

HOUSE BILL 1122

P1, F2

0lr2299
CF SB 588

By: Delegates Pena–Melnik, B. Barnes, Lehman, ~~and Williams~~ Williams, Bagnall, Barron, Belcastro, Bhandari, Carr, Charles, Chisholm, Cullison, Hill, Johnson, Kelly, Kerr, Kipke, Krebs, R. Lewis, Morgan, Pendergrass, Reilly, Rosenberg, Saab, Szeliga, and K. Young

Introduced and read first time: February 6, 2020

Assigned to: Appropriations

Reassigned: Health and Government Operations and Appropriations, February 10, 2020

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 11, 2020

CHAPTER _____

1 AN ACT concerning

2 **State Government – Protection of Personally Identifiable Information –**
3 **~~University System of Maryland~~ Public Institutions of Higher Education**

4 FOR the purpose of excluding ~~the University System of Maryland~~ public institutions of
5 higher education from certain provisions of law governing protection of information
6 by government agencies; requiring ~~the University System of Maryland~~ a public
7 institution of higher education to review and designate certain systems as systems
8 of record based on certain criteria; requiring ~~the University~~ a public institution of
9 higher education to develop and adopt a certain privacy governance program to
10 govern each system of record; requiring ~~the University~~ a public institution of higher
11 education to develop and adopt a certain information security and risk management
12 program for the protection of personally identifiable information; requiring the
13 publication of ~~University to publish~~ a certain privacy notice on the University's
14 website of a public institution of higher education; requiring the notice to include
15 certain information; requiring ~~the University~~ a public institution of higher
16 education, when destroying certain records, to take certain steps to protect against
17 unauthorized access to or use of personally identifiable information; requiring each
18 public institution of higher education to develop and adopt a policy establishing a
19 certain remedy for certain individuals; requiring ~~the University~~ a public institution
20 of higher education, if it discovers or is notified of a breach of the security of a system,
21 to conduct a certain investigation and, if the ~~University~~ public institution of higher

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 education determines that a certain breach has occurred, provide certain notices to
 2 certain individuals in a certain manner; establishing that this Act does not apply to
 3 certain personally identifiable information; establishing that compliance with
 4 certain provisions of law does not authorize ~~the University~~ a public institution of
 5 higher education to fail to comply with certain other provisions of law; defining
 6 certain terms; altering a certain definition; providing for a delayed effective date;
 7 and generally relating to protection of personally identifiable information by ~~the~~
 8 ~~University System of Maryland~~ a public institution of higher education.

9 BY repealing and reenacting, without amendments,

10 Article – State Government

11 Section 10–1301(a)

12 Annotated Code of Maryland

13 (2014 Replacement Volume and 2019 Supplement)

14 BY repealing and reenacting, with amendments,

15 Article – State Government

16 Section 10–1301(f)

17 Annotated Code of Maryland

18 (2014 Replacement Volume and 2019 Supplement)

19 BY adding to

20 Article – State Government

21 Section 10–13A–01 through 10–13A–04 to be under the new subtitle “Subtitle 13A.

22 Protection of Personally Identifiable Information by ~~the University System of~~
 23 ~~Maryland~~ Public Institutions of Higher Education”

24 Annotated Code of Maryland

25 (2014 Replacement Volume and 2019 Supplement)

26 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

27 That the Laws of Maryland read as follows:

28 **Article – State Government**

29 10–1301.

30 (a) In this subtitle the following words have the meanings indicated.

31 (f) **(1)** “Unit” means:

32 **[(1)] (I)** an executive agency, or a department, a board, a commission, an
 33 authority, ~~a public institution of higher education OTHER THAN THE UNIVERSITY~~
 34 ~~SYSTEM OF MARYLAND~~, a unit, or an instrumentality of the State; or

35 **[(2)] (II)** a county, municipality, bi-county, regional, or multicounty
 36 agency, county board of education, public corporation or authority, or any other political
 37 subdivision of the State.

1 (2) “UNIT” DOES NOT INCLUDE ~~THE UNIVERSITY SYSTEM OF~~
2 ~~MARYLAND~~ A PUBLIC INSTITUTION OF HIGHER EDUCATION.

