subsection (c) of this section; (2) such telephone
1014 solicitor deleted from its call list any listing of a consumer on the then
1015 current quarterly "no sales solicitation calls" listing maintained pursuant
1016 to subsection (b) of this section; and (3) such call was made
1017 inadvertently.]

1018 [(h)] (m) No telemarketer or telephone solicitor may make, or cause
1019 to be made, [an unsolicited, automatically dialed, recorded] a telephonic
1020 sales call to a consumer without such consumer's prior express written
1021 consent.

1022 [(i)] In addition to the requirements of subsections (b) to (h), inclusive,
1023 of this section, if a consumer's mobile telephone or mobile electronic
1024 device telephone number does not appear on the then current quarterly
1025 "no sales solicitation calls" listing made available by the department
1026 under subsection (b) of this section, no telephone solicitor may send or
1027 cause to be sent a text or media message to such number for the purpose
1028 of marketing or sales solicitation of consumer goods, unless such
1029 telephone solicitor has received the prior express written consent of the
1030 consumer to receive such text or media message.]

1031 (n) In addition to the requirements established in subsections (b) to

1032 (m), inclusive, of this section, if a consumer's mobile telephone or mobile
1033 electronic device telephone number does not appear on the then current
1034 quarterly "no sales solicitation calls" listing made available by the
1035 department pursuant to subsection (b) of this section, no telephone
1036 solicitor may send, or cause to be sent, a call using soundboard
1037 technology, an over-the-top message or a text or media message to such
1038 number for the purpose of marketing, selling or soliciting sales of
1039 consumer goods unless the telephone solicitor received express written
1040 consent from the consumer to receive such call using soundboard
1041 technology, over-the-top message or text or media message before such
1042 telephone solicitor made such call or sent such message or caused such
1043 call to be made or message to be sent.

1044 [(j)] (o) Notwithstanding the provisions of subsections (c) and [(i)] (j)
1045 of this section, a telecommunications company, as defined in section 16-
1046 1, may send an over-the-top message or a text or media message to an
1047 existing customer, provided [:] (1) [Such] such telecommunications
1048 company does not charge the customer a fee for such over-the-top
1049 message or text or media message, and (2) such over-the-top message or
1050 text or media message is primarily in connection with (A) an existing
1051 debt, payment of which has not been completed at the time the over-
1052 the-top message or text or media message is sent, (B) an existing contract
1053 between the telecommunications company and the customer, (C) a
1054 wireless emergency alert authorized by federal law, or (D) a prior
1055 request for customer service that was initiated by the customer.

1056 [(k)] (p) In addition to any penalty imposed under chapter 735a, any
1057 telephone solicitor, who is liable under the provisions of subsections
1058 [(g)] (b) to [(i)] (n), inclusive, of this section, shall be fined not more than
1059 twenty thousand dollars for each violation.

1060 Sec. 14. (NEW) (*Effective October 1, 2023*) (a) As used in this section:

1061 (1) "Automated dialing system or recorded message device" has the
1062 same meaning as provided in section 42-284 of the general statutes, as
1063 amended by this act;

1064 (2) "Commercial solicitation" (A) means the unsought initiation of a
1065 telephone conversation or voice communication for the purpose of (i)
1066 encouraging a consumer to purchase property, goods or services, or (ii)
1067 obtaining personal information or any other thing of value, and (B) does
1068 not include (i) an unsought telephone conversation or voice
1069 communication with a consumer who provides advance (I) written
1070 nonassignable consent to such conversation or communication, or (II)
1071 electronic nonassignable consent to such conversation or
1072 communication if the consumer has been provided a clear, conspicuous,
1073 detailed disclosure concerning the scope of such consent before such
1074 consumer provides such consent and if such consent only applies to
1075 conversations or communications initiated by the person seeking such
1076 consent, or (ii) any portion of an unsought voice communication that
1077 involves a live conversation between the voice communication recipient
1078 and a person with whom such recipient has an established business
1079 relationship;

1080 (3) "Consumer" has the same meaning as provided in section 42-288a
1081 of the general statutes, as amended by this act;

1082 (4) "Established business relationship" means an existing relationship
1083 that is formed by a voluntary two-way communication between a
1084 consumer or entity and a business, with or without an exchange of
1085 consideration, on the basis of an application, purchase or transaction
1086 regarding property, goods or services offered by the business or entity,
1087 which relationship has not been previously terminated by either party;

1088 (5) "Over-the-top message" has the same meaning as provided in
1089 section 42-284 of the general statutes, as amended by this act;

1090 (6) "Person" has the same meaning as provided in section 42-284 of
1091 the general statutes, as amended by this act;

1092 (7) "Personal information" has the same meaning as provided in
1093 section 36a-701b of the general statutes, as amended by this act;

1094 (8) "Soundboard technology" has the same meaning as provided in

1095 section 42-284 of the general statutes, as amended by this act;

1096 (9) "Telephonic sales call" has the same meaning as provided in
1097 section 42-284 of the general statutes, as amended by this act;

1098 (10) "Terminating provider" means a telecommunications provider
1099 upon whose network a voice communication terminates to a call
1100 recipient or end user;

1101 (11) "Text or media message" has the same meaning as provided in
1102 section 42-284 of the general statutes, as amended by this act; and

1103 (12) "Voice communication" (A) means a communication that is made
1104 by an individual or, in whole or in part, by using an artificial or
1105 prerecorded message, (B) includes, but is not limited to, a voice message
1106 transmitted directly to a recipient's voicemail regardless of whether the
1107 recipient's phone rings as part of the transmission, and (C) does not
1108 include an automated warning required by law.

1109 (b) (1) Except as provided in subdivision (2) of this subsection, no
1110 person shall:

1111 (A) Initiate a commercial solicitation or telephonic sales call by using
1112 an automated dialing system or recorded message device, technology to
1113 send an over-the-top message or a text or media message, or by using
1114 soundboard technology to contact (i) a telephone number with a
1115 Connecticut area code, or (ii) a telephone registered to a resident of this
1116 state whose telephone number appears on the National Do Not Call
1117 Registry maintained by the Federal Trade Commission pursuant to 15
1118 USC 6102(a), as amended from time to time; or

1119 (B) Provide substantial assistance or support to the initiator of a
1120 commercial solicitation or telephonic sales call that enables the initiator
1121 to initiate, originate or transmit a commercial solicitation or telephonic
1122 sales call if such person knows, or avoids knowing, that such initiator is
1123 engaged, or intends to engage, in fraud or any practice that violates any
1124 provision of this section or sections 42-284 to 42-288b, inclusive, of the
1125 general statutes, as amended by this act.

