

Department of Legislative Services
Maryland General Assembly
2000 Session

FISCAL NOTE
Revised

Senate Bill 199 (The President. *et al.*) (Administration)
Economic and Environmental Affairs

Public Records - Privacy Policies and Data Security

This Administration bill addresses the collection and maintenance of personnel records and requires units of State government to post privacy and data security policies on their Internet sites.

Fiscal Summary

State Effect: Although some cost would be associated with altering forms, documents, and web-sites to include notice of the State's personal records policy, most agencies could make the alterations with existing resources.

Local Effect: None.

Small Business Effect: A small business impact statement was not provided by the Administration in time for inclusion in this fiscal note. A revised fiscal note will be issued when the Administration's assessment becomes available.

Analysis

Bill Summary: This Administration bill provides that personal records shall not be created unless the need for the information has been clearly established. The bill also requires that personal information be relevant to the purpose for which it is collected, be accurate, and not be obtained through fraudulent means. When information is collected from an individual, official custodians are required to tell the individual: (1) the reason the information is needed; (2) the consequences for not providing the information; (3) the individual's right to inspect or alter personal records; and (4) the persons or parties that will have access to the records. Specified records, such as information pertaining to the enforcement of laws and certain archived information, are exempt from these requirements. The Secretary of the Department of Budget and Management, at the recommendation of the Chief of Information

Technology, may adopt regulations to exempt other personal records from these requirements and must report once a year to the General Assembly on the additional exemptions. Nothing in the bill preempts or applies to laws regarding the confidentiality of medical records. All units of State government are required to post the privacy policies on their Internet sites. The bill also states that the General Assembly encourages counties and municipal corporations to review their privacy and data security policies and conform their practices to the ones set forth in the bill.

Current Law: The definition of personal record is one that names or otherwise identifies an individual. Units of State government that keep personal records must submit an annual report to the Secretary of General Services that includes the type of personal records collected, the location of the records, and a description of the records. The reports are available to the public.

Background: The bill seeks to ensure that the State, in its collection of personal records, makes security and privacy of the records a primary objective. In its November 1999 report entitled *Internet Policy Recommendations*, the Information Technology Board (ITB) recommended that Maryland adopt the personal records principles established in the legislation. The report states that because “consumer confidence in the online marketplace is critical for its continuing growth, Maryland must promote an environment in which personal information is protected.” Maryland already has statutes that criminalize unauthorized access to computers, interception and disclosure of electronic communications, and harassing or obscene e-mail. The State has also adopted the Public Information Act, which protects personal information collected by State and local governments.

The ITB’s report also recommends that Maryland Executive Order 01.01.1983.18 be updated. The order contains personal records standards that are very similar to the ones present in the bill. However, the order does not address the protection of information provided over the Internet nor the unique problems created by increased public access to information through new technologies.

To facilitate private sector participation in the effort to ensure the privacy of public records, the ITB encourages organizations such as the Maryland Chamber of Commerce, the Better Business Bureau, and the Maryland Association of Retailers to aid in the campaign. These organizations could muster support within the business community for uniform measures that would enhance consumer confidence in the security of electronic commerce. The ITB, in their report, offers to “jump start” this endeavor by acquiring public or private funds to organize outreach to the private sector entities doing business through the Internet.

State Expenditures: In a limited sample of State agencies, only the Department of

Transportation, Motor Vehicle Administration (MVA) advised that it would require additional resources to design and print new forms. The MVA estimated that a one-time cost of \$1,500 would be necessary to design new forms and an additional \$2,000 per month would be required to print new forms. Therefore, the total cost in fiscal 2001 would be \$25,500.

The Department of General Services advises that it could continue to monitor records with existing resources.

Additional Information

Prior Introductions: None.

Cross File: HB 277 (The Speaker, *et al.*) - Commerce and Government Matters.

Information Source(s): Maryland Board of Nursing; Department of Health and Mental Hygiene; Health Boards and Commissions; Department of Labor, Licensing, and Regulation; Department of Budget and Management; Department of Human Resources; Department of General Services; Department of Transportation; Department of Legislative Services

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Analysis by: Mark Collins

Direct Inquiries to:
John Rixey, Coordinating Analyst
(410) 946-5510
(301) 970-5510