Comparison of California Age-Appropriate Design Code Act & Maryland Age-Appropriate Design Code Act
The 2024 state legislative season buzzed with proposals aimed at bolstering online protections for children and teens. Chief among these initiatives was the introduction of a new "Age-Appropriate Design Code 2.0" across multiple states, including Maryland. The Maryland AADC passed the legislature on April 6, 2024, making it the first state to pioneer the AADC 2.0. The Maryland AADC is an evolution of the original California AADC passed in September 2022. While the California AADC was slated to take effect on July 1, 2024, the United States District Court for the Northern District of California issued a preliminary injunction enjoining the California AADC from going into effect. The District Court held that plaintiffs were likely to succeed on their claim that several non-severable provisions of the California AADC violate the First Amendment. In light of this ongoing litigation, the Maryland AADC made several changes to the original AADC framework to provide heightened protections for kids online while addressing criticisms of the California AADC. This comparison chart delves into the differences and similarities between the two bills, offering insights into Maryland's approach.

	California Age-Appropriate Design Code (CA AADC)	**Maryland Age-Appropriate Design Code** (MD AADC)	**Comparison**
		Scope	
Applicability	A business that provides an online service, product, or feature likely to be accessed by children." (Cal. Civ. Code 1798.99.31(a)). "**Likely to be accessed by children**" means it is reasonable to expect, based on the following indicators, that the online service, product, or feature would be accessed by children: (A) The service is directed to children as defined by COPPA. (B) The service is "routinely accessed by a significant number of children," as determined by reliable evidence of audience composition. (C) Advertisements are marketed to children.	A business that develops and provides online services, products, or features that are **reasonably** likely to be accessed by children. (§14-4604(a)). "**Reasonably Likely to be Accessed**" means it is reasonable to expect that the online product would be accessed by children, based on satisfying any of the following criteria: (1) the online product is directed to children as defined in COPPA; (2) the online product is determined, based on competent and reliable evidence regarding audience composition, to be routinely accessed by a significant number of children;	The MD AADC is potentially narrower in scope, as it applies to services *reasonably* likely to be accessed by individuals under 18. However, the practical impact of this inclusion is unclear. Additionally, the MD AADC slightly modifies the indicators to assess what services are in scope. A service with design elements known to be of interest to children is removed as an indicator, and whether the company knows or should know that a significant number of its users are children was added.

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	(D) The service is substantially similar to one "routinely accessed by a significant number of children." (E) The service has design elements known to be of interest to children. (F) A significant amount of the audience," based on internal company research, is determined to be children. (Cal. Civ. Code § 1798.99.30(b)(4)). The CCPA defines "**business**" as a legal entity operating for profit that collects consumers' personal information, determines the processing of consumers' information, does business in CA, and meets one or more of the following requirements: (1) Gross revenue of more than $25 million (2) Receives personal info of 100,000 or more consumers or households (3) Derives more than 50% of annual revenues come from selling or sharing consumers' information. (Cal. Civ. Code § 1798.140(d)).	(3) the online product is substantially similar or the same as an online product that satisfies item (2) of this subsection; (4) the online product features advertisements marketed to children; (5) the covered entity's internal research findings determine that a significant amount of the online product's audience is composed of children; or (6) the covered entity knows or should have known that a user is a child. (§14-4601(S)). MD AADC defines **"Covered Entity"** as a sole proprietorship, partnership, LLC, association, or other legal entity operating for profit (1) that collect individuals' personal data or has individuals' personal data collected on its behalf by a third parties, determines the purposes and means of the processing of individuals' personal data, operates in MD, and meets one or more of the following requirements: (1) gross revenue in excess of $25 million; (2) buy, receive, sell, or share the personal data of 50,000 or more consumers, households, or devices; or (3) derives 50% or more of its annual revenues from selling individuals' personal data. (§14-4601(H)).	
Individuals protected	"**Child**" means a consumer or consumers who are under 18 years of age. (Cal. Civ. Code § 1798.99.30(b)(2)).	"**Child**" An individual who is under 18 years of age. (§14-4601(E)).	Similar definitions.