1126 (2) No provision of subdivision (1) of this subsection shall be
1127 construed to prohibit:

1128 (A) Any person from designing, manufacturing or distributing any
1129 component, product or technology that has a commercially significant
1130 use other than circumventing or violating the provisions of this section;

1131 (B) Any telecommunications provider or other entity from providing
1132 access to the Internet for the purpose of excluding initiation of a voice
1133 communication or text message; or

1134 (C) Any terminating provider from taking any action concerning
1135 completion of a voice communication.

1136 (c) There shall be a rebuttable presumption that a commercial
1137 solicitation, voice communication or telephonic sales call made by using
1138 an automated dialing system or recorded message device, or technology
1139 that sends an over-the-top message or a text or media message, to any
1140 telephone number with a Connecticut area code or to a consumer has
1141 taken place in this state.

1142 (d) A violation of this section shall be deemed an unfair or deceptive
1143 trade practice under subsection (a) of section 42-110b of the general
1144 statutes. In addition to any penalty imposed under chapter 735a of the
1145 general statutes, any person who violates any provision of this section
1146 shall be fined not more than twenty thousand dollars for each such
1147 violation.

1148 Sec. 15. Subsections (c) to (k), inclusive, of section 21a-190f of the
1149 general statutes are repealed and the following is substituted in lieu
1150 thereof (*Effective from passage*):

1151 (c) [No] Not less than [twenty days] one business day prior to the
1152 commencement of each solicitation campaign, a paid solicitor shall file
1153 with the department a copy of the contract described in subsection (d)
1154 of this section and shall complete a solicitation notice in a form
1155 prescribed by the commissioner. A solicitation notice shall be certified
1156 by the paid solicitor as true and correct to the best of the solicitor's

1157 knowledge and shall include a description of the solicitation event or
1158 campaign, the location and telephone number from which the
1159 solicitation is to be conducted, the names and residence addresses of all
1160 employees, agents or other persons however styled who are to solicit
1161 during such campaign and the account number and location of all bank
1162 accounts where receipts from such campaign are to be deposited.
1163 [Copies of campaign solicitation literature, including the text of any
1164 solicitation to be made orally, shall be submitted to the department.] The
1165 charitable organization on whose behalf the paid solicitor is acting shall
1166 certify that the solicitation notice and accompanying material are true
1167 and complete. [Prior to the commencement of such solicitation
1168 campaign, the commissioner shall publicize such solicitation by posting
1169 on the department's web site information describing the terms of the
1170 contract between the paid solicitor and the charitable organization, the
1171 dates of such solicitation campaign and the percentage of the raised
1172 funds to be retained by the paid solicitor. The commissioner may
1173 publicize such solicitation through any additional means the
1174 commissioner deems appropriate.]

1175 (d) A contract between a paid solicitor and a charitable organization
1176 shall be in writing, shall clearly state the respective obligations of the
1177 paid solicitor and the charitable organization and shall state the
1178 minimum amount that the charitable organization shall receive as a
1179 result of the solicitation campaign, which minimum amount shall be
1180 stated as a percentage of the gross revenue. Such minimum amount
1181 shall not include any amount that the charitable organization is to pay
1182 as expenses of the solicitation campaign.

1183 (e) A paid solicitor shall, prior to orally requesting a contribution, and
1184 at the same time at which a written request for a contribution is made,
1185 clearly and conspicuously disclose at the point of solicitation such
1186 solicitor's name as on file with the department [,] and the fact that such
1187 solicitor is a paid solicitor. [and the percentage of the gross revenue
1188 which the charitable organization shall receive as identified in
1189 subsection (d) of this section.]

1190 (f) A paid solicitor shall, in the case of a solicitation campaign
1191 conducted orally, whether by telephone or otherwise, send a written
1192 confirmation to each person who has pledged to contribute, no more
1193 than five days after such person has been solicited, which confirmation
1194 shall include a clear and conspicuous disclosure of the information
1195 required by subsection (e) of this section.

1196 (g) A paid solicitor shall not represent that any part of the
1197 contributions received will be given or donated to any charitable
1198 organization unless such organization has consented in writing to the
1199 use of its name, prior to the solicitation. Such written consent, if given,
1200 shall be signed by two authorized officers, directors or trustees of the
1201 charitable organization.

1202 (h) No paid solicitor may represent that tickets to an event are to be
1203 donated for use by another, unless the paid solicitor has first obtained a
1204 commitment, in writing, from a charitable organization stating that it
1205 will accept donated tickets and specifying the number of tickets which
1206 it is willing to accept and provided no more contributions for donated
1207 tickets shall be solicited than the number of ticket commitments
1208 received from the charitable organization.

1209 (i) A paid solicitor shall require any person such solicitor directly or
1210 indirectly employs, procures or engages to solicit to comply with the
1211 provisions of subsections (e) to (h), inclusive, of this section.

1212 (j) A paid solicitor shall file a financial report for the campaign with
1213 the department no more than ninety days after a solicitation campaign
1214 has been completed, and on the anniversary of the commencement of
1215 any solicitation campaign which lasts more than one year, in a form
1216 prescribed by the commissioner. The financial report shall include gross
1217 revenue and an itemization of all expenditures incurred. The report
1218 shall be completed on a form prescribed by the department. An
1219 authorized official of the paid solicitor and two authorized officials of
1220 the charitable organization shall certify that such report is true and
1221 complete to the best of their knowledge. The information contained in
1222 such report shall be available to the public.

1223 (k) A paid solicitor shall maintain during each solicitation campaign
1224 and for not less than three years after the completion of each such
1225 campaign the following records; [, which shall be available to the
1226 department for inspection upon request:] (1) The name and address of
1227 each contributor, if known to the paid solicitor, and the date and amount
1228 of the contribution; [, provided the department shall not disclose this
1229 information except to the extent necessary for investigative or law
1230 enforcement purposes;] (2) the name and residence of each employee,
1231 agent or other person involved in the solicitation; and (3) records of all
1232 income received and expenses incurred in the course of the solicitation
1233 campaign. The paid solicitor shall make the records required under
1234 subdivisions (2) and (3) of this subsection, as well as records containing
1235 the dates and amounts described in subdivision (1) of this subsection,
1236 available to the department for inspection upon request.