3 SUBTITLE 13A. PROTECTION OF PERSONALLY IDENTIFIABLE INFORMATION BY
4 ~~THE UNIVERSITY SYSTEM OF MARYLAND.~~
5 PUBLIC INSTITUTIONS OF HIGHER EDUCATION.

6 10-13A-01.

7 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
8 INDICATED.

9 (B) (1) “BREACH OF THE SECURITY OF A SYSTEM” MEANS THE
10 UNAUTHORIZED ACQUISITION OF PERSONALLY IDENTIFIABLE INFORMATION
11 MAINTAINED BY ~~THE UNIVERSITY SYSTEM OF MARYLAND~~ A PUBLIC INSTITUTION OF
12 HIGHER EDUCATION THAT CREATES A REASONABLE RISK OF HARM TO THE
13 INDIVIDUAL WHOSE PERSONALLY IDENTIFIABLE INFORMATION WAS SUBJECT TO
14 UNAUTHORIZED ACQUISITION.

15 (2) “BREACH OF THE SECURITY OF A SYSTEM” DOES NOT INCLUDE:

16 (I) THE GOOD FAITH ACQUISITION OF PERSONALLY
17 IDENTIFIABLE INFORMATION BY AN EMPLOYEE OR AGENT OF ~~THE UNIVERSITY~~
18 ~~SYSTEM OF MARYLAND~~ A PUBLIC INSTITUTION OF HIGHER EDUCATION FOR THE
19 PURPOSES OF THE ~~UNIVERSITY~~ PUBLIC INSTITUTION OF HIGHER EDUCATION,
20 PROVIDED THAT THE PERSONALLY IDENTIFIABLE INFORMATION IS NOT USED OR
21 SUBJECT TO FURTHER UNAUTHORIZED DISCLOSURE; OR

22 (II) PERSONALLY IDENTIFIABLE INFORMATION THAT WAS
23 SECURED BY ENCRYPTION OR REDACTED AND FOR WHICH THE ENCRYPTION KEY
24 HAS NOT BEEN COMPROMISED OR DISCLOSED.

25 (C) “ENCRYPTION” MEANS THE PROTECTION OF DATA IN ELECTRONIC OR
26 OPTICAL FORM, IN STORAGE OR IN TRANSIT, USING A TECHNOLOGY THAT:

27 (1) IS CERTIFIED TO MEET OR EXCEED THE LEVEL THAT HAS BEEN
28 ADOPTED BY THE FEDERAL INFORMATION PROCESSING STANDARDS ISSUED BY
29 THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY; AND

30 (2) RENDERS SUCH DATA INDECIPHERABLE WITHOUT AN
31 ASSOCIATED CRYPTOGRAPHIC KEY NECESSARY TO ENABLE DECRYPTION OF SUCH
32 DATA.

1 (D) "INDIVIDUAL" MEANS A NATURAL PERSON.

2 (E) "LEGITIMATE BASIS" MEANS ~~THE UNIVERSITY SYSTEM OF MARYLAND~~
3 A PUBLIC INSTITUTION OF HIGHER EDUCATION HAS A CONTRACTUAL NEED, PUBLIC
4 INTEREST PURPOSE, BUSINESS PURPOSE, OR LEGAL OBLIGATION FOR PROCESSING
5 OR THAT THE INDIVIDUAL HAS CONSENTED TO THE UNIVERSITY'S PROCESSING OF
6 THE INDIVIDUAL'S PERSONALLY IDENTIFIABLE INFORMATION BY THE PUBLIC
7 INSTITUTION OF HIGHER EDUCATION.

8 (F) (1) "PERSONALLY IDENTIFIABLE INFORMATION" MEANS ANY
9 INFORMATION THAT, TAKEN ALONE OR IN COMBINATION WITH OTHER
10 INFORMATION, ENABLES THE IDENTIFICATION OF AN INDIVIDUAL, INCLUDING:

11 (I) A FULL NAME;

12 (II) A SOCIAL SECURITY NUMBER;

13 (III) A DRIVER'S LICENSE NUMBER, STATE IDENTIFICATION
14 CARD NUMBER, OR OTHER INDIVIDUAL IDENTIFICATION NUMBER;

15 (IV) A PASSPORT NUMBER;

