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Proponent Testimony – House Bill 376  
House Government Oversight Committee  
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Chairman Wilkin, Vice-Chair White, Ranking Member Sweeney, and members of the House Government Oversight Committee, thank you for allowing me to provide testimony in support of House Bill 376 – The Ohio Personal Privacy Act.

My name is Kirk Herath and I am retired from Nationwide Insurance Companies as Vice President, Associate General Counsel, and Chief Privacy Officer. I now serve as an Adjunct Professor at the Cleveland-Marshall College of Law and have the privilege of serving as Chair of the CyberOhio Advisory Board, which is under InnovateOhio, an office directed by Lt. Governor Husted.

I want to take a moment to give you some background information on CyberOhio and our role in helping to improve Ohio's cyber-related laws. CyberOhio was created in 2016 by then Attorney General DeWine to help Ohio businesses defend against cybersecurity threats. The goal of CyberOhio is to help foster a legal, technical, and collaborative cybersecurity environment to help Ohioans and Ohio businesses thrive. The initiative has an advisory board made up of industry experts from across the state. We now provide guidance and technical expertise to Lt. Governor Husted and InnovateOhio on cyber-related issues.

CyberOhio staff and advisory board members worked tirelessly on Senate Bill 220, known as the Data Protection Act, enacted in the 132<sup>nd</sup> General Assembly. The Data Protection Act provides an affirmative defense from civil action for businesses who proactively invest in a cybersecurity program. This was CyberOhio's first piece of legislation and put Ohio on the map as a leader in helping businesses adopt proper cybersecurity frameworks to keep Ohioans' data safe. Numerous other states have enacted similar legislation or are exploring similar proposals.

With the passage of the Data Protection Act the next steps are to ensure that Ohio is equipped to handle the ever-changing threats in cyber space. We are working with Representative Baldrige on House Bill 116, the Ohio Computer Crimes Act, which would give prosecutors the necessary, modernized tools to combat cybercriminals. We also tabbed establishing data privacy standards for Ohioans, which is what is done with HB 376.

Currently, a national standard does not exist for regulating the collection and use of personal information. A person's individual data is more exposed than ever. We continue to research, use online services, and purchase items online through

computers, phones, and tablets on daily basis. And each time data is exchanged, it is potentially exposed.

Data and personal information that if misused, mishandled, or inadequately protected can potentially result in identity theft, financial fraud, and other problems, which in turn puts the burden on consumers to sort out and, in many instances, pay for.

Right now, data privacy for Ohioans is very limited and protections do not exist. Many businesses already have privacy standards in place, but these policies are not necessarily uniform or go far enough in scope.

Many of you might be aware of California's Act that is subject to complaints nationally as not being business friendly and particularly complex and burdensome, especially for small to mid-sized companies. Virginia and Colorado recently enacted legislation that is a step in the right direction. But ultimately, Congress has not acted in this space so we as states must take the necessary steps to ensure consumers are protected.

HB 376 would give Ohioans control over their personal data by establishing data rights for consumers while helping businesses establish streamlined standards for protecting consumer data. With this legislation, we will go from a state with zero privacy protections to a state with a sensible but firm model for helping businesses protect people's private data.

Representatives Carfagna and Hall have already provided you with a brief overview of the bill, so I won't dive into all of the details again. I want to be a resource for this committee to answer any specific questions and help clarify anything within the bill.

However, I do want to highlight one aspect of the bill. OPPA encourages Ohio businesses to adopt the National Institute of Standards and Technology (NIST) Privacy Framework as a standard for developing a privacy policy. NIST provides a roadmap and guidelines for establishing data privacy standards. OPPA is unique from all other proposals because it incorporates this NIST framework into the bill by giving businesses an affirmative defense to any allegations of violations outlined in the bill. NIST-P is peer reviewed and continuously updated, steering businesses to a "living" framework so that Ohioans are protected, and businesses can quickly implement changes.

I am excited to see the state's continued efforts to ensure Ohioans' digital security. Thank you for your time and I am happy to answer any questions.