1237 Sec. 16. Subsection (b) of section 21a-190c of the general statutes is
1238 repealed and the following is substituted in lieu thereof (*Effective from*
1239 *passage*):

1240 (b) A charitable organization shall include with the charitable
1241 organization's financial statement (1) an audit report of a certified public
1242 accountant if the charitable organization had gross revenue in excess of
1243 [five hundred thousand] one million dollars in the year covered by [the]
1244 such report, [shall include with its financial statement an audit report of
1245 a certified public accountant] or (2) an audit or review report of a
1246 certified public accountant if the charitable organization had gross
1247 revenue in excess of five hundred thousand dollars but not more than
1248 one million dollars in the year covered by such report. For purposes of
1249 this section, gross revenue shall not include grants or fees from
1250 government agencies or the revenue derived from funds held in trust
1251 for the benefit of the organization. The commissioner may, upon written
1252 request and for good cause shown, waive the audit or review report
1253 requirement under this subsection.

1254 Sec. 17. Subsection (a) of section 21a-190b of the general statutes is
1255 repealed and the following is substituted in lieu thereof (*Effective from*

1256 *passage*):

1257 (a) Every charitable organization not exempted by section 21a-190d
 1258 shall annually register with the department prior to conducting any
 1259 solicitation or prior to having any solicitation conducted on its behalf by
 1260 others. Application for registration shall be in a form prescribed by the
 1261 commissioner and shall include a nonrefundable application fee of fifty
 1262 dollars. Such application shall include: (1) A registration statement, (2)
 1263 an annual financial report for such organization for the preceding fiscal
 1264 year that is prepared in accordance with the provisions of subsection (a)
 1265 of section 21a-190c, as amended by this act, and (3) an audited or
 1266 reviewed financial statement as required by subsection (b) of section
 1267 21a-190c, as amended by this act. An authorized officer of the
 1268 organization shall certify that the statements therein are true and correct
 1269 to the best of their knowledge. A chapter, branch or affiliate in this state
 1270 of a registered parent organization shall not be required to register
 1271 provided the parent organization files a consolidated annual
 1272 registration for itself and its chapter, branch or affiliate. Each charitable
 1273 organization shall annually renew its registration not later than eleven
 1274 months after the end of such organization's fiscal year.

1275 Sec. 18. Section 42-288c of the general statutes is repealed. (*Effective*
 1276 *October 1, 2023*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	42-110d(c) to (f)
Sec. 2	<i>July 1, 2023</i>	35-42(c)
Sec. 3	<i>July 1, 2023</i>	4-61dd(d)
Sec. 4	<i>October 1, 2023</i>	36a-701b
Sec. 5	<i>July 1, 2023</i>	42-471(d) to (h)
Sec. 6	<i>October 1, 2023</i>	42-472a
Sec. 7	<i>July 1, 2023</i>	42-520(a)
Sec. 8	<i>October 1, 2023</i>	53-289a
Sec. 9	<i>October 1, 2023</i>	42-284
Sec. 10	<i>October 1, 2023</i>	42-285(b)
Sec. 11	<i>October 1, 2023</i>	42-286

Sec. 12	<i>October 1, 2023</i>	42-288
Sec. 13	<i>October 1, 2023</i>	42-288a
Sec. 14	<i>October 1, 2023</i>	New section
Sec. 15	<i>from passage</i>	21a-190f(c) to (k)
Sec. 16	<i>from passage</i>	21a-190c(b)
Sec. 17	<i>from passage</i>	21a-190b(a)
Sec. 18	<i>October 1, 2023</i>	Repealer section

JUD *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 24 \$	FY 25 \$
Consumer Protection, Dept.	GF - Cost	76,522	76,385
State Comptroller - Fringe Benefits ¹	GF - Cost	31,910	32,708
Resources of the General Fund	GF - Potential Revenue Gain	See Below	See Below
Consumer Protection, Dept.	Various - Revenue Impact	See Below	See Below

Note: GF=General Fund; Various=Various

Municipal Impact: None

Explanation

The bill makes various changes to the Attorney General and Department of Consumer Protection (DCP) statutes resulting in the costs and revenue impacts described below.

Costs:

Sections 5-6 require the DCP to oversee the application review and financial restitution program for the expanded data privacy requirements of the bill resulting in a cost of \$76,522 in FY 24 and \$76,385 in FY 25 to DCP, along with fringe benefit costs of \$31,910 in FY 24 and \$32,708 in FY 25. To meet the requirements of the bill DCP will have to hire one fiscal/administrative officer. This position will be responsible for reviewing the applications and supporting evidence and

¹The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 42.82% of payroll in FY 24.

determining if the applicant is a victim of identity theft.

Revenue Impacts:

Sections 5-6 require a transfer to the General Fund (GF) if the balance in the privacy protection guaranty and enforcement account exceeds \$250,000 resulting in a potential revenue gain to the GF to the extent this occurs. These sections also alter the deposits and payments of the privacy protection guaranty and enforcement account resulting in a revenue impact depending on the amount of deposits and payments required.

The bill makes various other Consumer Protection and Attorney General related changes which is anticipated to result in no fiscal impact to the state or municipalities.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sSB 1058****AN ACT CONCERNING THE ATTORNEY GENERAL'S RECOMMENDATIONS REGARDING CONSUMER PROTECTION AND FINANCIAL REPORTING BY CHARITABLE ORGANIZATIONS.**

TABLE OF CONTENTS:

SUMMARY§§ 1-3 — INVESTIGATIVE DOCUMENTS IN THE POSSESSION OF STATE ENTITIES

Addresses state entities' handling of documents related to investigations of alleged CUTPA, antitrust, or health and human services violations

§§ 4-7 — CONSUMER PRIVACY

Adds "precise geolocation data" to the types of personal information subject to data breach notice requirements; changes the penalty and enforcement mechanism for personal information safeguarding requirements; expands the purposes of the Privacy Protection Guaranty and Enforcement Account and creates separate processes for accessing funds; and changes the liability threshold for data controllers under a framework taking effect July 1, 2023

§ 8 — TICKET PRICING

Establishes disclosure requirements for anyone selling or reselling tickets for an entertainment event; requires operators that charge admission prices for places of entertainment to include certain related information on the ticket face; and prohibits false or misleading disclosures

§§ 9-14 & 18 — TELEMARKETING AND DO NOT CALL REGISTRIES

Broadens applicability of the state's telemarketing laws, Do Not Call laws, and other restrictions; prohibits initiating a commercial transaction or telephonic sales call using various types of technology to contact a telephone number with a Connecticut area code; establishes rebuttable presumptions on call locations

§ 15 — PAID SOLICITORS' DISCLOSURES

Makes several changes in the Connecticut Solicitation of Charitable Funds Act, generally codifying recent caselaw that deemed certain provisions regulating paid solicitors unenforceable on constitutional grounds

§§ 16 & 17 — CHARITABLE ORGANIZATIONS AUDIT REQUIREMENT

Raises the threshold above which a registered charitable organization must submit a formal audit report to DCP, while allowing smaller organizations to instead submit a CPA's financial "review report"

BACKGROUND

SUMMARY

A section-by-section analysis follows.