16 (V) BIOMETRIC INFORMATION INCLUDING AN INDIVIDUAL'S
17 PHYSIOLOGICAL, BIOLOGICAL, OR BEHAVIORAL CHARACTERISTICS, INCLUDING AN
18 INDIVIDUAL'S DEOXYRIBONUCLEIC ACID (DNA), THAT CAN BE USED, SINGLY OR IN
19 COMBINATION WITH EACH OTHER OR WITH OTHER IDENTIFYING DATA, TO
20 ESTABLISH INDIVIDUAL IDENTITY;

21 (VI) GEOLOCATION DATA;

22 (VII) INTERNET OR OTHER ELECTRONIC NETWORK ACTIVITY
23 INFORMATION, INCLUDING BROWSING HISTORY, SEARCH HISTORY, AND
24 INFORMATION REGARDING AN INDIVIDUAL'S INTERACTION WITH AN INTERNET
25 WEBSITE, APPLICATION, OR ADVERTISEMENT; AND

26 (VIII) A FINANCIAL OR OTHER ACCOUNT NUMBER, A CREDIT CARD
27 NUMBER, OR A DEBIT CARD NUMBER THAT, IN COMBINATION WITH ANY REQUIRED
28 SECURITY CODE, ACCESS CODE, OR PASSWORD, WOULD PERMIT ACCESS TO AN
29 INDIVIDUAL'S ACCOUNT.

30 (2) "PERSONALLY IDENTIFIABLE INFORMATION" DOES NOT INCLUDE
31 DATA RENDERED ANONYMOUS THROUGH THE USE OF TECHNIQUES, INCLUDING
32 OBFUSCATION, DELEGATION AND REDACTION, AND ENCRYPTION, SO THAT THE
33 INDIVIDUAL IS NO LONGER IDENTIFIABLE.

1 (G) "PROCESSING" MEANS ANY OPERATION OR SET OF OPERATIONS THAT
 2 IS PERFORMED ON PERSONALLY IDENTIFIABLE INFORMATION OR ON A SET OF
 3 PERSONALLY IDENTIFIABLE INFORMATION, WHETHER OR NOT BY AUTOMATED
 4 MEANS, INCLUDING COLLECTION, RECORDING, ORGANIZATION, STRUCTURING,
 5 STORAGE, ADAPTION OR ALTERATION, RETRIEVAL, CONSULTATION, USE,
 6 DISCLOSURE BY TRANSMISSION, DISSEMINATION, OR OTHERWISE MAKING
 7 AVAILABLE, ALIGNMENT OR COMBINATION, RESTRICTION, ERASURE, OR
 8 DESTRUCTION.

9 (H) "PUBLIC INSTITUTION OF HIGHER EDUCATION" MEANS:

10 (1) THE CONSTITUENT INSTITUTIONS OF THE UNIVERSITY SYSTEM
 11 OF MARYLAND AND THE UNIVERSITY OF MARYLAND CENTER FOR
 12 ENVIRONMENTAL SCIENCE;

13 (2) MORGAN STATE UNIVERSITY;

14 (3) ST. MARY'S COLLEGE OF MARYLAND; AND

15 (4) A COMMUNITY COLLEGE ESTABLISHED UNDER TITLE 16 OF THE
 16 EDUCATION ARTICLE.

17 ~~(H)~~ (I) "REASONABLE SECURITY PROCEDURES AND PRACTICES" MEANS
 18 SECURITY PROTECTIONS THAT ALIGN WITH THE CURRENT STANDARD OF CARE
 19 WITHIN SIMILAR COMMERCIAL ENVIRONMENTS AND WITH APPLICABLE STATE AND
 20 FEDERAL LAWS.

21 ~~(H)~~ (J) "RECORDS" MEANS INFORMATION THAT IS INSCRIBED ON A
 22 TANGIBLE MEDIUM OR THAT IS STORED IN AN ELECTRONIC OR OTHER MEDIUM AND
 23 IS RETRIEVABLE IN PERCEIVABLE FORM.

