

SENATE BILL 733

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1r2655
CF 1r2656

By: **Senator Lee**

Introduced and read first time: February 5, 2021

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Education – Student Data Privacy – Reports and Student Data Privacy Council**
3 **Sunset Extension**

4 FOR the purpose of requiring each county board of education to provide a certain list of
5 digital tools to the State Department of Education on or before a certain date each
6 year; requiring the Department to publish certain information on digital tools
7 provided by each county board on or before a certain date each year; requiring the
8 Student Data Privacy Council to submit a certain report to the Governor and the
9 General Assembly on or before a certain date; extending the termination date for the
10 Council; altering certain definitions; and generally relating to student data privacy
11 in the State.

12 BY repealing and reenacting, with amendments,
13 Article – Education
14 Section 4–131(a)
15 Annotated Code of Maryland
16 (2018 Replacement Volume and 2020 Supplement)

17 BY adding to
18 Article – Education
19 Section 4–131(p)
20 Annotated Code of Maryland
21 (2018 Replacement Volume and 2020 Supplement)

22 BY repealing and reenacting, with amendments,
23 Chapter 398 of the Acts of the General Assembly of 2019
24 Section 1(h) and 2

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1

Article – Education

2 4–131.

3 (a) (1) In this section the following words have the meanings indicated.

4 (2) (i) “Covered information” means information or material that[:

5 1. Personally identifies an individual student in this State or
6 that is linked to information or material that personally identifies an individual student in
7 this State; and8 2. Is gathered by an operator through the operation of a site,
9 a service, or an application], **ALONE OR IN COMBINATION WITH OTHER INFORMATION**
10 **OR MATERIAL, IS LINKED OR COULD BE LINKED TO A STUDENT IN A MANNER THAT**
11 **WOULD ALLOW AN EMPLOYEE OR STUDENT OF THE STUDENT’S SCHOOL TO IDENTIFY**
12 **THE STUDENT WITH REASONABLE CERTAINTY.**

13 (ii) “Covered information” includes a student’s:

14 1. Educational [and disciplinary record] **RECORDS AS**
15 **DEFINED IN § 7–1303 OF THIS ARTICLE;**

16 2. First and last name;

17 3. Home address and geolocation information;

18 4. Telephone number;

19 5. Electronic mail address or other information that allows
20 physical or online contact;

21 6. Test results, grades, and student evaluations;

22 7. Special education [data] **INFORMATION;**

23 8. Criminal records;

24 9. Medical records and health records;

25 10. Social Security number;

26 11. Biometric information;

27 12. Socioeconomic information;

- 1 13. Food purchases;
- 2 14. Political and religious affiliations;
- 3 15. Text messages;
- 4 16. Student identifiers;
- 5 17. Search activity;
- 6 18. Photos; [and]
- 7 19. Voice recordings;

8 **20. DISCIPLINARY INFORMATION;**

9 **21. ONLINE BEHAVIOR OR USAGE OF APPLICATIONS**
 10 **WHEN LINKED OR LINKABLE TO A SPECIFIC STUDENT;**

11 **22. PERSISTENT UNIQUE IDENTIFIERS; AND**

12 **23. CONFIDENTIAL INFORMATION AS DEFINED BY THE**
 13 **DEPARTMENT OF INFORMATION TECHNOLOGY.**

14 (3) “Operator” means [a person] **AN INDIVIDUAL OR AN ENTITY** who is
 15 operating in accordance with a contract or an agreement with a public school or local school
 16 system in the State to provide an Internet website, an online service, an online application,
 17 or a mobile application that:

18 **(I) PROCESSES COVERED INFORMATION; AND**

- 19 **OR** **[(i)] (II) 1.** Is used [primarily] for a PreK–12 school purpose;
- 20
- 21 **[(ii)] 2.** Is issued at the direction of a public school, a teacher, or
 22 any other employee of a public school, local school system, or the Department[; and
- 23 **(iii)** Was designed and marketed primarily for a PreK–12 school
 24 purpose].

25 (4) **(I)** “Persistent unique identifier” means [a unique reference number
 26 used as an identifier in computer software that is stored across different usage sessions]
 27 **AN IDENTIFIER THAT CAN BE USED TO IDENTIFY, RECOGNIZE, TRACK, SINGLE OUT,**
 28 **OR MAKE REFERENCES ABOUT A STUDENT ENROLLED IN PREKINDERGARTEN**

1 THROUGH GRADE 12, THE PARENT OR GUARDIAN OF THE STUDENT, AND ANY OTHER
2 STUDENT OF WHOM THE PARENT OR GUARDIAN HAS CUSTODY.