§§ 1-3 — INVESTIGATIVE DOCUMENTS IN THE POSSESSION OF STATE ENTITIES

Addresses state entities' handling of documents related to investigations of alleged CUTPA, antitrust, or health and human services violations

The bill addresses state entities' handling of documents related to investigations of alleged Connecticut Unfair Trade Practices Act (CUTPA), antitrust, or health or human services violations. It also makes technical changes.

CUTPA Investigations (§ 1)

By law, the Department of Consumer Protection (DCP) commissioner, attorney general, or their employees must publicly disclose records related to an investigation of an alleged CUTPA violation, in fulfillment of the state's Freedom of Information Act. This includes any complaint initiating the investigation and all records related to its disposition or settlement. While the investigation's completion is pending, the bill allows the commissioner to temporarily withhold from public disclosure any documents containing responses to investigative demands.

Antitrust and Health and Human Services Investigations (§§ 2 & 3)

By law, the attorney general, the attorney general's deputy, or any designated assistant attorney general must not make public any documents provided to them in association with an investigation of alleged (1) state antitrust act violations, provided on demand or voluntarily, or (2) false claims and other prohibited acts related to state-administered health or human services programs, provided on demand. When the investigation is complete, or when any action or proceeding has reached its final determination, the documents must be returned to the person who furnished them. Under the bill, if the documents or

other information were provided electronically, they must be erased.

EFFECTIVE DATE: July 1, 2023, except the provisions on CUTPA investigations are effective upon passage.

§§ 4-7 — CONSUMER PRIVACY

Adds “precise geolocation data” to the types of personal information subject to data breach notice requirements; changes the penalty and enforcement mechanism for personal information safeguarding requirements; expands the purposes of the Privacy Protection Guaranty and Enforcement Account and creates separate processes for accessing funds; and changes the liability threshold for data controllers under a framework taking effect July 1, 2023

Personal Information and Breach Notices (§ 4)

By law, any person who owns, licenses, or maintains computerized data that includes personal information must comply with certain reporting and mitigation requirements when personal information is reasonably believed to have been breached. The bill adds “precise geolocation data” to the types of personal information subject to these requirements, when in combination with a person’s (1) first name or first initial and (2) last name. By law, “precise geolocation data” means information derived from technology (e.g., GPS level latitude and longitude coordinates or other mechanisms) that directly identifies someone’s specific location with precision and accuracy within a 1,750-foot radius. It excludes the content of communications and data related to utility metering systems.

Existing law generally requires the person or entity subject to the breach to notify (1) any state resident whose personal information was breached and (2) the attorney general. The law generally requires this notice in specific formats (i.e., written, by phone, or electronically), but creates an exception, allowing a “substitute notice” if the notifier demonstrates that the cost would exceed \$250,000, the group to be notified would exceed 500,000 people, or the notifier lacks sufficient contact information. The bill specifies that the notifier must demonstrate that these substitute notice criteria are met in the notice of the breach provided to the attorney general. By law, substitute notice includes emailing affected people, posting on the notifier’s website, and notifying major state-wide media of the breach.

Safeguarding Requirements (§ 5)

A separate existing law requires people in possession of other types of personal information to (1) safeguard the data, and computer files and documents containing it, from misuse by third parties and (2) destroy, erase, or make the data, computer files, and documents unreadable before disposing of them. These safeguarding requirements apply to information associated with a particular individual through one or more identifiers (e.g., Social Security numbers, driver's license numbers, state identification card numbers, account numbers, debit or credit card numbers, passport numbers, alien registration numbers, health insurance identification numbers, or any military identification information).

The bill changes the penalty and, in some cases, the enforcement mechanism for these safeguarding requirements. Under current law, violators are subject to a \$500 civil penalty for each violation, up to \$500,000 for a single event, and penalties only apply if the violation was intentional. The bill instead makes a violation an unfair trade practice under CUTPA. Among other things, CUTPA allows the DCP commissioner to investigate complaints, issue cease and desist orders, and order restitution in certain cases. It also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorney's fees; and impose civil penalties of up to \$5,000 for willful violations and \$25,000 for restraining order violations (CGS § 42-110a et seq.).

Under current law, DCP enforces safeguarding requirements, unless the person possessing data is supervised by another state agency under a license, registration, or certificate. In that case, the other state agency enforces them. The bill exempts the attorney general's actions from these provisions. Additionally, the bill allows, rather than requires, civil penalties to be deposited into the privacy protection guaranty and enforcement account (see below).

Privacy Protection Guaranty and Enforcement Account (§ 6)

By law, the privacy protection guaranty and enforcement account is

a nonlapsing account in the General Fund. The DCP commissioner must use funds in the account to reimburse people hurt by violations of the safeguarding requirements described above, among other things. The bill caps the total balance in the account at \$250,000 and requires that any balance exceeding that amount be deposited in the General Fund.

The bill broadens the account's purposes to include reimbursing those harmed by violations of laws against (1) identity theft in the first, second, or third degree, (2) trafficking in personal identifying information, and (3) misrepresentation as an online business.

Current law has a process, for people who get court judgments against any person or entity for violating various laws on safeguarding personal information, to apply for a payment from the account in the amount of unpaid damages and costs taxed by the court against the violator, excluding punitive damages. By law, this process is available upon the judgment's final determination or after the time for appeal has expired. The bill expands eligibility for this process to those who obtain court judgements against any person or entity for violating laws against (1) identity theft in the first, second, or third degree, (2) trafficking in personal identifying information, and (3) misrepresentation as an online business. Current law requires the application to include a certified copy of the court judgment and requires the applicant to sign a notarized affidavit affirming that he or she has obtained a judgment. Under the bill, copies of, and affidavits referencing, court orders or decrees must also be included.

The bill similarly expands a provision allowing people to apply for payment from the account who have unpaid orders of restitution. Under current law, an individual who is awarded an order of restitution against someone for loss or damages sustained from violating various laws related to safeguarding personal information may apply. The bill expands eligibility for this process to those who obtain court judgements against any person or entity for violating laws against (1) identity theft in the first, second, or third degree, (2) trafficking in personal identifying information, and (3) misrepresentation as an online business.

