

# HOUSE BILL 1332

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By: **Delegates Tarrant, Cullison, Frank, Guzzone, Ivey, A. Kelly, Kipke, Oaks, Pena–Melnyk, Ready, Reznik, Rosenberg, Smigiel, and M. Washington**

Introduced and read first time: February 8, 2013

Assigned to: Appropriations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Educational Institutions – Personal Electronic Account – Privacy Protections**

3 FOR the purpose of prohibiting an educational institution from requiring, requesting,  
4 suggesting, or causing a student or a prospective student to grant access to,  
5 allow observation of, or disclose information that allows access to or observation  
6 of the individual’s personal electronic account, not including a certain  
7 communication; prohibiting an educational institution from compelling a  
8 student or an applicant, as a condition of acceptance or participation in  
9 curricular or extracurricular activities, to add certain individuals to a certain  
10 list of contacts or to require, request, suggest, or cause a student or an applicant  
11 to change certain privacy settings; prohibiting an educational institution from  
12 taking or threatening to take certain actions against a student for the student’s  
13 refusal to disclose certain information relating to a personal electronic account  
14 or to add certain individuals to a certain list of contacts; prohibiting an  
15 educational institution from failing or refusing to admit any applicant as a  
16 result of the applicant’s refusal to disclose certain information relating to a  
17 personal electronic account or to add certain individuals to a certain list of  
18 contacts; providing that this Act may not be construed to prohibit a student or  
19 an applicant from allowing certain coaches or administrators to view certain  
20 communications of certain individuals; specifying that this Act does not apply to  
21 certain criminal investigations performed by an educational institution into  
22 certain communications of certain individuals or an investigation, an inquiry, or  
23 a determination conducted in accordance with a certain health or public safety  
24 policy or protocol of an educational institution into certain communications of  
25 certain individuals; specifying that this Act does not prohibit an educational  
26 institution from requesting or requiring a student to disclose certain access  
27 information to certain personal electronic accounts; specifying that this Act does  
28 not prohibit an educational institution from viewing, accessing, or utilizing  
29 information about certain individuals that may be obtained without any  
30 required access information or that is in the public domain; specifying that this

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Act does not create a certain duty for an educational institution to search or  
2 monitor the activity of a personal electronic account; providing that an  
3 educational institution is not liable for failure to request or require that certain  
4 individuals grant access to, allow observation of, or disclose information that  
5 allows access to or observation of the individuals' personal electronic accounts;  
6 requiring certain educational institutions to report to the General Assembly any  
7 violation of this Act; defining certain terms; and generally relating to the  
8 personal electronic accounts of students and applicants of educational  
9 institutions.

10 BY adding to

11 Article – Education

12 Section 26–401 and 26–402 to be under the new subtitle “Subtitle 4. Personal  
13 Electronic Account Privacy Protection”

14 Annotated Code of Maryland

15 (2008 Replacement Volume and 2012 Supplement)

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

18 **Article – Education**

19 **SUBTITLE 4. PERSONAL ELECTRONIC ACCOUNT PRIVACY PROTECTION.**

20 **26–401.**

21 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
22 INDICATED.

23 (B) “ACCESS INFORMATION” MEANS A USER NAME, A PASSWORD,  
24 LOG-IN INFORMATION, OR ANY OTHER SECURITY INFORMATION THAT  
25 PROTECTS ACCESS TO A PERSONAL ELECTRONIC ACCOUNT.

26 (C) “EDUCATIONAL INSTITUTION” MEANS A PUBLIC OR PRIVATE  
27 EDUCATIONAL INSTITUTION THAT OFFERS PARTICIPANTS, STUDENTS, OR  
28 TRAINEES AN ORGANIZED COURSE OF STUDY OR TRAINING THAT IS ACADEMIC,  
29 TECHNICAL, TRADE-ORIENTED, OR PREPARATORY FOR GAINFUL EMPLOYMENT  
30 IN A RECOGNIZED OCCUPATION.