3 (II) “PERSISTENT UNIQUE IDENTIFIER” INCLUDES:

- 4 1. COOKIE IDENTIFIERS;
- 5 2. CUSTOMER NUMBERS;
- 6 3. DEVICE IDENTIFIERS;
- 7 4. HASHED E-MAIL ADDRESSES;
- 8 5. HASHED PHONE NUMBERS;
- 9 6. IDENTIFIERS GENERATED THROUGH PROBABILISTIC
10 METHODS;
- 11 7. MOBILE AD IDENTIFIERS;
- 12 8. UNIQUE PSEUDONYMS; AND
- 13 9. USER ALIASES.

14 (5) (i) “PreK–12 school purpose” means an activity that:

- 15 1. Takes place at the direction of a public school, a teacher,
16 an administrator, or a local school system; or
- 17 2. Aids in the administration of public school activities.

18 (ii) “PreK–12 school purpose” includes:

- 19 1. Instruction in the classroom;
- 20 2. Home instruction;
- 21 3. Administrative activities;
- 22 4. Collaboration among students, public school employees,
23 and parents;
- 24 5. Maintaining, developing, supporting, improving, or
25 diagnosing the operator’s site, service, or application; and

1 6. An activity that is for the use and benefit of the public
2 school.

3 (6) (i) “Targeted advertising” means presenting advertisements to an
4 individual student that are selected based on information obtained or inferred from the
5 student’s [online behavior, usage of applications, or] covered information.

6 (ii) “Targeted advertising” does not include advertisements
7 presented to an individual student at an online location:

8 1. Based on the student’s current visit to the online location
9 [without] **IF THERE IS NO** collection or retention of the student’s [online activities]
10 **COVERED INFORMATION** over time; or

11 2. In response to a single search query [without] **IF THERE**
12 **IS NO** collection or retention of the student’s [online activities] **COVERED INFORMATION**
13 over time.

14 **(P) (1) ON OR BEFORE JULY 1, 2021, AND EACH JULY 1 THEREAFTER,**
15 **EACH COUNTY BOARD SHALL SUBMIT TO THE DEPARTMENT A LIST OF THE**
16 **FOLLOWING DIGITAL TOOLS WITH RESPECT TO THE IMMEDIATELY PRECEDING**
17 **SCHOOL YEAR:**

18 **(I) APPROVED DIGITAL TOOLS;**

19 **(II) DIGITAL TOOLS KNOWN TO BE USED BY EDUCATORS; AND**

20 **(III) DIGITAL TOOLS NOT AUTHORIZED BY THE COUNTY BOARD.**

21 **(2) ON OR BEFORE SEPTEMBER 1, 2021, AND EACH SEPTEMBER 1**
22 **THEREAFTER, THE DEPARTMENT SHALL PUBLISH AN ONLINE DATABASE OF THE**
23 **DIGITAL TOOLS REPORTED BY EACH COUNTY BOARD IN ACCORDANCE WITH**
24 **PARAGRAPH (1) OF THIS SUBSECTION.**

25 **Chapter 398 of the Acts of 2019**

26 **SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,**
27 **That:**

28 **(h) (1) On or before December 31, 2020, the Student Data Privacy Council**
29 **shall report its findings and recommendations to the Governor and, in accordance with §**
30 **2–1246 of the State Government Article, the General Assembly.**

1 **(2) ON OR BEFORE DECEMBER 1, 2024, THE STUDENT DATA**
2 **PRIVACY COUNCIL SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH**
3 **§ 2-1257 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON:**

4 **(I) THE IMPLEMENTATION OF § 4-131(P) OF THE EDUCATION**
5 **ARTICLE; AND**

6 **(II) BEST PRACTICES FOR STUDENT DATA PRIVACY**
7 **PROTECTION TO PROVIDE TO PARENTS AND GUARDIANS OF STUDENTS IN THE**
8 **STATE.**

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June
10 1, 2019. It shall remain in effect for a period of [2] **6** years and **4 MONTHS AND**, at the end
11 of [May 31, 2021] **SEPTEMBER 30, 2025**, this Act, with no further action required by the
12 General Assembly, shall be abrogated and of no further force and effect.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June
14 1, 2021.