The bill also allows the fund to be used to assign court-ordered restitution resulting from violations of laws on the following topics if restitution is owed to someone residing in the state on the date of the order or violation:

1. misrepresenting, impersonating, or using false personal identifying information when applying for a license, registration, or certificate (CGS § 21-120);
2. physically altering a license, registration, or certificate to conceal or misrepresent a material fact (CGS § 21-121);
3. willful violation of laws that restrict posting, displaying, transmitting, and using Social Security numbers (CGS § 42-470(e));
4. diverting employee labor from the state (CGS § 53a-127);
5. identify theft in the first, second, or third degree, or trafficking in personal identifying information (CGS §§ 53a-129b to -129e);
6. criminal impersonation (CGS § 53a-130); and
7. federal laws on (a) fraud and related activity in connection with identification documents and (b) aggravated identity theft (18 U.S.C. §§ 1028 & 1028A).

The bill establishes a separate process for an identity theft victim who receives a restitution order for the violations listed above. Under the bill, in cases where the victim is a state resident on the date of the order or violation, the victim may apply to the DCP commissioner, on forms she prescribes, for an order directing payment from the account. The application must include (1) a copy of the court judgment, order, or decree obtained against the person or entity that committed identify theft and (2) a notarized affidavit, signed and sworn to by the victim, that states the amount owed on the judgement, award, or degree at the time of the application and affirms that the victim complied with the bill's requirements for this process and has been awarded an order of

restitution.

Under the bill, the process for paying restitution to identity theft victims is the same as under the existing process for court judgments. If the DCP commissioner determines the documents are complete and authentic and the individual has not been paid, she must order payment out of the account for the amount of unpaid damages and costs taxed by the court against the violator, excluding punitive damages.

The bill creates another separate process for identity theft victims who would not otherwise qualify for payment under the provisions described above. Under this process, a victim may apply to the DCP commissioner for an order directing payment from the account in the amount incurred or lost by the victim due to identity theft within the last three years. The bill limits the amount to (1) \$5,000 to reimburse the victim for reasonable costs (e.g., documented lost wages, costs to resolve or mitigate identity theft effects) and (2) \$15,000 for actual losses. Under this process, a victim must attest on a DCP-prescribed form that (1) he or she is a victim of identity theft and (2) the person or persons who committed identity theft (a) cannot reasonably be determined or identified or (b) have been identified but have not been prosecuted due to any reason other than the victim's noncooperation, unless the victim's noncooperation is due to domestic violence.

The bill requires the DCP commissioner or her designee to inspect the application and supporting evidence for veracity. If the commissioner or designee makes a reasonable determination that the applicant is likely an identity theft victim and the person or persons who committed identity theft have not been prosecuted for the reasons described above, the commissioner must issue an order directing payment from the account in the amount incurred or lost by the victim due to identity theft in the last three years, subject to the limits described above.

Existing law also requires the DCP commissioner to use funds in the account to enforce various laws on consumer privacy, including provisions establishing (1) the safeguarding requirements described above and (2) restrictions on posting, displaying, transmitting, and

using Social Security numbers. The bill additionally requires her to use funds in the account to enforce the breach notice and mitigation requirements described above. The bill also expands the fund's uses to include the attorney general's enforcement of laws on misrepresentation as an online business.

Lastly, the bill authorizes civil penalties collected for failure to comply with data breach provisions (see § 4 above) to be deposited into the privacy protection guaranty and enforcement account.

Personal Data Framework (§ 7)

Beginning July 1, 2023, existing law establishes a framework for controlling and processing personal data. The framework requires a controller (i.e., an individual or legal entity that determines the purpose and means of processing personal data) to limit the collection of personal data and establish security practices, among other things. Existing law prohibits controllers from processing a consumer's personal data for purposes of targeted advertising without the consumer's consent for consumers who are at least 13 years old, but under 16 years old. Under current law, for the prohibition to apply, the controller must have actual knowledge that the consumer's age is in this range and willfully disregard it. Under the bill, either actual knowledge or willful disregard of the consumer's age makes a controller subject to the prohibition.

Background — Related Bill

sSB 1103 (File 228), § 7, favorably reported by the General Law Committee, contains an identical provision prohibiting a controller that has actual knowledge or willfully disregards the consumer's age from processing the consumer's data for targeted advertising without the consumer's consent.

EFFECTIVE DATE: July 1, 2023, except provisions on security breach requirements and the privacy protection guaranty and enforcement account are effective October 1, 2023.

§ 8 — TICKET PRICING

Establishes disclosure requirements for anyone selling or reselling tickets for an entertainment event; requires operators that charge admission prices for places of entertainment to include certain related information on the ticket face; and prohibits false or misleading disclosures

For entertainment events where a service charge will be imposed, existing law requires advertisements to conspicuously disclose the total price for each ticket and what portion represents a service charge. Current law does not define “service charge,” but the bill defines it as any additional fee or charge that is designated as an “administrative fee,” “service fee,” “surcharge,” or another substantially similar term.

The bill additionally requires operators who charge an admission price for a place of entertainment to print or endorse on each ticket face for an event (1) the established ticket price and (2) the final auction price of the ticket if the operator or his or her agent sells or resells the ticket at auction.

The bill requires any person who facilitates ticket sales or resales for an entertainment event to disclose:

1. the total ticket price, including all service charges required to purchase the ticket; and
2. in a clear and conspicuous manner, to the ticket purchaser, the portion of the ticket price in dollars attributable to service charges charged to the purchaser for the ticket.

The bill requires these disclosures to be displayed in the ticket listing before the ticket is selected for purchase. It prohibits any increase of the total ticket price during the ticket purchasing process, other than a reasonable charge to deliver a nonelectronic ticket if the fee is (1) based on the delivery method selected by the ticket purchasers and (2) disclosed to the purchaser before purchase.

The bill prohibits (1) false or misleading disclosures and (2) disclosures from being presented more prominently than the total ticket price, or in a font size as large or larger than the font size of the total ticket price.

EFFECTIVE DATE: October 1, 2023

§§ 9-14 & 18 — TELEMARKETING AND DO NOT CALL REGISTRIES

Broadens applicability of the state's telemarketing laws, Do Not Call laws, and other restrictions; prohibits initiating a commercial transaction or telephonic sales call using various types of technology to contact a telephone number with a Connecticut area code; establishes rebuttable presumptions on call locations

Telemarketers, Contracts, and Payments

The bill broadens the applicability of the state's telemarketing laws. Under existing law, an oral agreement between a consumer and a telemarketer is not binding, valid, or enforceable unless the telemarketer receives a written, signed contract disclosing the agreement's full terms. If the telemarketer sends goods or services to the consumer without this written contract, they are considered an unconditional gift with no obligation to the consumer (CGS § 42-285). Under current law, a "telemarketer" is any person who initiates the sale, lease, or rental of consumer goods or services, or offers gifts or prizes with the intent to sell, lease, or rent consumer goods, by methods that include (1) telephone or (2) written notice that does not describe goods or services or disclose a price and instead includes a request to contact the seller by telephone. Under the bill, "consumer goods or services" are articles or services purchased, leased, exchanged, or received primarily for personal, family, or household purpose, including warrantees, gift cards, stocks, bonds, mutual funds, annuities, and other financial products.