	California Age-Appropriate Design Code (CA AADC)	**Maryland Age-Appropriate Design Code** (MD AADC)	**Comparison**
	Requirements		
Age Estimation	Requires that covered businesses providing an online service, product, or feature that is "**likely to be accessed by a child**" to estimate the age of child users with a "**reasonable level of certainty appropriate to the risks that arise from the data management practices of the business**" or afford "high" privacy and data protections to all users. (Cal. Civ. Code § 1798.99.31(a)(5)).	N/A	A key change of MD AADC is that age estimation is not explicitly required. The CA AADC requires businesses to proactively estimate the age of child users or to apply the same privacy protections to all users.
Data Protection Assessments	Create a **Data Protection Impact Assessment (DPIA)** for any online service, product, or feature likely to be accessed by a child. DPIAs must be completed before a new service, product, or feature is offered to the public. DPIAs shall address whether the design could: **Harm children**; Lead to children experiencing or being targeted by **harmful contacts**; Permit children to be subject to **harmful conduct**; Expose children to **exploitation** by harmful contacts or to **harmful content**; Harm children with its **algorithms**; Harm children with its **targeted advertising systems**; Harm children with incentive or **engagement features**; Collect **sensitive** personal information. (Cal. Civ. Code § 1798.99.31. (a)(1)). Companies that conduct a DPIA shall "**document any risk of material detriment** to	A covered entity that provides an online product reasonably likely to be accessed by children must prepare a **Data Protection Impact Assessment (DPIA)** for the online product. (§14-4604). The DPIA must: (1) Identify the purpose of the online product; (2) Identify how the online product uses children's data; (3) Determine whether the online product is designed in a manner consistent with the best interests of children reasonably likely to access the online product through consideration of: (a) Whether the data management or processing practices of the online product **could lead to children experiencing or being targeted by contacts that**	The MD AADC does not directly specify that DPIAs must be completed before the online product is offered to the public in §14-4604(A)(3). However, **there is an incentive for covered entities to complete DPIAs prior to public offering**. Under §14-4609 of the statute, a company facing a violation of these provisions could avoid liability for a civil penalty if they were (a) given notice of the violation (as opposed to immediately being served with an enforcement action); and, (b) they meet the five elements listed in §14-4609(c). One of those five elements is that the covered entity had completed a DPIA *prior* to offering the online product to the public. Complying with this is a prerequisite to avoiding civil penalties.

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	children that arises from the data management practices of the business identified in the Data Protection Impact Assessment . . . **and create a timed plan to mitigate or eliminate the risk** before the online service, product, or feature is accessed by children." (Cal. Civ. Code § 1798.99.31. (a)(2)).	**would result in harm to children** (b) Whether the data management or processing practices of the online product **could permit children to participate in or be subject to conduct that would result in harm to children** (c) Whether the data management or processing practices of the online product **are reasonably expected to allow children becoming party to or exploited by a contract through the online product that would result in harm to children** (d) Whether the online product **uses system design features to increase, sustain, or extend the use of the online product, including the automatic playing of media, rewards for time spent, and notifications that would result in harm to children** (e) Whether, how, and **for what purpose the online product collects or processes personal data of children** and whether those practices **would result in harm to children**; (f) Whether and how **data collected to understand the experimental impact of the**	The MD AADC removes the requirement to assess whether the data management practices may lead to children being exposed to **harmful content**. While "**targeted advertising**" was previously addressed in the MD AADC, this term and mentions of it were struck in the Senate Finance Committee amendments. The current version of the bill no longer mentions targeted advertising (perhaps anticipating that Maryland will also pass comprehensive privacy legislation addressing teen data and advertising). As originally introduced, the MD AADC used the word "child" throughout. In the final version, all references to child have been replaced with "*children,*" presumably to address concerns that references to "a child" or "the child" required covered entities to tailor the design features to each individual child as opposed to the broader age bands identified in the bill.