24 ~~(J)~~ (K) "SYSTEM" MEANS AN ELECTRONIC OR OTHER PHYSICAL MEDIUM
 25 MAINTAINED OR ADMINISTERED BY ~~THE UNIVERSITY SYSTEM OF MARYLAND~~ A
 26 PUBLIC INSTITUTION OF HIGHER EDUCATION AND USED ON A PROCEDURAL BASIS
 27 TO STORE INFORMATION IN THE ORDINARY COURSE OF THE BUSINESS OF THE
 28 ~~UNIVERSITY~~ PUBLIC INSTITUTION OF HIGHER EDUCATION.

29 ~~(K)~~ "UNIVERSITY" MEANS THE UNIVERSITY SYSTEM OF MARYLAND.

30 10-13A-02.

31 (A) THIS SUBTITLE DOES NOT APPLY TO PERSONALLY IDENTIFIABLE
 32 INFORMATION THAT:

1 (1) IS PUBLICLY AVAILABLE INFORMATION THAT IS LAWFULLY MADE
2 AVAILABLE TO THE GENERAL PUBLIC FROM FEDERAL, STATE, OR LOCAL
3 GOVERNMENT RECORDS;

4 (2) AN INDIVIDUAL HAS CONSENTED TO HAVE PUBLICLY
5 DISSEMINATED OR LISTED;

6 (3) EXCEPT FOR A MEDICAL RECORD THAT A PERSON IS PROHIBITED
7 FROM REDISCLOSING UNDER § 4-302(D) OF THE HEALTH – GENERAL ARTICLE, IS
8 DISCLOSED IN ACCORDANCE WITH THE FEDERAL HEALTH INSURANCE
9 PORTABILITY AND ACCOUNTABILITY ACT;

10 (4) IS DISCLOSED IN ACCORDANCE WITH THE FEDERAL FAMILY
11 EDUCATIONAL RIGHTS AND PRIVACY ACT; ~~OR~~

12 (5) IS CLINICAL INFORMATION; OR

13 (6) IS INFORMATION RELATED TO SPONSORED RESEARCH.

14 (B) COMPLIANCE WITH THIS SUBTITLE DOES NOT AUTHORIZE ~~THE~~
15 ~~UNIVERSITY SYSTEM OF MARYLAND~~ A PUBLIC INSTITUTION OF HIGHER EDUCATION
16 TO FAIL TO COMPLY WITH ANY OTHER REQUIREMENTS OF STATE OR FEDERAL LAW
17 RELATING TO THE PROTECTION AND PRIVACY OF PERSONALLY IDENTIFIABLE
18 INFORMATION.

19 10-13A-03.

20 (A) ~~THE UNIVERSITY SYSTEM OF MARYLAND~~ EACH PUBLIC INSTITUTION
21 OF HIGHER EDUCATION SHALL REVIEW AND DESIGNATE SYSTEMS WITHIN THE
22 ~~UNIVERSITY~~ PUBLIC INSTITUTION OF HIGHER EDUCATION AS SYSTEMS OF RECORD
23 BASED ON THE FOLLOWING CRITERIA:

24 (1) THE RISK POSED TO INDIVIDUALS BY THE PERSONALLY
25 IDENTIFIABLE INFORMATION PROCESSED AND STORED ON THE SYSTEMS;

26 (2) THE RELATIONSHIP OF THE SYSTEMS TO THE OVERALL FUNCTION
27 OF THE ~~UNIVERSITY~~ PUBLIC INSTITUTION OF HIGHER EDUCATION; AND

28 (3) THE TECHNICAL AND FINANCIAL FEASIBILITY OF IMPLEMENTING
29 PRIVACY CONTROLS AND SERVICES WITHIN THE SYSTEM.

1 **(B) ~~THE UNIVERSITY~~ EACH PUBLIC INSTITUTION OF HIGHER EDUCATION**
2 **SHALL DEVELOP AND ADOPT A PRIVACY GOVERNANCE PROGRAM TO GOVERN EACH**
3 **SYSTEM OF RECORD THAT:**

4 **(1) IDENTIFIES AND DOCUMENTS THE PURPOSE OF THE ~~UNIVERSITY~~**
5 **PUBLIC INSTITUTION OF HIGHER EDUCATION IN PROCESSING PERSONALLY**
6 **IDENTIFIABLE INFORMATION;**