Under the bill, telemarketers are also those who use the following methods or technologies:

1. automated dialing system or recorded message device, which is a device that (a) automatically dials a telephone number and plays a recorded message upon connection or (b) makes a connection to an end user through an automated system used to dial a telephone number and transmit a voice communication;
2. soundboard technology, which is a technology that allows someone to communicate with a call recipient in real-time by

- playing a recorded audio message instead of using his or her voice;
3. over-the-top message, which is a text-based communication on a platform that uses existing Internet services to deliver messages (e.g., WhatsApp and Facebook Messenger); or
 4. text or media message, which is a message consisting of text or any image, sound, or other information transmitted by or to a device identifiable through a 10-digit telephone number or N11 service code.

Emails sent to email addresses are not text or media messages under the bill. A “text or media message” includes a short message and multimedia message service that contains written, audio, video, or photographic contact sent electronically to a mobile telephone or mobile electric device telephone number.

The bill expands the information that the written contract must contain to include the telemarketer’s headquarters location and home state or country for entity registration purposes. The bill specifies that the telemarketer’s name on the contract must be the telemarketer’s legal name.

The bill also expands the types of payment that are subject to requirements for a written contract. Current law prohibits telemarketers from accepting payments from a consumer or submitting a charge to a consumer’s credit card unless the telemarketer has received a written and signed contract from the consumer. The bill also applies this prohibition to payment in any form and charges to a charge card, debit card, or electronic payment platform account. Under existing law, when the consumer pays a telemarketer who has not received a written signed contract from the consumer, the telemarketer must refund the consumer’s payment or credit the consumer’s account. The bill specifies that this obligation is for a full refund.

For purposes of applicability, under current law, any transaction

occurring between a telemarketer and a consumer is considered to have taken place in Connecticut if either the telemarketer or the consumer is domiciled in Connecticut. The bill instead considers transactions to have taken place in Connecticut if the (1) telemarketer is a state resident or a business entity registered with the Secretary of State to do business in Connecticut or (2) consumer is a state resident (see also rebuttable presumption provisions below).

Do Not Call Registries and Other Restrictions

The bill broadens the applicability of the state's laws on "Do Not Call" registries and establishes other restrictions. Both state and federal laws establish "Do Not Call" registries. In practice, the state registry is populated with information from the federal registry. Current law prohibits telephone solicitors from making unsolicited telephonic sales calls to any consumer if the consumer's name and telephone number appear on the state registry (i.e., the current quarterly "no sales solicitation calls" listing made available by DCP). Under current law, all telephonic sales calls are unsolicited unless they are (1) under a consumer's prior express written consent, (2) primarily in connection with an unpaid debt or uncompleted contract, or (3) to an existing customer, unless the customer has stated that he or she no longer wants to receive these calls. The bill instead applies to any telephonic sales calls and prohibits both telemarketers and telephone solicitors from making any telephonic sales calls to a consumer's residential, mobile, or telephone paging device telephone number if the consumer's name and telephone number appear on the federal registry. The bill requires DCP to include listings on the federal registry in the state registry, conforming to current practice. The bill also removes an exemption in current law from the prohibition for calls made by telephone solicitors that have been doing business in the state for less than a year when the consumer has not previously stated that the consumer no longer wishes to receive telephonic sales calls.

The bill shifts the scope of these laws by making changes to several definitions. By law, generally unchanged by the bill, a "telephone solicitor" is any individual, association, corporation, partnership,

limited partnership, limited liability company, nonprofit corporation, or other business entity, or an entity's subsidiary or affiliate, doing business in the state that makes telephonic sales calls. Under current law, a telephone solicitor is doing business in the state if it conducts telephonic business calls from a location in this state or from a location outside this state to consumers residing in this state. The bill broadens the types of activities that would be considered doing business in the state, expanding the scope of requirements under the bill and existing law for telephone solicitors. Under the bill, doing business in the state includes conducting telephonic sales calls or making calls using an automated dialing system or recorded message device or soundboard technology, or sending over-the-top messages or text and media messages from a location in this state or from a location outside of this state to consumers residing in the state (see also rebuttable presumption provisions below). Under current law, a text or media message is a message containing written, audio, or photographic content that is sent electronically to a mobile telephone or electronic device telephone number. Under the bill, a text or media message is as defined above.

The bill also expands the definition of a "telephonic sales call." Under current law, a telephonic sales call means a telephone call made by a telephone solicitor, or a text or media message sent by or on behalf of a telephone solicitor for the following purposes:

1. to engage in a marketing or sales solicitation;
2. to solicit a credit extension for consumer goods or services; or
3. to obtain information that will or may be used for a marketing or sales solicitation or exchange of, or credit extension for, consumer goods or services.

The bill establishes a more expansive definition of telephonic sales call that also applies (1) to telephone calls made on behalf of a telephone solicitor and (2) regardless of whether the calls are made using an automated dialing system or recorded message device, soundboard technology, or an over-the-top message or text or media message. It also

includes as telephonic sales calls those made for the following purposes:

1. to encourage the consumer to share personally identifying information or purchase or invest in any property, goods, services, or other things of value if the consumer did not previously express interest in doing so or
2. to solicit the consumer to donate any money, property, goods, services, or other thing of value if the consumer did not previously express interest in doing so.

Under the bill, a “marketing or sales solicitation” is the initiation of a communication, including through the technologies described above, to encourage the purchase or rental of, or investment in, property, goods, or services transmitted to a consumer residing in the state. It excludes communication to these consumers with their prior express written consent or in response to a consumer’s visit to an establishment selling, leasing, or exchanging consumer goods or services at a fixed location. The bill eliminates an additional exclusion under current law for calls or messages made by a tax-exempt nonprofit.