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		product reveals data management or design practices that **would result in harm to children**; (g) Whether **algorithms used by the online product would result in harms to children** (h) **Any other factor** that may indicate that the online product is designed in a manner that is **inconsistent with the best interests of children**; and, (4) Include a description of steps that the covered entity has taken and will take to comply with the duty to act in a manner consistent with the best interests of children.	
Default Settings	Requires configuring all **default privacy settings for children to those that offer a high level of privacy**, unless the business can demonstrate a compelling reason that a different setting is in the best interests of children. (Cal. Civ. Code §1798.99.31(a)(6)).	Requirement to configure all **default privacy settings for children to those that offer a high level of privacy**, unless the covered entity can demonstrate a compelling reason that a different setting is in the best interests of children. (§ 14-4605(3)).	Similar requirements, but "best interests of children" is defined in the MD AADC.
Tools	Requires providing **prominent, accessible, and responsive tools** to help children or parents exercise their privacy rights and report concerns. (Cal. Civ. Code § 1798.99.31(a)(10)).	Requirement to provide **prominent, accessible, and responsive tools** to help children or their **parents or guardians**, exercise their privacy rights and report concerns.	Similar requirements.
Transparency	Requires providing any privacy information, terms of service, policies, and community	This bill would require a covered entity subject to completing a DPIA to provide any privacy	MD AADC only requires that covered entities provide information

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	standards **concisely, prominently, and using clear language** suited to the age of children likely to access that online service. (Cal. Civ. Code § 1798.99.31(a)(7)). Requires businesses to **enforce** "published terms, policies, and community standards" established by the business. This includes all privacy policies and those concerning children. (Cal. Civ. Code § 1798.99.31(a)(9)). Requires providing an obvious signal to the child when the child is being monitored or tracked for services that allow a parent to track the child's activity or location. (Cal. Civ. Code § 1798.99.31(a)(8)).	information, terms of service, policies, and community standards concisely, prominently, and using clear language suited to the age of children likely to access that online product (§ 14-4605 (A)(4)). **Does not** require a covered entity to provide an obvious signal to the child when the child is being monitored or tracked for services that allow a parent to track the child's activity or location. (§ 14-4606). **Does** require a covered entity to provide a signal to a child whenever the entity processes any precise geolocation data for that child for the duration that the precise geolocation data is being collected. (§ 14-4606)	on privacy, terms of service, and community standards in an age appropriate format. On the other hand, CA AADC requires covered entities to enforce published terms, policies and community standards, while the While the MD AADC did originally require covered entities to provide an obvious signal to children when a child's parent or guardian is monitoring the child's online activity or location, this signal requirement was removed from the bill when amended in committee. It is important to note here that the information that an entity is obligated to provide under the MD AADC must be provided in a language that is suitable for children *likely* to access the online product as opposed to *reasonably likely* to access the online product (a qualifier used in other sections). It is unclear if this is intended to be a broader scope or it is a drafting error.

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Prohibitions			
Processing	Prohibits using "the personal information of any child in a way that the business **knows, or has reason to know, is materially detrimental to the physical health, mental health, or well-being of a child.**" (Cal. Civ. Code § 1798.99.31(b)(1)). A business may not "collect, sell, share, or retain any personal information that is not necessary to provide an online service, product, or feature with which a child is actively and knowingly engaged" or "use personal information for any reason other than a reason for which that personal information was collected…**unless the business can demonstrate a compelling reason this is in the best interests of children.**" (Cal. Civ. Code § 1798.99.31(b)(3)(4)).	Processing restrictions on: ● Processing personal data of any child in a way that is inconsistent with the best interests of children. (§ 14-4606(A)(1)). ● Processing any personal data that is not reasonably necessary to provide an online service, product, or feature which a child is "actively and knowingly" engaged. (§ 14-4606(A)(3)). ● Processing personal data for any reason other than a reason for which that personal data was collected. (§ 14-4606(A)(4)). **"Process"** or **"processing"** means to perform an operation or set of operations by manual or automated means on personal data. "Process includes collecting, using, storing, disclosing, analyzing, deleting, or modifying personal data. (§ 14-4601(P)(1) & (2)). **Best Interest of Children** The use of the personal data of children or the design of an online service, product, or feature that: (1) will not benefit the covered entity to the detriment of children (2) will not result in: 　　(I) reasonably foreseeable and material physical or financial harm to children 　　(II) reasonably foreseeable and severe psychological or emotional harm to	Under the MD AADC, the restriction on processing applies to processing activities that are inconsistent with the 'best interests of children' standard, which is specifically defined in the bill. In contrast, under the CA AADC, material detriment was undefined The MD AADC is potentially stricter. There is no exemption for the processing restrictions if the business can demonstrate a compelling reason that it would be in the best interests of children. Additionally, "processing" covers a wider variety of activities than collect, sell, share, or retain in CA AADC.