7 **(2) PROHIBITS THE DISCLOSURE OF PERSONALLY IDENTIFIABLE**
8 **INFORMATION TO THIRD PARTIES, OTHER THAN THOSE THIRD PARTIES**
9 **PROCESSING PERSONALLY IDENTIFIABLE INFORMATION ON BEHALF OF THE**
10 **~~UNIVERSITY~~ PUBLIC INSTITUTION OF HIGHER EDUCATION, UNLESS:**

11 **(I) THE INDIVIDUAL CONSENTS TO DISCLOSURE OF THE**
12 **INFORMATION; OR**

13 **(II) THE ~~UNIVERSITY~~ PUBLIC INSTITUTION OF HIGHER**
14 **EDUCATION DETERMINES THAT DISCLOSURE OF THE INFORMATION IS IN THE BEST**
15 **INTEREST OF THE ~~UNIVERSITY~~ PUBLIC INSTITUTION OF HIGHER EDUCATION;**

16 **(3) REQUIRES ALL AGREEMENTS ENTERED INTO WITH THIRD**
17 **PARTIES ON OR AFTER OCTOBER 1, ~~2022~~ 2024, TO INCLUDE LANGUAGE REQUIRING**
18 **THE THIRD PARTY TO SUPPORT THE ~~UNIVERSITY'S~~ PRIVACY GOVERNANCE**
19 **PROGRAM OF THE PUBLIC INSTITUTION OF HIGHER EDUCATION;**

20 **(4) ENSURES THAT A THIRD PARTY PROCESSING PERSONALLY**
21 **IDENTIFIABLE INFORMATION ON BEHALF OF THE ~~UNIVERSITY~~ PUBLIC INSTITUTION**
22 **OF HIGHER EDUCATION ACTS IN ACCORDANCE WITH THE ~~UNIVERSITY'S~~ PRIVACY**
23 **GOVERNANCE PROGRAM OF THE PUBLIC INSTITUTION OF HIGHER EDUCATION;**

24 **(5) TAKES REASONABLE STEPS TO ENSURE THAT PERSONALLY**
25 **IDENTIFIABLE INFORMATION PROCESSED BY THE ~~UNIVERSITY~~ PUBLIC**
26 **INSTITUTION OF HIGHER EDUCATION IS ACCURATE, RELEVANT, TIMELY, AND**
27 **COMPLETE;**

28 **(6) TAKES REASONABLE STEPS TO ENSURE THAT REQUESTS TO**
29 **ACCESS, MODIFY, OR DELETE INFORMATION AND REQUESTS TO OPT OUT OF THE**
30 **SHARING OF INFORMATION WITH THIRD PARTIES ARE MADE BY THE SUBJECT OF**
31 **THE PERSONALLY IDENTIFIABLE INFORMATION OR THE SUBJECT'S AGENT;**

32 **(7) TAKES REASONABLE STEPS TO LIMIT THE PERSONALLY**
33 **IDENTIFIABLE INFORMATION COLLECTED TO THAT INFORMATION NECESSARY TO**
34 **ADDRESS THE PURPOSE OF THE COLLECTION;**

1 (8) IMPLEMENTS A PROCESS TO PROVIDE INDIVIDUALS WITH ACCESS
2 TO THE PERSONALLY IDENTIFIABLE INFORMATION RELATING TO THE INDIVIDUAL
3 HELD AND PROCESSED BY THE ~~UNIVERSITY~~ PUBLIC INSTITUTION OF HIGHER
4 EDUCATION;

5 (9) PROVIDES INDIVIDUALS WITH A PROCESS TO REQUEST A
6 CORRECTION TO PERSONALLY IDENTIFIABLE INFORMATION RELATING TO THE
7 INDIVIDUAL;

8 (10) IN THE CASE OF A DISAGREEMENT BETWEEN THE ~~UNIVERSITY~~
9 PUBLIC INSTITUTION OF HIGHER EDUCATION AND AN INDIVIDUAL OVER THE
10 ACCURACY OF PERSONALLY IDENTIFIABLE INFORMATION RELATING TO THE
11 INDIVIDUAL, PROVIDES A MEANS FOR THE INDIVIDUAL TO DOCUMENT THE
12 DISAGREEMENT AND PRODUCE THE DOCUMENTATION OF THE DISAGREEMENT
13 WHENEVER THE DISPUTED INFORMATION IS PRODUCED;

