

SENATE BILL 199

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2000 Regular Session
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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

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 17, 2000

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; encouraging counties and municipal corporations to conform certain
13 practices to this Act; and generally relating to privacy policies and data security
14 for public records.

15 BY repealing and reenacting, with amendments,
16 Article - State Government
17 Section 10-624 and 10-633
18 Annotated Code of Maryland
19 (1999 Replacement Volume)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
21 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 THE GREATEST EXTENT
24 PRACTICABLE, COLLECT PERSONAL INFORMATION FROM THE PERSON IN INTEREST.

25 (3) AN OFFICIAL CUSTODIAN WHO REQUESTS PERSONAL INFORMATION
26 FOR PERSONAL RECORDS SHALL PROVIDE THE FOLLOWING INFORMATION TO EACH
27 PERSON IN INTEREST FROM WHOM 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 INFORMATION IS GENERALLY AVAILABLE FOR
2 PUBLIC INSPECTION; AND

3 (V) WHETHER THE INFORMATION IS MADE AVAILABLE OR
4 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) (IV) INFORMATION GATHERED AS PART OF FORMAL
33 RESEARCH PROJECTS PREVIOUSLY REVIEWED AND APPROVED BY FEDERALLY
34 MANDATED INSTITUTIONAL REVIEW BOARDS; AND~~

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

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

- 1 (i) a unit in the Legislative Branch of the State government;
- 2 (ii) a unit in the Judicial Branch of the State government; or
- 3 (iii) a board of license commissioners.

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

7 (3) An annual report shall state:

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

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

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

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

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

4 (1) the researcher submits to the official custodian a written request
5 that:

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

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

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

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

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

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

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

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

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

20 (iii) states that a breach of any condition of the agreement is a
21 breach of contract.

22 10-633.

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

25 (b) The program shall include procedures:

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

27 [(1)] (2) to establish and to revise, in accordance with the regulations,
28 record retention and disposal schedules that ensure the prompt and orderly
29 disposition of records that the unit no longer needs for its operation; and

30 [(2)] (3) to facilitate compliance with Part V of this subtitle.

31 SECTION 2. AND BE IT FURTHER ENACTED, That the General Assembly
32 encourages counties and municipal corporations to review their privacy policies and

1 data security safeguards and conform their practices to those set forth in § 10-624(c)
2 of the State Government Article as enacted by Section 1 of this Act.

3 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take
4 effect October 1, 2000.