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		children (III) a highly offensive intrusion on the reasonable privacy expectations of children (IV) discrimination against children based upon race, color, religion, national origin, disability, gender identity, sex, or sexual orientation.	
Profiling	Prohibits profiling, unless: (A) The business can demonstrate it has appropriate safeguards in place to protect children, and (B) Either of the following is true: (i) **Profiling is necessary to provide the online service, product**, **or feature** requested and only with respect to the aspects of the online service, product, or feature with which the child is actively and knowingly engaged. (ii) The business can demonstrate a **compelling reason that profiling is in the best interests of children**. (Cal. Civ. Code § 1798.99.31(b)(2)). "**Profiling**" means any form of automated processing of personal information to evaluate aspects relating to a person. This includes practices such as analyzing or predicting a user's health, economic situation, interests, or behavior. (Cal. Civ. Code § 1798.99.31. (b)(2)).	Prohibits profiling child by default **unless**: (I) the covered entity **can demonstrate it has appropriate safeguards in place to ensure that profiling is consistent with the best interests of children** who access or are reasonably likely to access the online product; and (II) either of the following is true: (1) profiling is necessary to provide the requested online product, and is done only with respect to the aspects of the online product that the child is actively and knowingly engaged with; or (ii) the covered entity can demonstrate a compelling reason that profiling is in the best interests of children. (14-4606(A)(2)). "**Profiling**" means any form of automated processing of personal data to evaluate, analyze, or predict certain aspects relating to an individual, including an individual's economic situation, health, personal preferences, interests, reliability, behavior, location, or movements. (§14-1401(Q)). Note: While the MD AADC previously exempted the processing of information that	Both the MD AADC and the CA AADC require that a business is able to demonstrate that profiling is in the best interest of children. This requirement is clearer under the MD AADC where "best interests of children" is a defined standard. Notably, the scope of this provision in MD AADC applies when children "access or are reasonably likely to access" the product, service, or feature.

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		does not result in an assessment or judgment about an individual from the definition of "profiling," this exemption was removed when amended in Committee.	
Dark Patterns	Prohibits using "dark patterns to lead or encourage children to provide personal information beyond what is reasonably expected to provide that online service, product, or feature to forego privacy protections, or to take any action that the business knows, or has reason to know, **is materially detrimental to the child's physical health, mental health, or well-being.**" (Cal. Civ. Code § 1798.99.31(b)(7)). As defined in CCPA, a **"dark pattern"** is "a user interface designed or manipulated with the substantial effect of subverting or impairing user autonomy, decision making, or choice, as further defined by regulation." (Cal. Civ. Code §1798.140(l)).	Prohibits using dark patterns to: (I) cause children to provide personal data beyond what is reasonably expected to provide that online service, product, or feature, (II) circumvent privacy protections, or (III) to take any action that the covered entity knows, or has reason to know, is not in the best interests of children reasonably likely to access the online service, product, or feature. (§14-4606(a)(7)). "**Dark pattern**" means a user interface designed or manipulated with the purpose of subverting or impairing user autonomy, decision making, or choice. "Dark pattern" also includes any practice identified by the Federal Trade Commission as a dark pattern. (§14-4601(l)(1-2)).	The MD AADC removes the material detriment language that was used in the CA AADC, but instead prohibits the use of dark patterns that lead a child to take an action that is not in the best interests of children.
Geolocation	Prohibits collecting, selling, or sharing any precise geolocation information of children **by default unless the collection of that precise geolocation information is strictly necessary for the business to provide the service, product, or feature** requested and then only for the limited time that the collection of precise geolocation information is necessary to provide the service, product, or feature.	Prohibits processing any precise geolocation information of children by default, **unless the collection of that precise geolocation information is strictly necessary for the covered entity to provide the online product** requested and then only for the limited time that the collection of precise geolocation information is necessary to provide the service, product, or feature. (§14-4606(A)(5)).	Similar requirements.