14 (11) PROVIDES A PROCESS FOR INDIVIDUALS TO REQUEST THE
15 DELETION OF PERSONALLY IDENTIFIABLE INFORMATION RELATING TO THE
16 INDIVIDUAL THAT THE ~~UNIVERSITY~~ PUBLIC INSTITUTION OF HIGHER EDUCATION
17 DOES NOT HAVE A LEGITIMATE BASIS TO PROCESS;

18 (12) PROVIDES A PROCESS FOR INDIVIDUALS TO OPT OUT OF SHARING
19 PERSONALLY IDENTIFIABLE INFORMATION RELATING TO THE INDIVIDUAL WITH
20 THIRD PARTIES, IF THE ~~UNIVERSITY~~ PUBLIC INSTITUTION OF HIGHER EDUCATION
21 WOULD NOT HAVE A LEGITIMATE BASIS TO PROCESS THE INFORMATION; AND

22 (13) PROVIDES A PROCESS FOR THE ~~UNIVERSITY~~ PUBLIC INSTITUTION
23 OF HIGHER EDUCATION TO CONSIDER REQUESTS MADE UNDER THIS SUBSECTION
24 THAT ALLOWS THE ~~UNIVERSITY~~ PUBLIC INSTITUTION OF HIGHER EDUCATION TO
25 DENY A REQUEST IF THE ~~UNIVERSITY~~ PUBLIC INSTITUTION OF HIGHER EDUCATION
26 REASONABLY CONCLUDES IT HAS A LEGITIMATE BASIS FOR PROCESSING THE
27 PERSONALLY IDENTIFIABLE INFORMATION OR IF THE REQUEST IS NOT
28 TECHNICALLY OR FINANCIALLY FEASIBLE.

29 (c) ~~THE UNIVERSITY~~ EACH PUBLIC INSTITUTION OF HIGHER EDUCATION
30 SHALL DEVELOP AND ADOPT AN INFORMATION SECURITY AND RISK MANAGEMENT
31 PROGRAM FOR THE PROTECTION OF PERSONALLY IDENTIFIABLE INFORMATION
32 THAT SHALL:

33 (1) IMPLEMENT REASONABLE SECURITY PROCEDURES AND
34 PRACTICES, COMPATIBLE WITH APPLICABLE FEDERAL AND STATE STANDARDS AND
35 GUIDELINES, TO ENSURE THAT THE RISK TO THE CONFIDENTIALITY, INTEGRITY,

1 AND AVAILABILITY OF ALL PERSONALLY IDENTIFIABLE INFORMATION IS PROPERLY
2 MANAGED;

3 (2) BE PERIODICALLY ASSESSED BY A THIRD PARTY ASSESSOR WITH
4 EXPERTISE IN INFORMATION SECURITY;

5 (3) BE APPROVED BY AN APPROPRIATE SENIOR OFFICIAL OF THE
6 ~~UNIVERSITY~~ PUBLIC INSTITUTION OF HIGHER EDUCATION WITH AUTHORITY TO
7 ACCEPT RISK FOR THE ~~UNIVERSITY~~ PUBLIC INSTITUTION OF HIGHER EDUCATION;

8 (4) REQUIRE THAT CONTRACTS WITH THIRD PARTIES INCLUDE
9 PROVISIONS TO ENSURE THAT THIRD PARTIES THAT PROCESS PERSONALLY
10 IDENTIFIABLE INFORMATION ON BEHALF OF THE ~~UNIVERSITY~~ PUBLIC INSTITUTION
11 OF HIGHER EDUCATION MAINTAIN APPROPRIATE SECURITY CONTROLS
12 COMMENSURATE WITH THE RISK POSED TO THE INDIVIDUALS BY THE PERSONALLY
13 IDENTIFIABLE INFORMATION; AND

14 (5) ENSURE THAT ANY BREACHES BY THE ~~UNIVERSITY~~ PUBLIC
15 INSTITUTION OF HIGHER EDUCATION OR A THIRD PARTY ACTING ON BEHALF OF THE
16 ~~UNIVERSITY~~ PUBLIC INSTITUTION OF HIGHER EDUCATION ARE PROPERLY
17 DOCUMENTED, INVESTIGATED, AND REPORTED TO APPROPRIATE AUTHORITIES
18 WITHIN THE ~~UNIVERSITY~~ PUBLIC INSTITUTION OF HIGHER EDUCATION.