31 (D) (1) “PERSONAL ELECTRONIC ACCOUNT” MEANS AN ACCOUNT  
32 CREATED VIA AN ELECTRONIC MEDIUM OR A SERVICE THAT ALLOWS USERS TO  
33 CREATE, SHARE, OR VIEW USER-GENERATED CONTENT, INCLUDING UPLOADING  
34 OR DOWNLOADING VIDEOS OR STILL PHOTOGRAPHS, BLOGS, VIDEO BLOGS,  
35 PODCASTS, MESSAGES, ELECTRONIC MAIL, INTERNET WEB SITE PROFILES OR  
36 LOCATIONS, OR ANY OTHER ELECTRONIC INFORMATION.

1           **(2) “PERSONAL ELECTRONIC ACCOUNT” DOES NOT INCLUDE AN**  
2 **ACCOUNT THAT IS OPENED ON BEHALF OF, OR OWNED OR PROVIDED BY, AN**  
3 **EDUCATIONAL INSTITUTION.**

4           **(E) “PUBLICLY ACCESSIBLE COMMUNICATION” MEANS INFORMATION:**

5           **(1) THAT MAY BE OBTAINED WITHOUT ANY REQUIRED ACCESS**  
6 **INFORMATION; OR**

7           **(2) THAT IS AVAILABLE IN THE PUBLIC DOMAIN.**

8 **26-402.**

9           **(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, AN EDUCATIONAL**  
10 **INSTITUTION MAY NOT:**

11           **(1) REQUIRE, REQUEST, SUGGEST, OR CAUSE A STUDENT OR A**  
12 **PROSPECTIVE STUDENT TO GRANT ACCESS TO, ALLOW OBSERVATION OF, OR**  
13 **DISCLOSE INFORMATION THAT ALLOWS ACCESS TO OR OBSERVATION OF THE**  
14 **INDIVIDUAL’S PERSONAL ELECTRONIC ACCOUNT, NOT INCLUDING A PUBLICLY**  
15 **ACCESSIBLE COMMUNICATION;**

16           **(2) COMPEL A STUDENT OR AN APPLICANT, AS A CONDITION OF**  
17 **ACCEPTANCE OR PARTICIPATION IN CURRICULAR OR EXTRACURRICULAR**  
18 **ACTIVITIES TO:**

19           **(I) ADD ANYONE, INCLUDING A COACH, A TEACHER, AN**  
20 **EDUCATIONAL INSTITUTION ADMINISTRATOR, OR ANY OTHER EDUCATIONAL**  
21 **INSTITUTION EMPLOYEE OR VOLUNTEER TO THE LISTS OF CONTACTS**  
22 **ASSOCIATED WITH A PERSONAL ELECTRONIC ACCOUNT; OR**

23           **(II) REQUIRE, REQUEST, SUGGEST, OR CAUSE A STUDENT**  
24 **OR AN APPLICANT TO CHANGE THE PRIVACY SETTINGS ASSOCIATED WITH A**  
25 **PERSONAL ELECTRONIC ACCOUNT;**

26           **(3) TAKE ANY ACTION OR THREATEN TO TAKE ANY ACTION TO**  
27 **DISCHARGE, DISCIPLINE, PROHIBIT FROM PARTICIPATING IN CURRICULAR OR**  
28 **EXTRACURRICULAR ACTIVITIES, OR OTHERWISE PENALIZE A STUDENT FOR THE**  
29 **STUDENT’S REFUSAL TO:**

30           **(I) DISCLOSE ANY INFORMATION SPECIFIED IN**  
31 **PARAGRAPH (1) OF THIS SECTION; OR**

1                   **(II) ADD ANYONE TO THEIR ACCOUNT AS SPECIFIED IN**  
2 **PARAGRAPH (2)(I) OF THIS SUBSECTION; OR**

3                   **(4) FAIL OR REFUSE TO ADMIT ANY APPLICANT AS A RESULT OF**  
4 **THE APPLICANT'S REFUSAL TO:**

5                   **(I) DISCLOSE ANY INFORMATION SPECIFIED IN**  
6 **PARAGRAPH (1) OF THIS SUBSECTION; OR**

7                   **(II) ADD ANYONE TO THEIR ACCOUNT AS SPECIFIED IN**  
8 **PARAGRAPH (2)(I) OF THIS SUBSECTION.**

9                   **(B) THIS SECTION MAY NOT BE CONSTRUED TO PROHIBIT A STUDENT**  
10 **OR AN APPLICANT FROM ALLOWING ATHLETIC COACHES OR ADMINISTRATORS**  
11 **TO VIEW THE STUDENT'S OR THE APPLICANT'S PUBLICLY ACCESSIBLE**  
12 **COMMUNICATIONS.**

