

HOUSE BILL 1062

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11r2656
CF SB 733

By: **Delegate D. Jones**

Introduced and read first time: February 5, 2021

Assigned to: Ways and Means

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 6, 2021

CHAPTER _____

1 AN ACT concerning

2 **Education – Student Data Privacy – Reports and Student Data Privacy Council**
3 **Sunset Extension**

4 FOR the purpose of requiring each county board of education to provide a certain list of
5 digital tools to the State Department of Education on or before a certain date each
6 year; requiring the Department to publish certain information on digital tools
7 provided by each county board on or before a certain date each year; requiring the
8 Student Data Privacy Council to submit a certain report to the Governor and the
9 General Assembly on or before a certain date; extending the termination date for the
10 Council; requiring the Department to report to the Senate Education, Health, and
11 Environmental Affairs Committee and the House Committee on Ways and Means on
12 certain best practices and recommendations for student data governance on or before
13 a certain date; altering certain definitions; and generally relating to student data
14 privacy in the State.

15 BY repealing and reenacting, with amendments,
16 Article – Education
17 Section 4–131(a)
18 Annotated Code of Maryland
19 (2018 Replacement Volume and 2020 Supplement)

20 BY adding to
21 Article – Education
22 Section 4–131(p)
23 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



(2018 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,
Chapter 381 of the Acts of the General Assembly of 2018
Section 2

BY repealing and reenacting, with amendments,
Chapter 398 of the Acts of the General Assembly of 2019
Section 1(h) and 2

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

Article – Education

4–131.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) “Covered information” means information or material that[:

1. Personally identifies an individual student in this State or that is linked to information or material that personally identifies an individual student in this State; and

2. Is gathered by an operator through the operation of a site, a service, or an application], **ALONE OR IN COMBINATION WITH OTHER INFORMATION OR MATERIAL, IS LINKED OR COULD BE LINKED TO A STUDENT IN A MANNER THAT WOULD ALLOW AN EMPLOYEE OR STUDENT OF THE STUDENT’S SCHOOL TO IDENTIFY THE STUDENT WITH REASONABLE CERTAINTY.**

(ii) “Covered information” includes a student’s:

1. Educational [and disciplinary record] **RECORDS AS DEFINED IN § 7–1303 OF THIS ARTICLE;**

2. First and last name;

3. Home address and geolocation information;

4. Telephone number;

5. Electronic mail address or other information that allows physical or online contact;

6. Test results, grades, and student evaluations;

- 1 7. Special education [data] **INFORMATION;**
- 2 8. Criminal records;
- 3 9. Medical records and health records;
- 4 10. Social Security number;
- 5 11. Biometric information;
- 6 12. Socioeconomic information;
- 7 13. Food purchases;
- 8 14. Political and religious affiliations;
- 9 15. Text messages;
- 10 16. Student identifiers;
- 11 17. Search activity;
- 12 18. Photos; [and]
- 13 19. Voice recordings;
- 14 **20. DISCIPLINARY INFORMATION;**
- 15 **21. ONLINE BEHAVIOR OR USAGE OF APPLICATIONS**
- 16 **WHEN LINKED OR LINKABLE TO A SPECIFIC STUDENT;**
- 17 **22. PERSISTENT UNIQUE IDENTIFIERS; AND**
- 18 **23. CONFIDENTIAL INFORMATION AS DEFINED BY THE**
- 19 **DEPARTMENT OF INFORMATION TECHNOLOGY.**

20 (3) **(1)** “Operator” means [a person] **AN INDIVIDUAL OR AN ENTITY**
21 **who ENGAGES WITH INSTITUTIONS UNDER THE SCHOOL OFFICIAL EXCEPTION OF**
22 **THE FEDERAL FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT AND** is operating in
23 accordance with a contract or an agreement with a public school or local school system in
24 the State to provide an Internet website, an online service, an online application, or a
25 mobile application that:

26 ~~(1)~~ **1.** **PROCESSES COVERED INFORMATION; AND**

1 (5) (i) “PreK–12 school purpose” means an activity that:

2 1. Takes place at the direction of a public school, a teacher,
3 an administrator, or a local school system; or

4 2. Aids in the administration of public school activities.

5 (ii) “PreK–12 school purpose” includes:

6 1. Instruction in the classroom;

7 2. Home instruction;

8 3. Administrative activities;

9 4. Collaboration among students, public school employees,
10 and parents;

11 5. Maintaining, developing, supporting, improving, or
12 diagnosing the operator’s site, service, or application; and

13 6. An activity that is for the use and benefit of the public
14 school.