19 (D) (1) ~~THE UNIVERSITY~~ EACH PUBLIC INSTITUTION OF HIGHER
20 EDUCATION SHALL PUBLISH A PRIVACY NOTICE ON THE ~~UNIVERSITY'S~~ WEBSITE OF
21 THE PUBLIC INSTITUTION OF HIGHER EDUCATION THAT IS:

22 (I) WRITTEN IN PLAIN LANGUAGE; AND

23 (II) DIRECTLY ACCESSIBLE FROM THE ~~UNIVERSITY'S~~
24 HOMEPAGE AND ANY OF THE UNIVERSITY'S WEBPAGES OF THE PUBLIC INSTITUTION
25 OF HIGHER EDUCATION THAT ARE USED TO COLLECT PERSONALLY IDENTIFIABLE
26 INFORMATION.

27 (2) THE NOTICE PUBLISHED UNDER PARAGRAPH (1) OF THIS
28 SUBSECTION SHALL INCLUDE:

29 (I) THE TYPES OF PERSONALLY IDENTIFIABLE INFORMATION
30 COLLECTED BY THE ~~UNIVERSITY~~ PUBLIC INSTITUTION OF HIGHER EDUCATION;

31 (II) THE PURPOSE OF THE COLLECTION, USE, AND SHARING OF
32 PERSONALLY IDENTIFIABLE INFORMATION BY THE ~~UNIVERSITY~~ PUBLIC
33 INSTITUTION OF HIGHER EDUCATION; AND

1 (III) THE PROCESSES BY WHICH AN INDIVIDUAL MAY REQUEST:

2 1. TO HAVE PERSONALLY IDENTIFIABLE INFORMATION
3 RELATED TO THE INDIVIDUAL CORRECTED;

4 2. TO HAVE PERSONALLY IDENTIFIABLE INFORMATION
5 RELATED TO THE INDIVIDUAL DELETED;

6 3. INFORMATION ON THE SHARING OF PERSONALLY
7 IDENTIFIABLE INFORMATION BY THE ~~UNIVERSITY~~ PUBLIC INSTITUTION OF HIGHER
8 EDUCATION WITH THIRD PARTIES, INCLUDING A LISTING OF THE THIRD PARTIES, A
9 LISTING OF THE INFORMATION SHARED, AND THE PURPOSE OF SHARING THE
10 INFORMATION; AND

11 4. TO OPT OUT OF THE SHARING OF PERSONALLY
12 IDENTIFIABLE INFORMATION WITH A THIRD PARTY.

13 (3) ~~THE UNIVERSITY~~ EACH PUBLIC INSTITUTION OF HIGHER
14 EDUCATION SHALL ENSURE ACCESS CONTROLS ARE IN PLACE TO ADDRESS ANY
15 SECURITY RISKS POSED BY PROVIDING THE NOTICE REQUIRED UNDER THIS
16 SUBSECTION.

17 (E) ~~THE UNIVERSITY~~ A PUBLIC INSTITUTION OF HIGHER EDUCATION
18 IS DESTROYING RECORDS OF AN INDIVIDUAL THAT CONTAIN PERSONALLY
19 IDENTIFIABLE INFORMATION OF THE INDIVIDUAL, THE ~~UNIVERSITY~~ PUBLIC
20 INSTITUTION OF HIGHER EDUCATION SHALL TAKE REASONABLE STEPS TO PROTECT
21 AGAINST UNAUTHORIZED ACCESS TO OR USE OF THE PERSONALLY IDENTIFIABLE
22 INFORMATION, TAKING INTO ACCOUNT:

23 (1) THE SENSITIVITY OF THE RECORDS;

24 (2) THE NATURE OF THE ~~UNIVERSITY~~ PUBLIC INSTITUTION OF
25 HIGHER EDUCATION AND ITS OPERATIONS;

26 (3) THE COSTS AND BENEFITS OF DIFFERENT DESTRUCTION
27 METHODS; AND

28 (4) AVAILABLE TECHNOLOGY.