Under the bill, telephonic sales calls exclude the following types of calls or messages:

1. those made to respond to a request or inquiry from a consumer who resides in the state, including a call or message concerning an item the consumer purchased from the telephone solicitor during the previous 12-month period;
2. those made by a nonprofit organization to a consumer who is a state resident listed as a bona fide or active member of the organization;
3. those limited to polling, soliciting votes, or expressing an idea or opinion;
4. those made as part of a business-to-business contact;

5. those made to a consumer who resides in the state who granted prior express written consent (see below) to receiving a call or message;
6. those sent primarily in connection with an existing debt or contract that has not been completely paid or performed;
7. those sent to the telephone solicitor's existing customer unless the customer informed the solicitor, orally or in writing, that he or she does not wish to receive calls or messages from the solicitor; and
8. those sent for a religious, charitable, political, or other noncommercial purpose.

Regardless of the registry, the bill prohibits telemarketers or telephone solicitors from making a telephonic sales call to a consumer without the consumer's prior express written consent. Current law only prohibits telephone solicitors from making these calls if they are unsolicited, automatically dialed, and recorded, and references a federal definition of prior express written consent applicable to calls made with an automatic dialing system or an artificial or previously recorded voice (47 C.F.R. § 64.1200). Under the bill, "prior express written consent" means a written agreement bearing the (1) consumer's signature clearly and conspicuously authorizing the telemarketer or telephone solicitor to deliver advertisements or telemarketing messages to the consumer using any of the technologies described above and (2) telephone number where these advertisements or messages can be sent.

Under the bill, people making permissible telephonic sales calls to a consumer's residential, mobile, or telephonic paging device telephone number must disclose, within the first 10 seconds of the call, the (1) caller's identity, (2) telephonic sales call's purpose, and (3) entity for which the person is making the call.

The bill requires telephone solicitors, when requesting donations or anything of value from a consumer during a telephonic sales call, to ask

at the beginning of the call whether the consumer wishes to continue the call, end the call, or be removed from the telephone solicitor's list. Under the bill, for any telephonic sales call, telephone solicitors must end the call within 10 seconds after a consumer indicates his or her wish to end the call. If a consumer informs the telephone solicitor at any point during the call that the consumer does not wish to receive future telephonic sales calls or that the consumer wants the solicitor to remove his or her name, telephone number, or other contact information from the telephone solicitor's list, the telephone solicitors must take the following actions:

1. inform the consumer that his or her contact information will be removed from the solicitor's list for at least one full year;
2. end the call within 10 seconds after the consumer expresses these wishes;
3. refrain from making any more telephonic sales calls to the consumer at any of their associated numbers for at least one full year; and
4. refrain from giving or selling the consumer's name, telephone number, or other contact information to any other entity, or receiving anything of value from any other entity in exchange for the consumer's name, telephone number, or other contact information.

Current law prohibits telephone solicitors from making unsolicited telephonic sales calls to any consumer between 9:00 p.m. and 9:00 a.m. local time at the consumer's location. The bill extends this period by one hour (8:00 p.m. to 9:00 a.m.) and applies the prohibition to telephonic sales calls (1) made to any consumer residential, mobile, or telephonic paging device telephone number and (2) not otherwise prohibited under the bill.

Current law prohibits telephone solicitors from intentionally using blocking devices to circumvent a consumer's use of caller identification

services. The bill expands the prohibition by applying it to telemarketers in addition to telephone solicitors and applying it to all use of blocking devices rather than only intentional use. The bill also expands the type of caller identification systems subject to the protection to include those that permit a consumer to see the caller name or location of an incoming telephonic sales call, rather than just the telephone number. The bill eliminates a provision requiring the DCP commissioner to compensate anyone providing material information that results in an investigation of a telephone solicitor and enforcement of this blocking prohibition.

For consumers whose mobile telephone or mobile electronic device telephone number do not appear on the state registry, current law prohibits telephone solicitors from sending text or media message to the number to market or solicit sales of consumer goods without the consumer's prior express written consent. The bill expands this prohibition to apply to calls using soundboard technology, an over-the-top message, or a text or media message. Current law exempts from this prohibition text and media messages from a telecommunications company when the (1) company does not charge a fee and (2) message is connected to an existing unpaid debt, an existing contract between the company and the customer, a wireless emergency alert authorized by federal law, or the customer's previous request for customer service. The bill expands this exemption to also apply to over-the-top messages in the same circumstances. The bill eliminates a more general provision prohibiting telephone solicitors from making unsolicited telephonic sales calls to consumers (1) that are text or media messages to be received on a mobile telephone or mobile electronic device, (2) in the form of faxes, or (3) by using a recorded message device.

The bill references the federal registry rather than the state registry for an existing provision requiring any person who republishes or compiles names, addresses, or phone numbers to sell to telephone solicitors for marketing or sales solicitation purposes to exclude consumers who appear on the registry. Current law authorizes DCP to adopt regulations on provisions governing the availability and distribution of the state registry and notice requirements for consumers

wishing to be included on it. The bill requires these regulations to be consistent with information on the federal registry.

Under existing law, violations of Do Not Call registry laws are CUTPA violations. The bill eliminates a provision exempting telephone solicitors from CUTPA liability for making telephonic sales calls to consumers on the Do Not Call registry if the telephone solicitor has demonstrated the following:

1. the telephone solicitor established and implemented written procedures and trained its employees to follow them to comply with the law,
2. the telephone solicitor deleted from its call list any listing of a consumer on the state registry, and
3. the call was made inadvertently.

By law, unchanged by the bill, telephone solicitors liable under these provisions are subject to a \$20,000 fine for each violation, in addition to any CUTPA penalty.

Rebuttable Presumption on Location

For both the telemarketing provisions and the Do Not Call provisions, the bill also establishes a rebuttable presumption that various types of communications have taken place in the state if the communication is made to a Connecticut area code or a to state resident. This rebuttable presumption applies to telephonic sales calls, calls using an automated dialing system or recorded message device, over-the-top messages, text or media messages, and calls using soundboard technology.

Calls to Connecticut Area Codes

The bill prohibits any person (e.g., an individual or legal entity) from initiating a commercial solicitation or telephonic sales call using various types of technology to contact a (1) telephone number with a Connecticut area code or (2) telephone registered to a state resident

whose number appears on the federal Do Not Call registry. The provision applies to (1) automated dialing systems or recorded message devices, (2) technology to send an over-the-top message or text or media message, and (3) soundboard technology. (In separate provisions, the bill already prohibits telemarketers and telephone solicitors from making telephonic sales calls to a consumer's residential, mobile, or telephone paging device telephone number if the consumer's name and telephone number appear on the federal registry, regardless of the technology used (§ 13).)

