

SENATE BILL 266

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5lr0638
CF 5lr1688

By: **Senators Hough, Bates, Eckardt, Edwards, Jennings, Norman, Salling, Simonaire, Waugh, Ready, and Serafini**

Introduced and read first time: February 4, 2015

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Education – Privacy of Education Records and Personal Information of**
3 **Students**

4 FOR the purpose of authorizing the State Department of Education, the State Board of
5 Education, a county board of education, a local school system, a primary school, or a
6 secondary school to collect or disclose the education records, or personally
7 identifiable information contained in the education records, of a student only as
8 necessary or required for certain purposes; prohibiting a person from requiring a
9 certain student, without prior written consent, to submit to a survey, an analysis, or
10 an evaluation that reveals certain information; requiring the Department to develop
11 security measures and procedures to protect personally identifiable information
12 contained in education records from release to any unauthorized person or for any
13 unauthorized purpose; requiring the Department to comply with all federal and
14 State privacy protection laws when collecting, maintaining, or disclosing education
15 records; establishing that this Act does not prohibit the disclosure of aggregate data
16 from education records in certain circumstances; authorizing the Department to
17 adopt certain regulations; defining certain terms; and generally relating to the
18 privacy of education records and personal information of students.

19 BY adding to

20 Article – Education

21 Section 7–1701 through 7–1706 to be under the new subtitle “Subtitle 17. Privacy of
22 Student Information”

23 Annotated Code of Maryland

24 (2014 Replacement Volume and 2014 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
26 That the Laws of Maryland read as follows:

27 **Article – Education**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **SUBTITLE 17. PRIVACY OF STUDENT INFORMATION.**

2 **7-1701.**

3 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
4 **INDICATED.**

5 **(B) "EDUCATION RECORDS" HAS THE MEANING STATED IN 34 C.F.R. § 99.3.**

6 **(C) "PERSONALLY IDENTIFIABLE INFORMATION" HAS THE MEANING**
7 **STATED IN 34 C.F.R. § 99.3.**

8 **7-1702.**

9 **(A) THE DEPARTMENT, THE STATE BOARD, A COUNTY BOARD, A LOCAL**
10 **SCHOOL SYSTEM, A PRIMARY SCHOOL, OR A SECONDARY SCHOOL MAY COLLECT OR**
11 **DISCLOSE THE EDUCATION RECORDS OR PERSONALLY IDENTIFIABLE INFORMATION**
12 **CONTAINED IN THE EDUCATION RECORDS OF A STUDENT ONLY AS NECESSARY OR**
13 **REQUIRED TO:**

14 **(1) EVALUATE THE ACADEMIC PROGRESS OF THE STUDENT;**

15 **(2) CALCULATE FUNDING FOR PUBLIC EDUCATION;**

16 **(3) COMPLY WITH THE DATA REQUIREMENTS AND IMPLEMENTATION**
17 **SCHEDULE OF THE MARYLAND LONGITUDINAL DATA SYSTEM ESTABLISHED UNDER**
18 **TITLE 24, SUBTITLE 7 OF THIS ARTICLE; OR**

19 **(4) SUBJECT TO SUBSECTION (B) OF THIS SECTION, COMPLY WITH A**
20 **REPORTING REQUIREMENT OR ANY OTHER DUTY IMPOSED BY FEDERAL OR STATE**
21 **LAW.**

22 **(B) EXCEPT FOR INFORMATION RELATING TO PROGRAMS FOR MIGRANT**
23 **STUDENTS THAT IS REQUIRED TO BE REPORTED UNDER 20 U.S.C. § 6398, THE**
24 **DEPARTMENT MAY NOT REPORT PERSONALLY IDENTIFIABLE INFORMATION**
25 **CONTAINED IN EDUCATION RECORDS TO THE U.S. DEPARTMENT OF EDUCATION**
26 **UNDER ANY REPORTING REQUIREMENT TIED TO FEDERAL FUNDS.**

27 **7-1703.**

28 **(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, UNLESS EXPLICITLY**
29 **MANDATED IN FEDERAL OR STATE LAW, A PERSON MAY NOT REQUIRE A STUDENT IN**

1 KINDERGARTEN THROUGH GRADE 12, WITHOUT PRIOR WRITTEN CONSENT, TO
2 SUBMIT TO A SURVEY, AN ANALYSIS, OR AN EVALUATION THAT REVEALS
3 INFORMATION CONCERNING:

4 (1) A POLITICAL AFFILIATION OR BELIEF OF THE STUDENT OR A
5 PARENT OR GUARDIAN OF THE STUDENT;

6 (2) MENTAL OR PSYCHOLOGICAL PROBLEMS OF THE STUDENT OR
7 THE STUDENT'S FAMILY;

8 (3) SEXUAL BEHAVIOR OR ATTITUDES OF THE STUDENT OR THE
9 STUDENT'S FAMILY;

10 (4) ILLEGAL, ANTISOCIAL, SELF-INCRIMINATING, OR DEMEANING
11 BEHAVIOR;

12 (5) A CRITICAL APPRAISAL OF AN INDIVIDUAL WITH WHOM THE
13 STUDENT HAS A CLOSE FAMILY RELATIONSHIP;

14 (6) A LEGALLY RECOGNIZED PRIVILEGED OR ANALOGOUS
15 RELATIONSHIP WITH ANOTHER INDIVIDUAL, SUCH AS A LAWYER, PHYSICIAN, OR
16 MINISTER;

17 (7) A RELIGIOUS PRACTICE, AN AFFILIATION, OR ANY OTHER BELIEF
18 OF THE STUDENT OR A PARENT OR GUARDIAN OF THE STUDENT;

19 (8) PERSONAL OR FAMILY GUN OWNERSHIP;

20 (9) INCOME, UNLESS THE INFORMATION IS REQUIRED BY LAW TO
21 DETERMINE ELIGIBILITY FOR PARTICIPATION IN OR RECEIPT OF FINANCIAL
22 ASSISTANCE UNDER A PROGRAM THAT THE DEPARTMENT, THE STATE
23 SUPERINTENDENT OF SCHOOLS, THE U.S. DEPARTMENT OF EDUCATION, OR THE
24 U.S. SECRETARY OF EDUCATION IS RESPONSIBLE FOR ADMINISTERING; OR

25 (10) ANY OTHER INFORMATION OF A SIMILAR NATURE AS
26 DETERMINED BY THE DEPARTMENT AND SPECIFIED IN A REGULATION ADOPTED
27 UNDER THIS SUBTITLE.

28 (B) THE WRITTEN CONSENT REQUIRED UNDER SUBSECTION (A) OF THIS
29 SECTION SHALL BE SIGNED BY A PARENT OR GUARDIAN OF THE STUDENT OR BY THE
30 STUDENT IF THE STUDENT IS AN ADULT.

31 7-1704.

1 **THE DEPARTMENT SHALL:**

2 **(1) DEVELOP SECURITY MEASURES AND PROCEDURES TO PROTECT**
3 **PERSONALLY IDENTIFIABLE INFORMATION CONTAINED IN EDUCATION RECORDS**
4 **FROM RELEASE TO ANY UNAUTHORIZED PERSON OR FOR ANY UNAUTHORIZED**
5 **PURPOSE; AND**

6 **(2) COMPLY WITH ALL FEDERAL AND STATE PRIVACY PROTECTION**
7 **LAWS WHEN COLLECTING, MAINTAINING, OR DISCLOSING EDUCATION RECORDS.**

8 **7-1705.**

9 **(A) THIS SUBTITLE DOES NOT PROHIBIT THE DISCLOSURE OF AGGREGATE**
10 **DATA FROM EDUCATION RECORDS IF:**

11 **(1) ALL PERSONALLY IDENTIFIABLE INFORMATION HAS BEEN**
12 **REMOVED; AND**

13 **(2) THE DISCLOSURE OF THE AGGREGATE DATA IS ALLOWED UNDER**
14 **FEDERAL AND STATE PRIVACY PROTECTION LAWS.**

15 **(B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THIS SUBTITLE**
16 **DOES NOT PROHIBIT THE DISCLOSURE OF AGGREGATE DATA FROM EDUCATION**
17 **RECORDS IF THE DISCLOSURE IS NECESSARY TO APPLY FOR IMPACT AID UNDER**
18 **TITLE VIII OF THE FEDERAL ELEMENTARY AND SECONDARY EDUCATION ACT OF**
19 **1965.**

20 **7-1706.**

21 **THE DEPARTMENT MAY ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.**

22 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July**
23 **1, 2015.**