29 (F) EACH PUBLIC INSTITUTION OF HIGHER EDUCATION SHALL DEVELOP
30 AND ADOPT A POLICY ESTABLISHING AN APPROPRIATE REMEDY FOR INDIVIDUALS

1 WHOSE PERSONALLY IDENTIFIABLE INFORMATION HAS BEEN AFFECTED BY A
2 BREACH.

3 10-13A-04.

4 (A) ~~IF THE UNIVERSITY~~ A PUBLIC INSTITUTION OF HIGHER EDUCATION
5 COLLECTS PERSONALLY IDENTIFIABLE INFORMATION OF AN INDIVIDUAL AND
6 DISCOVERS OR IS NOTIFIED OF A BREACH OF THE SECURITY OF A SYSTEM, THE
7 ~~UNIVERSITY~~ PUBLIC INSTITUTION OF HIGHER EDUCATION SHALL CONDUCT IN
8 GOOD FAITH A REASONABLE AND PROMPT INVESTIGATION TO DETERMINE
9 WHETHER THE UNAUTHORIZED ACQUISITION OF PERSONALLY IDENTIFIABLE
10 INFORMATION OF THE INDIVIDUAL HAS OCCURRED.

11 (B) (1) IF, AFTER THE INVESTIGATION IS CONCLUDED, THE ~~UNIVERSITY~~
12 PUBLIC INSTITUTION OF HIGHER EDUCATION DETERMINES THAT A BREACH OF THE
13 SECURITY OF THE SYSTEM HAS OCCURRED, THE ~~UNIVERSITY~~ PUBLIC INSTITUTION
14 OF HIGHER EDUCATION OR A THIRD PARTY, IF AUTHORIZED UNDER A WRITTEN
15 CONTRACT OR AGREEMENT WITH THE ~~UNIVERSITY~~ PUBLIC INSTITUTION OF HIGHER
16 EDUCATION, SHALL:

17 (I) NOTIFY THE INDIVIDUAL OF THE BREACH; AND

18 (II) NOTIFY THE ~~UNIVERSITY'S~~ CHIEF INFORMATION OFFICER
19 OF THE PUBLIC INSTITUTION OF HIGHER EDUCATION OF THE BREACH.

20 (2) A NOTIFICATION REQUIRED UNDER PARAGRAPH (1) OF THIS
21 SUBSECTION SHALL INCLUDE, TO THE EXTENT POSSIBLE, A DESCRIPTION OF THE
22 CATEGORIES OF PERSONALLY IDENTIFIABLE INFORMATION THAT WERE, OR ARE
23 REASONABLY BELIEVED TO HAVE BEEN, ACQUIRED BY AN UNAUTHORIZED PERSON,
24 INCLUDING WHICH OF THE ELEMENTS OF PERSONALLY IDENTIFIABLE
25 INFORMATION WERE, OR ARE REASONABLY BELIEVED TO HAVE BEEN, ACQUIRED.

26 (3) IF THE ~~UNIVERSITY~~ PUBLIC INSTITUTION OF HIGHER EDUCATION
27 DETERMINES THAT A BREACH OF THE SECURITY OF THE SYSTEM HAS OCCURRED
28 INVOLVING THE PERSONALLY IDENTIFIABLE INFORMATION OF 1,000 OR MORE
29 INDIVIDUALS, THE ~~UNIVERSITY~~ PUBLIC INSTITUTION OF HIGHER EDUCATION
30 SHALL POST A NOTICE ON THE SAME WEBPAGE AS THE ~~UNIVERSITY'S~~
31 NOTICE WEBSITE OF THE PUBLIC INSTITUTION OF HIGHER EDUCATION:

32 (I) DESCRIBING THE BREACH; AND

1 **(II) THAT REMAINS PUBLICLY AVAILABLE ON THE WEBSITE FOR**
 2 **AT LEAST ~~5 YEARS~~ 1 YEAR FROM THE DATE ON WHICH NOTICE WAS SENT TO**
 3 **INDIVIDUALS AFFECTED BY THE BREACH.**

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 5 October 1, ~~2022~~ 2024.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.