

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 213 (Chair, Health and Government Operations Committee)
(By Request – Departmental – Budget and Management)

Health and Government Operations Education, Health, and Environmental
Affairs

Personal Records - Collection of Personal Information

This departmental bill repeals the requirement that the Secretary of Budget and Management report annually to the General Assembly on personal records exempted by regulation from privacy laws at the recommendation of the chief of information technology.

Instead, the bill establishes that the Secretary must report to the General Assembly if regulations are adopted to exempt any such personal records from State privacy laws.

Fiscal Summary

State Effect: The change is procedural in nature and would not directly affect governmental finances.

Local Effect: None.

Small Business Effect: The Department of Budget and Management has determined that the bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Current Law: State law prohibits personal records from being created unless the need for the information has been clearly established. Personal information must 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 • the reason the information is needed; • the consequences for not providing the information; • the individual's right to inspect or alter personal records; and • 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 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 annually to the General Assembly on the additional exemptions. All units of State government are required to post the privacy policies on their Internet sites.

Background: In its November 1999 report, *Internet Policy Recommendations*, the Information Technology Board recommended that Maryland adopt security measures related to the State's collection and retention of personal records. The report stated 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." These recommendations provided the basis for the State's electronic privacy laws. In addition to these laws, State law also criminalizes unauthorized access to computers, interception and disclosure of electronic communications, and harassing or obscene e-mail. The State's Public Information Act also protects personal information collected by State and local governments.

Since the adoption of legislation to establish privacy and data security measures, the Secretary of Budget and Management has not adopted regulations to exempt additional personal records from electronic privacy laws. Under current law, the Secretary is required to report annually on this provision, regardless of whether regulations were proposed. The bill requires the Secretary to report to the General Assembly only if such regulations are adopted; however, the bill does not specify the time period for reporting the information to the General Assembly.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Budget and Management, Department of Legislative Services

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