

HOUSE BILL 277

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2000 Regular Session  
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CF 0lr0179

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By: **The Speaker (Administration) and Delegates Franchot, Mandel, Barve,  
Petzold, DeCarlo, Rosenberg, and Pendergrass**

Introduced and read first time: January 28, 2000  
Assigned to: Commerce and Government Matters

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Committee Report: Favorable with amendments  
House action: Adopted with floor amendments  
Read second time: March 1, 2000

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Public Records - Privacy Policies and Data Security**

3 FOR the purpose of requiring that personal records be collected by units of  
4 government only under certain circumstances and subject to certain conditions;  
5 requiring certain custodians of public records to collect personal information in  
6 a certain manner; requiring that certain custodians provide certain information  
7 to persons from whom personal information is collected; providing for certain  
8 exceptions; requiring the Secretary of Budget and Management to report  
9 annually to the General Assembly on certain regulations; requiring units of  
10 State government to post certain privacy policies on their web sites; requiring  
11 ~~units~~ each unit of State government to ensure the security of ~~certain~~ the unit's  
12 records; and generally relating to privacy policies and data security for public  
13 records.

14 BY repealing and reenacting, with amendments,  
15 Article - State Government  
16 Section 10-624 and 10-633  
17 Annotated Code of Maryland  
18 (1999 Replacement Volume)

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

1

**Article - State Government**

2 10-624.

3 (a) In this section, "personal record" means a public record that names or, with  
4 reasonable certainty, otherwise identifies an individual by an identifying factor such  
5 as:

- 6 (1) an address;
- 7 (2) a description;
- 8 (3) a finger or voice print;
- 9 (4) a number; or
- 10 (5) a picture.

11 (B) (1) ~~PERSONAL RECORDS SHALL~~ MAY NOT BE CREATED UNLESS THE  
12 NEED FOR THE INFORMATION HAS BEEN CLEARLY ESTABLISHED BY THE UNIT  
13 COLLECTING THE RECORDS.

14 (2) ~~PERSONAL INFORMATION SHALL~~ COLLECTED FOR PERSONAL  
15 RECORDS:

16 (I) SHALL BE APPROPRIATE AND RELEVANT TO THE PURPOSES  
17 FOR WHICH IT IS COLLECTED;

18 (II) SHALL BE ACCURATE AND CURRENT TO THE GREATEST  
19 EXTENT ~~POSSIBLE~~ PRACTICABLE; AND

20 (III) MAY NOT BE OBTAINED BY FRAUDULENT MEANS.

21 (C) (1) THIS SUBSECTION ONLY APPLIES TO UNITS OF STATE GOVERNMENT.

22 (2) EXCEPT AS OTHERWISE PROVIDED BY LAW, AN OFFICIAL CUSTODIAN  
23 WHO KEEPS PERSONAL RECORDS SHALL ENDEAVOR TO COLLECT PERSONAL  
24 INFORMATION FROM THE PERSON IN INTEREST.

25 (3) AN OFFICIAL CUSTODIAN WHO REQUESTS PERSONAL INFORMATION  
26 SHALL PROVIDE THE FOLLOWING INFORMATION TO EACH PERSON FROM WHOM  
27 PERSONAL INFORMATION IS COLLECTED:

28 (I) THE PURPOSE FOR WHICH THE PERSONAL INFORMATION IS  
29 COLLECTED;

30 (II) ANY SPECIFIC CONSEQUENCES TO THE PERSON FOR REFUSAL  
31 TO PROVIDE THE PERSONAL INFORMATION;

32 (III) THE PERSON'S RIGHT TO INSPECT, AMEND, OR CORRECT  
33 PERSONAL RECORDS, IF ANY;

1 (IV) WHETHER THE PERSONAL INFORMATION IS GENERALLY  
2 AVAILABLE FOR PUBLIC INSPECTION; AND

3 (V) WHETHER THE PERSONAL INFORMATION IS MADE AVAILABLE  
4 OR TRANSFERRED TO OR SHARED WITH ANY ENTITY OTHER THAN THE OFFICIAL  
5 CUSTODIAN.

6 (4) EACH UNIT OF STATE GOVERNMENT SHALL POST ITS PRIVACY  
7 POLICIES WITH REGARD TO THE COLLECTION OF PERSONAL INFORMATION,  
8 INCLUDING THE POLICIES SPECIFIED IN THIS SUBSECTION, ON ITS INTERNET WEB  
9 SITE.

10 (5) THE FOLLOWING PERSONAL RECORDS SHALL BE EXEMPT FROM THE  
11 REQUIREMENTS OF THIS SUBSECTION:

12 (I) INFORMATION PERTAINING TO THE ENFORCEMENT OF  
13 CRIMINAL LAWS OR THE ADMINISTRATION OF THE PENAL SYSTEM;

14 (II) INFORMATION CONTAINED IN INVESTIGATIVE MATERIALS  
15 KEPT FOR THE PURPOSE OF INVESTIGATING A SPECIFIC VIOLATION OF STATE LAW  
16 AND MAINTAINED BY A STATE AGENCY WHOSE PRINCIPAL FUNCTION MAY BE OTHER  
17 THAN LAW ENFORCEMENT;

18 (III) STUDENT AND OTHER EDUCATIONAL RECORDS DESCRIBED IN  
19 THE CODE OF MARYLAND REGULATIONS AND THE CODE OF FEDERAL REGULATIONS;