A "commercial solicitation" under the bill is an unsought initiation of a telephone conversation or voice communication to (1) encourage a consumer to purchase property, goods, or services or (2) obtain personal information or any other thing of value. Under the bill, a "consumer" is any individual who is a resident of this state and a prospective recipient of consumer goods and services. A "voice communication" is a communication made by an individual or an artificial or prerecorded message, including a voice message transmitted directly to a recipient's voicemail regardless of whether the recipient's phone rings as part of the transmission. Automated warnings required by law are not voice communications for these purposes. Similarly, commercial solicitations do not include communications with a consumer who provides advance written nonassignable consent to the communication. Or the consumer may provide electronic nonassignable consent if provided with a clear, conspicuous, detailed disclosure on the scope of this consent before providing it. And the consent only applies to conversations or communications initiated by the person seeking consent. Commercial solicitations also do not include any portion of an unsought voice communication that involves a live conversation between the recipient and someone with whom he or she has an established business relationship. These relationships are existing relationships, not previously terminated by either party, and formed by a voluntary two-way communication between a consumer and an entity or business, based on an application, purchase, or transaction for property, goods, or services the business or entity offers.

The bill also prohibits any person from providing substantial assistance or support to someone initiating a commercial solicitation or telephonic sales call that enables the initiator to initiate, originate, or transmit a commercial solicitation or telephonic sales call if the person knows, or avoids knowing, that the initiator is engaged or intends to engage in fraud or any practice that violates telemarketing and Do Not Call provisions under the bill and existing law.

The bill's provisions do not prohibit the following:

1. any person from designing, manufacturing, or distributing any component, product, or technology that has a commercially significant use other than circumventing or violating the bill's provisions;
2. any telecommunications provider or other entity from providing Internet access to exclude initiation of a voice communication or text message; or
3. any terminating provider (a telecommunications provider upon whose network a voice communication terminates to a call recipient or end user) from taking any action concerning completion of a voice communication (e.g., restoring a dropped call).

The bill establishes a rebuttable presumption that a commercial solicitation, voice communication, or telephonic sales call made by using an automated dialing system or recorded message device or technology that sends an over-the-top message or text or media message to any telephone number with a Connecticut area code or to a consumer has taken place in the state.

The bill makes violations unfair trade practices under CUTPA and requires violators to be fined \$20,000 in addition to any CUTPA penalties.

EFFECTIVE DATE: October 1, 2023

§ 15 — PAID SOLICITORS' DISCLOSURES

Makes several changes in the Connecticut Solicitation of Charitable Funds Act, generally codifying recent caselaw that deemed certain provisions regulating paid solicitors unenforceable on constitutional grounds

The bill makes several changes in the Connecticut Solicitation of Charitable Funds Act, generally codifying recent caselaw that deemed certain provisions regulating paid solicitors unenforceable on constitutional grounds (see *Background*). Regarding registered paid solicitors, the bill:

1. reduces, from 20 days to one business day, the prior notice a solicitor must give to DCP before starting a campaign (i.e., by filing his or her contract and solicitation notice form);
2. eliminates the requirement that copies of the charitable campaign solicitation literature, including the text of any proposed oral solicitations, be shared with DCP ahead of the campaign;
3. eliminates the requirement that a solicitor, before making an oral solicitation, disclose the percentage of the gross revenue that the organization will receive; and
4. correspondingly eliminates the requirement that a written confirmation of an oral pledge include information on the percentage of revenue the organization will receive.

Additionally, the bill eliminates the requirement that DCP publicize on its website the (1) terms of the contract between the solicitor and organization, (2) campaign dates, and (3) percentage of fundraising revenue the solicitor will keep. The bill also eliminates the DCP commissioner's authority to publicize this information elsewhere as she deems appropriate.

The bill narrows the solicitation campaign information solicitors must provide to DCP upon request. Under the bill, while solicitors must still maintain a record of contributors' names and addresses (if known), they are no longer required to share this information with DCP. As under current law, solicitors must still provide DCP, if requested,

information on the dates and amounts of contributions. Current law prohibits the department from disclosing this information, except if necessary for investigative or law enforcement purposes. The bill eliminates this restriction on DCP's authority to disclose contributor information.

Background

Solicitation of Charitable Funds Act. By law, the Solicitation of Charitable Funds Act requires charitable organizations that solicit money or support in Connecticut to register with DCP, unless they are exempt (e.g., religious and parent-teacher organizations, certain organizations that normally receive less than \$50,000 in contributions annually). Paid solicitors (and some fundraising counsel) are also required to register, post a bond, and file certain reports (CGS §§ 21a-190d to 21a-190f).

Related Caselaw on Paid Solicitors. In 2021, the U.S. District Court for the District of Connecticut issued a preliminary injunction enjoining DCP from enforcing, on the grounds that they likely violated free speech rights, the Solicitation of Charitable Funds Act's requirements that solicitors:

1. give DCP 20 days' notice, and provide DCP copies of the text of any intended solicitation, before starting a campaign and
2. keep records of donors and donations for DCP to inspect.

Additionally, while the court found that the Act's requirement that solicitors disclose to prospective donors the percentage of a contribution that the charitable organization would receive did not appear to comport with the First Amendment and U.S. Supreme Court caselaw, it did not enjoin DCP from enforcing this requirement, as the department said that it had already stopped enforcing it (*Kissel v. Seagull*, 552 F. Supp. 3d 277 (2021)).

EFFECTIVE DATE: Upon passage

§§ 16 & 17 — CHARITABLE ORGANIZATIONS AUDIT REQUIREMENT

Raises the threshold above which a registered charitable organization must submit a formal audit report to DCP, while allowing smaller organizations to instead submit a CPA’s financial “review report”

Currently, under the Connecticut Solicitation of Charitable Funds Act (see *Background* for § 15, above), charitable organizations with more than \$500,000 in annual gross revenue must include a CPA’s audit report in the annual financial report they submit as part of the DCP registration process. Under the bill, this is still a requirement for organizations with over \$1 million in gross revenue, but organizations with gross revenues over \$500,000 and not in excess of \$1 million can instead include a CPA’s financial review report.

EFFECTIVE DATE: Upon passage

BACKGROUND

Legislative History

The Senate referred the bill (File 204) to the Judiciary Committee, which reported a substitute that eliminates provisions on price gouging that (1) define price gouging as charging an unconscionably excessive price during certain declared emergencies, (2) expand the price gouging law’s application during certain declared emergencies, and (3) give the attorney general exclusive authority to enforce this law.

COMMITTEE ACTION

General Law Committee

Joint Favorable
Yea 22 Nay 0 (03/07/2023)

Judiciary Committee

Joint Favorable Substitute
Yea 36 Nay 0 (04/19/2023)