



MARYLAND KIDS CODE

Summary

During the 2023 General Assembly, Maryland Delegates Jared Solomon (D) and C.T. Wilson (D), along with Maryland Senators Benjamin Kramer (D) and Chris West (R) introduced the ***Maryland Age Appropriate Design Code Bill (MD AADC)***, House Bill 901 and Senate Bill 844, to offer privacy and safety by design to Maryland children online.

Thanks to leadership from our authors and support from youth, parents, medical professionals, and a coalition of partner organisations, Bill 901 was successfully passed off the House's Third Reading Calendar with 110 "yea" votes on March 20th. The bill had bipartisan support. Ultimately, HB 901 was held in the Senate Finance Committee, with a final informational hearing held on the topic on April 5th.

With plans to reintroduce an updated MD AADC in January, Maryland again has the chance to lead the way in making the digital world safe for American children. Data protection for children radically changes the way digital companies engage with children and offers them privacy and safety by design.

The MD AADC is practicable and realistic, drawing on strong international principles for safety and privacy by design. Furthermore, the MD AADC has been amended as a result of stakeholder feedback during the 2023 General Assembly and continued analysis during the summer recess to further strengthen the code and better align it with existing First Amendment jurisprudence. As a result, the MD AADC is not the same bill adopted by the California legislature and currently being litigated in California.

Core Principles of the AADC

The AADC offers a comprehensive set of rules for the protection of children's data. At its core are four principles: a child is a person under 18; the code applies to online services, products, or features a child is reasonably likely to access; covered entities are responsible for considering children's privacy and protection by design and default; and, in the event of a conflict of interest between the commercial interest of the business and their duty of care to act in the best interests of children reasonably likely to access the online service, product, or feature, the child's best interest must be paramount.

The AADC is further comprised of core standards that apply to all digital products and services that are likely to be accessed by children. These standards provide privacy and safety for children by: restricting data collection, sharing, profiling, and the use of data in ways that are detrimental to the child; require high privacy settings by default; and, requiring companies take a risk-based approach to mitigating or eliminating the risk of harm stemming from their online services and products

Impact of the AADC on Big Tech

The AADC has had a proven impact on children's online experiences as a result of the core principles adoption in the UK, Ireland, and the Netherlands. The following changes are a result of its adoption:

- **Changes to Default Settings:** Many services have made changes so that children and teens accounts are set to the highest privacy settings by design and default.
 - o *YouTube's* default upload settings have been changed to the most private setting for under 18s and have autoplay turned off.
 - o *Pinterest* now has notifications switched off by default and users are not pressured to switch them on.
 - o Adults can no longer direct message young people who do not follow them on *Instagram*.
- **Greater User Control:** Alongside default settings, many services have unveiled further user controls to help users manage and curate their own experience.
 - o *Twitter* expanded its Safety Mode, which blocks accounts who send abusive messages from following the recipient for seven days. Twitter will now also proactively scan Tweets for abusive content, and positively nudge recipients to turn on Safety Mode.
 - o *Among Us* now grants users the opportunity to manage data collection at sign up and in game, including the option to turn off a personalized game experience and opt out of data collection.
- **Recognition of Evolving Capacities:** Many of the positive changes have included a recognition of 'evolving capacities' with products adapting safeguards for different age groups. For instance:
 - o *Google* has developed engaging and easy-to-understand materials that will help children and their parents understand Google's data practices in an age-appropriate way, with options for 6-8-year-olds, 9-12-year-olds, and 13-17-year-olds.
 - o TikTok has created two bands, 13-15 and 16-17, for many of its safety features, granting older teens greater scope to manage their experiences on the app.

Utilizing the AADC model allows Maryland to build upon the AADC's international track record. By seeking to hold tech giants accountable to a proven international standard, Maryland ensures the changes and protections sought by the Maryland Kids Code are feasible for companies to comply with.

For Further Information:

- See our website: <https://marylandkidscode.com>
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