

SENATE BILL 199

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2000 Regular Session
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CF 0lr0180

By: **The President (Administration) and Senators Miller, Forehand,
Teitelbaum, and Hogan**

Introduced and read first time: January 24, 2000
Assigned to: Economic and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Public Records - Privacy 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 information in a certain
6 manner; requiring that certain custodians provide certain information to
7 persons from whom information is collected; providing for certain exceptions;
8 requiring units of State government to post certain privacy policies on their web
9 sites; requiring units of State government to ensure the security of certain
10 records; and generally relating to privacy policies and data security for public
11 records.

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

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

19 **Article - State Government**

20 10-624.

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

- 24 (1) an address;
- 25 (2) a description;
- 26 (3) a finger or voice print;

1 (4) a number; or

2 (5) a picture.

3 (B) (1) PERSONAL RECORDS SHALL NOT BE CREATED UNLESS THE NEED
4 FOR THE INFORMATION HAS BEEN CLEARLY ESTABLISHED.

5 (2) PERSONAL INFORMATION SHALL:

6 (I) BE APPROPRIATE AND RELEVANT TO THE PURPOSES FOR
7 WHICH IT IS COLLECTED;

8 (II) BE ACCURATE AND CURRENT TO THE GREATEST EXTENT
9 POSSIBLE; AND

10 (III) NOT BE OBTAINED BY FRAUDULENT MEANS.

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

12 (2) EXCEPT AS OTHERWISE PROVIDED BY LAW, AN OFFICIAL CUSTODIAN
13 WHO KEEPS PERSONAL RECORDS SHALL ENDEAVOR TO COLLECT PERSONAL
14 INFORMATION FROM THE PERSON.

15 (3) AN OFFICIAL CUSTODIAN WHO REQUESTS PERSONAL INFORMATION
16 SHALL PROVIDE THE FOLLOWING INFORMATION TO EACH PERSON FROM WHOM
17 PERSONAL INFORMATION IS COLLECTED:

18 (I) THE PURPOSE FOR WHICH THE INFORMATION IS COLLECTED;

19 (II) ANY SPECIFIC CONSEQUENCES TO THE PERSON FOR REFUSAL
20 TO PROVIDE THE PERSONAL INFORMATION;

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

23 (IV) WHETHER THE INFORMATION IS GENERALLY AVAILABLE FOR
24 PUBLIC INSPECTION; AND

25 (V) WHETHER THE INFORMATION IS MADE AVAILABLE OR
26 TRANSFERRED TO OR SHARED WITH ANY ENTITY OTHER THAN THE OFFICIAL
27 CUSTODIAN.

28 (4) EACH UNIT OF STATE GOVERNMENT SHALL POST ITS PRIVACY
29 POLICIES WITH REGARD TO THE COLLECTION OF PERSONAL INFORMATION,
30 INCLUDING THE POLICIES SPECIFIED IN THIS SUBSECTION, ON ITS INTERNET WEB
31 SITE.

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

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

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

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

9 (IV) INFORMATION CONTAINED IN PATIENT MEDICAL AND
10 PSYCHOLOGICAL RECORDS AT STATE MEDICAL FACILITIES, HOSPITALS, OR
11 INSTITUTIONS, EXCEPT THAT THE EXTENT OF ANY ROUTINE SHARING OF
12 INFORMATION WITH OTHER GOVERNMENTAL AGENCIES SHALL BE DISCLOSED IN
13 WRITING TO THE PERSON IN INTEREST;

14 (V) INFORMATION CONTAINED IN PUBLIC RECORDS WHICH ARE
15 ACCEPTED BY THE STATE ARCHIVIST FOR DEPOSIT IN THE MARYLAND HALL OF
16 RECORDS;

17 (VI) INFORMATION CONTAINED IN APPLICATIONS FOR
18 EMPLOYMENT, EXCEPT THAT THE EXTENT OF ANY ROUTINE SHARING OF THE
19 PERSONAL INFORMATION WITH OTHER GOVERNMENTAL AGENCIES SHALL BE
20 DISCLOSED TO THE PERSON IN INTEREST; AND

21 (VII) INFORMATION GATHERED AS PART OF FORMAL RESEARCH
22 PROJECTS PREVIOUSLY REVIEWED AND APPROVED BY FEDERALLY MANDATED
23 INSTITUTIONAL REVIEW BOARDS.

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

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

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

27 (iii) a board of license commissioners.

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

31 (3) An annual report shall state:

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

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

34 1. the name;

35 2. the location; and

- 1 3. if a subunit keeps the set, the name of the subunit;
- 2 (iii) for each set of personal records that has not been previously
- 3 reported:
- 4 1. the category of individuals to whom the set applies;
- 5 2. a brief description of the types of information that the set
- 6 contains;
- 7 3. the major uses and purposes of the information;
- 8 4. by category, the source of information for the set; and
- 9 5. the policies and procedures of the unit or instrumentality
- 10 as to access and challenges to the personal record by the person in interest and
- 11 storage, retrieval, retention, disposal, and security, including controls on access; and
- 12 (iv) for each set of personal records that has been disposed of or
- 13 changed significantly since the unit or instrumentality last submitted a report, the
- 14 information required under item (iii) of this paragraph.

15 (4) A unit or instrumentality that has 2 or more sets of personal records

16 may combine the personal records in the report only if the character of the personal

17 records is highly similar.

18 (5) The Secretary of General Services shall adopt regulations that

19 govern the form and method of reporting under this subsection.

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

21 [(c)] (E) The official custodian may permit inspection of personal records for

22 which inspection otherwise is not authorized by a person who is engaged in a research

23 project if:

24 (1) the researcher submits to the official custodian a written request

25 that:

- 26 (i) describes the purpose of the research project;
- 27 (ii) describes the intent, if any, to publish the findings;
- 28 (iii) describes the nature of the requested personal records;
- 29 (iv) describes the safeguards that the researcher would take to
- 30 protect the identity of the persons in interest; and

31 (v) states that persons in interest will not be contacted unless the

32 official custodian approves and monitors the contact;

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

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

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

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

8 (iii) states that a breach of any condition of the agreement is a
9 breach of contract.

10 10-633.

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

13 (b) The program shall include procedures:

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

15 [(1)] (2) to establish and to revise, in accordance with the regulations,
16 record retention and disposal schedules that ensure the prompt and orderly
17 disposition of records that the unit no longer needs for its operation; and

18 [(2)] (3) to facilitate compliance with Part V of this subtitle.

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