15 (6) (i) “Targeted advertising” means presenting advertisements to an
16 individual student that are selected based on information obtained or inferred from the
17 student’s [online behavior, usage of applications, or] covered information.

18 (ii) “Targeted advertising” does not include advertisements
19 presented to an individual student at an online location:

20 1. Based on the student’s current visit to the online location
21 [without] **IF THERE IS NO** collection or retention of the student’s [online activities]
22 **COVERED INFORMATION** over time; or

23 2. In response to a single search query [without] **IF THERE**
24 **IS NO** collection or retention of the student’s [online activities] **COVERED INFORMATION**
25 over time.

26 **(P) (1) ON OR BEFORE JULY 1, 2021, AND EACH JULY 1 THEREAFTER,**
27 **EACH COUNTY BOARD SHALL SUBMIT TO THE DEPARTMENT A LIST OF THE**
28 **FOLLOWING DIGITAL TOOLS WITH RESPECT TO THE IMMEDIATELY PRECEDING**
29 **SCHOOL YEAR:**

30 **(I) APPROVED DIGITAL TOOLS;**

1 (II) DIGITAL TOOLS KNOWN TO BE USED BY EDUCATORS; AND

2 (III) DIGITAL TOOLS NOT AUTHORIZED BY THE COUNTY BOARD.

3 (2) ON OR BEFORE SEPTEMBER 1, 2021, AND EACH SEPTEMBER 1
4 THEREAFTER, THE DEPARTMENT SHALL PUBLISH AN ONLINE DATABASE OF THE
5 DIGITAL TOOLS REPORTED BY EACH COUNTY BOARD IN ACCORDANCE WITH
6 PARAGRAPH (1) OF THIS SUBSECTION.

7 **Chapter 381 of the Acts of 2018**

8 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before July 1, 2019,
9 [and] July 1, 2020, AND JULY 1, 2022, the State Department of Education shall report to
10 the Senate Education, Health, and Environmental Affairs Committee and the House
11 Committee on Ways and Means, in accordance with § 2-1246 of the State Government
12 Article, on the status of the following:

13 (1) development and implementation of best practices in the areas of data
14 governance, transparency, and professional development;

15 (2) levels of engagement by county boards;

16 (3) barriers to engagement, if any, including fiscal, statutory, or workplace
17 obstacles; and

18 (4) any recommended statutory changes.

19 **Chapter 398 of the Acts of 2019**

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
21 That:

22 (h) (1) On or before December 31, 2020, the Student Data Privacy Council
23 shall report its findings and recommendations to the Governor and, in accordance with §
24 2-1246 of the State Government Article, the General Assembly.

25 (2) ON OR BEFORE DECEMBER 1, 2024, THE STUDENT DATA
26 PRIVACY COUNCIL SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH
27 § 2-1257 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON:

28 (I) THE IMPLEMENTATION OF § 4-131(P) OF THE EDUCATION
29 ARTICLE; AND

30 (II) BEST PRACTICES FOR STUDENT DATA PRIVACY
31 PROTECTION ~~TO PROVIDE TO~~ FOR PARENTS AND GUARDIANS OF STUDENTS IN THE
32 STATE, INCLUDING:

1 **1. THE ACTIONS THAT SHOULD OCCUR IF AN OPERATOR**
2 **ENGAGES IN AN ACTIVITY PROHIBITED UNDER § 4-131 OF THE EDUCATION**
3 **ARTICLE;**

4 **2. THE TYPE OF INVESTIGATION THAT SHOULD BE DONE**
5 **IF AN OPERATOR IS SUSPECTED OF ENGAGING IN AN ACTIVITY PROHIBITED UNDER**
6 **§ 4-131 OF THE EDUCATION ARTICLE;**

7 **3. THE BEST REMEDIES AVAILABLE TO STUDENTS AND**
8 **PARENTS IN CASE OF AN OPERATOR ENGAGING IN AN ACTIVITY PROHIBITED UNDER**
9 **§ 4-131 OF THE EDUCATION ARTICLE; AND**

10 **4. ANY STATUTORY OR REGULATORY CHANGES**
11 **NECESSARY TO BEST EFFECTUATE ITEMS 1 THROUGH 3 OF THIS SUBPARAGRAPH.**

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June
13 1, 2019. It shall remain in effect for a period of [2] 6 years and 4 MONTHS AND, at the end
14 of [May 31, 2021] **SEPTEMBER 30, 2025**, this Act, with no further action required by the
15 General Assembly, shall be abrogated and of no further force and effect.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June
17 1, 2021.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.