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	"Collect any precise geolocation information of a child **without providing an obvious sign** to the child for the duration of that collection that precise geolocation information is being collected." (Cal. Civ. Code § 1798.99.31(b)(5)(6)). As defined in CCPA, **precise geolocation information** is "any data that is derived from a device and that is used or intended to be used to locate a consumer within a geographic area that is equal to or less than the area of a circle with a **radius of 1,850 feet**, except as prescribed by regulations." (Cal. Civ. Code § 1798.140(w)).	Additionally, as mentioned before, this bill would prohibit businesses from processing any precise geolocation information of a child without providing an obvious signal to the child for the duration of that collection that precise geolocation information is being collected. (§14-4606(A)(6)). As defined in the amended bill, **"precise geolocation"** means information derived from technology that can precisely and accurately identify the specific location of a consumer within a radius of 1,750 feet. This definition includes "latitude and longitude coordinates of similar precision to those produced by a global positioning system or a similar mechanism." This definition **does not** include the following: the content of communications, data generated by or connected with a utility company's advanced metering infrastructure, or data generated by equipment used by a utility company. (§14-4601(O)(1-2)).	
Penalties and Enforcement			
Remedy	The Attorney General may impose an **injunction** and enforce civil penalties of **$2,500 per affected child for each negligent violation** or **$7,500 for each intentional violation.** Allows for **90 days to cure** an alleged violation and avoid penalty **if the business is in substantial compliance with the**	The Attorney General may impose an **injunction** and enforce civil penalties of **$2,500 per affected child for each negligent violation** or **$7,500 for each intentional violation.** Allows for **90 days to cure** an alleged violation and avoid penalty **if the business is in substantial compliance with the requirements**	The MD AADC specifies that DPIAs must be completed in order to receive the right to cure and avoid civil penalties.

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	requirements of paragraphs (1) through (4). In the case of substantial compliance, the AG shall provide notice to the business before filing an action. A business may avoid liability for a civil penalty for a violation if it: (1) cures the violation within 90 days; (2) provides the AG with a written statement that the violation has been cured; and, (3) takes measures to prevent any future violation that the AG determines to be sufficient.. (Cal. Civ. Code § 1798.99.35 (a)).	**of §§ 14-4604 through 14-4606**. In the case of substantial compliance, the AG shall provide notice to the business before filing an action under § 14-4608. A business may avoid liability for a civil penalty for a violation if it: (1) has completed a DPIA for existing online products (§14-4604(A)(2)); (2) has completed a DPIA prior to offering a new online product to the public (§14-4604(A)(3)); (3) cures the violation within 90 days; (4) provides the Division with a written statement that the violation has been cured; and, (5) takes measures to prevent any future violation that the Division determines to be sufficient.	
Rulemaking Authority	Permissive Attorney General rulemaking authority. (Cal. Civ. Code § 1798.99.35).	N/A	The MD AADC does not explicitly delegate rulemaking authority to the AG.
Working Group	Creates the **Children's Data Protection Working Group** to make recommendations to the Legislature on best practices for compliance on topics such as identifying services likely to be accessed by children, evaluating proper risk balancing for age assurance methods and publishing policies in age-appropriate language. (Cal. Civ. Code § 1798.99.32).	N/A	The MD AADC does not create a working group.