13                   **(C) THIS SECTION DOES NOT APPLY TO:**

14                   **(1) SUSPECTED CRIMINAL ACTIVITY INVESTIGATIONS**  
15 **PERFORMED BY A PUBLIC SAFETY DEPARTMENT OR POLICE AGENCY OF AN**  
16 **EDUCATIONAL INSTITUTION INTO AN APPLICANT'S OR A STUDENT'S PUBLICLY**  
17 **ACCESSIBLE COMMUNICATIONS; OR**

18                   **(2) AN INVESTIGATION, AN INQUIRY, OR A DETERMINATION**  
19 **CONDUCTED IN ACCORDANCE WITH THE HEALTH OR PUBLIC SAFETY**  
20 **ADMINISTRATION ASSESSMENT POLICY OR PROTOCOL OF AN EDUCATIONAL**  
21 **INSTITUTION INTO AN APPLICANT'S OR A STUDENT'S PUBLICLY ACCESSIBLE**  
22 **COMMUNICATIONS.**

23                   **(D) THIS SECTION DOES NOT PROHIBIT AN EDUCATIONAL INSTITUTION**  
24 **FROM REQUESTING OR REQUIRING A STUDENT TO DISCLOSE ACCESS**  
25 **INFORMATION TO THE EDUCATIONAL INSTITUTION TO GAIN ACCESS TO**  
26 **ACCOUNTS OPENED AT AN EDUCATIONAL INSTITUTION'S BEHEST, OR PROVIDED**  
27 **BY AN EDUCATIONAL INSTITUTION, AND INTENDED TO BE USED SOLELY ON**  
28 **BEHALF OF THE EDUCATIONAL INSTITUTION.**

29                   **(E) THIS SECTION DOES NOT PROHIBIT OR RESTRICT AN EDUCATIONAL**  
30 **INSTITUTION FROM VIEWING, ACCESSING, OR UTILIZING INFORMATION ABOUT A**  
31 **STUDENT OR AN APPLICANT THAT:**

1           **(1) MAY BE OBTAINED WITHOUT ANY REQUIRED ACCESS**  
2 **INFORMATION; OR**

3           **(2) IS AVAILABLE IN THE PUBLIC DOMAIN.**

4           **(F) (1) THIS SECTION DOES NOT CREATE A DUTY FOR AN**  
5 **EDUCATIONAL INSTITUTION TO SEARCH OR MONITOR THE ACTIVITY OF A**  
6 **PERSONAL ELECTRONIC ACCOUNT.**

7           **(2) AN EDUCATIONAL INSTITUTION IS NOT LIABLE UNDER THIS**  
8 **SECTION FOR A FAILURE TO REQUEST OR REQUIRE THAT A STUDENT OR A**  
9 **PROSPECTIVE STUDENT GRANT ACCESS TO, ALLOW OBSERVATION OF, OR**  
10 **DISCLOSE INFORMATION THAT ALLOWS ACCESS TO OR OBSERVATION OF THE**  
11 **INDIVIDUAL'S PERSONAL ELECTRONIC ACCOUNT.**

12           **(G) ON OR BEFORE DECEMBER 1 OF EACH YEAR, AN EDUCATIONAL**  
13 **INSTITUTION SHALL REPORT ANY VIOLATION OF THIS SECTION TO THE SENATE**  
14 **EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE AND THE**  
15 **HOUSE COMMITTEE ON WAYS AND MEANS, IN ACCORDANCE WITH § 2-1246 OF**  
16 **THE STATE GOVERNMENT ARTICLE.**

17           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
18 July 1, 2013.