20 (IV) INFORMATION CONTAINED IN PATIENT MEDICAL AND  
21 PSYCHOLOGICAL RECORDS AT STATE MEDICAL FACILITIES, HOSPITALS, OR  
22 INSTITUTIONS, EXCEPT THAT THE EXTENT OF ANY ROUTINE SHARING OF  
23 INFORMATION WITH OTHER GOVERNMENTAL AGENCIES SHALL BE DISCLOSED IN  
24 WRITING TO THE PERSON IN INTEREST;

25 (V) INFORMATION CONTAINED IN PUBLIC RECORDS WHICH ARE  
26 ACCEPTED BY THE STATE ARCHIVIST FOR DEPOSIT IN THE MARYLAND HALL OF  
27 RECORDS;

28 (VI) INFORMATION CONTAINED IN APPLICATIONS FOR  
29 EMPLOYMENT, EXCEPT THAT THE EXTENT OF ANY ROUTINE SHARING OF THE  
30 PERSONAL INFORMATION WITH OTHER GOVERNMENTAL AGENCIES SHALL BE  
31 DISCLOSED TO THE PERSON IN INTEREST; ~~AND~~

32 (VII) INFORMATION GATHERED AS PART OF FORMAL RESEARCH  
33 PROJECTS PREVIOUSLY REVIEWED AND APPROVED BY FEDERALLY MANDATED  
34 INSTITUTIONAL REVIEW BOARDS; AND

35 (VIII) ANY OTHER PERSONAL RECORDS EXEMPTED BY REGULATIONS  
36 ADOPTED BY THE OFFICE OF INFORMATION TECHNOLOGY IN THE DEPARTMENT  
37 SECRETARY OF BUDGET AND MANAGEMENT, BASED ON THE RECOMMENDATION OF  
38 THE CHIEF OF INFORMATION TECHNOLOGY.

1           (6)     IN ACCORDANCE WITH § 2-1246 OF THIS ARTICLE, THE SECRETARY  
2 OF BUDGET AND MANAGEMENT SHALL REPORT ON OCTOBER 1 OF EACH YEAR TO  
3 THE GENERAL ASSEMBLY ON THE PERSONAL RECORDS EXEMPTED BY REGULATIONS  
4 UNDER PARAGRAPH (5)(VIII) OF THIS SUBSECTION.

5     [(b)]   (D)    (1)     This subsection does not apply to:

6                   (i)     a unit in the Legislative Branch of the State government;

7                   (ii)    a unit in the Judicial Branch of the State government; or

8                   (iii)   a board of license commissioners.

9           (2)     If a unit or instrumentality of the State government keeps personal  
10 records, the unit or instrumentality shall submit an annual report to the Secretary of  
11 General Services, as provided in this subsection.

12           (3)     An annual report shall state:

13                   (i)     the name of the unit or instrumentality;

14                   (ii)    for each set of the personal records:

15                           1.     the name;

16                           2.     the location; and

17                           3.     if a subunit keeps the set, the name of the subunit;

18                   (iii)   for each set of personal records that has not been previously  
19 reported:

20                           1.     the category of individuals to whom the set applies;

21                           2.     a brief description of the types of information that the set  
22 contains;

23                           3.     the major uses and purposes of the information;

24                           4.     by category, the source of information for the set; and

25                           5.     the policies and procedures of the unit or instrumentality  
26 as to access and challenges to the personal record by the person in interest and  
27 storage, retrieval, retention, disposal, and security, including controls on access; and

28                   (iv)    for each set of personal records that has been disposed of or  
29 changed significantly since the unit or instrumentality last submitted a report, the  
30 information required under item (iii) of this paragraph.

1           (4)     A unit or instrumentality that has 2 or more sets of personal records  
2 may combine the personal records in the report only if the character of the personal  
3 records is highly similar.

4           (5)     The Secretary of General Services shall adopt regulations that  
5 govern the form and method of reporting under this subsection.

6           (6)     The annual report shall be available for public inspection.

7     [(c)]   (E)     The official custodian may permit inspection of personal records for  
8 which inspection otherwise is not authorized by a person who is engaged in a research  
9 project if:

10           (1)     the researcher submits to the official custodian a written request  
11 that:

12                   (i)     describes the purpose of the research project;

13                   (ii)    describes the intent, if any, to publish the findings;

14                   (iii)   describes the nature of the requested personal records;

15                   (iv)    describes the safeguards that the researcher would take to  
16 protect the identity of the persons in interest; and

17                   (v)     states that persons in interest will not be contacted unless the  
18 official custodian approves and monitors the contact;

19           (2)     the official custodian is satisfied that the proposed safeguards will  
20 prevent the disclosure of the identity of persons in interest; and

21           (3)     the researcher makes an agreement with the unit or instrumentality  
22 that:

23                   (i)     defines the scope of the research project;

24                   (ii)    sets out the safeguards for protecting the identity of the persons  
25 in interest; and

26                   (iii)   states that a breach of any condition of the agreement is a  
27 breach of contract.

28 10-633.

29     (a)     Each unit of the State government shall have a program for the continual,  
30 economical, and efficient management of the records of the unit.

31     (b)     The program shall include procedures:

32           (1)     TO ENSURE THE SECURITY OF THE RECORDS;

1            [(1)]    (2)        to establish and to revise, in accordance with the regulations,  
2 record retention and disposal schedules that ensure the prompt and orderly  
3 disposition of records that the unit no longer needs for its operation; and

4            [(2)]    (3)        to facilitate compliance with Part V of this subtitle.

5        SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
6 October 1, 2000.