SENATE BILL 921

By: Senator Lam
Introduced and read first time: February 9, 2021
Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

AN ACT concerning

County Boards of Education – Accessibility Standards – Digital Tools
(Nonvisual Access Accountability Act for Grades K–12 Education)

FOR the purpose of requiring certain digital tools developed or purchased by a county board of education to include specifications for access by students with disabilities, including nonvisual access, that meet certain standards; requiring a county board to provide a student with disabilities access to digital tools that meet certain standards; beginning on a certain date, requiring each invitation for bids or request for proposals for a digital tool issued by a county board to require a vendor to submit an accessibility conformance report as part of the bid; prohibiting a county board from approving a certain procurement contract if certain conditions are not met; requiring a county board to establish a certain evaluation process that includes a certain evaluation by a certain specialist; requiring a county board to send a certain notice to a certain vendor under certain circumstances; requiring a certain vendor to modify information technology at the vendor’s own expense to meet certain accessibility standards within a certain number of months after receiving a certain notification; establishing a civil penalty for a violation of certain provisions of law; requiring a vendor who violates certain provisions of law to indemnify the State for a liability resulting from the use of information technology that does not meet certain accessibility standards; requiring a county board, on or before a certain date each year, to submit a certain report to the State Department of Education; requiring the Department to make certain information available on its website and to update the information each year; defining certain terms; and generally relating to accessibility standards for digital tools developed or purchased by county boards of education.

BY adding to

Article – Education
Section 8–317
Annotated Code of Maryland
(2018 Replacement Volume and 2020 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Education

8–317.

(A) (1) In this section the following terms have the meanings indicated.

(2) (i) “ACCESSIBILITY CONFORMANCE REPORT” means a document by which a vendor explains how information and communication technology products, including software, hardware, electronic content, and support documentation, conform to the Revised 508 Standards for information technology accessibility under the Federal Rehabilitation Act of 1973.

(ii) “ACCESSIBILITY CONFORMANCE REPORT” includes a Voluntary Product Accessibility Template (VPAT).

(iii) “DIGITAL TOOL” means:

(i) An online platform;

(ii) A course;

(iii) Information and communication technology services; and

(iv) Digital content.

(iv) “NONVISUAL ACCESS” means the ability to receive, use, and manipulate information and operate controls necessary to access information and communications technology through keyboard control, synthesized speech, braille, or other methods not requiring sight.

(B) (1) Each digital tool developed or purchased by a county board for use by the local school system shall include specifications for access for students with disabilities, including nonvisual access, in accordance with the technical standards for electronic and information technology issued under:
(1) Subsection (A)(2) of Section 508 of the Federal Rehabilitation Act of 1973, 29 U.S.C. 794(A)(2); or

(II) Any other widely accepted or freely available technical standard.

(2) A county board shall provide a student with disabilities access to digital tools that:

(I) Are fully and equally accessible to and independently usable by a student with disabilities; and

(II) Enable a student with disabilities to acquire the same information, participate in the same interactions, and access the same services as a student without disabilities, with substantially equivalent ease of use.

(C) (1) Beginning September 1, 2021, each invitation for bids or request for proposals for a digital tool issued by a county board shall require a vendor to submit an accessibility conformance report as part of the bid.

(2) A county board may not approve a procurement contract for a digital tool that fails to meet the requirements of subsection (B) of this section.

(3) (I) A county board shall establish a process to evaluate each digital tool being considered for development or purchase for conformity with the requirements of subsection (B) of this section.

(II) The evaluation process established under subparagraph (I) of this paragraph shall include evaluation of the digital tool for nonvisual access by:

1. An employee of the local school system who specializes in providing vision services; or

2. A specialist from the Office for Blindness & Vision Loss Services in the Division of Rehabilitation Services in the Department.
(D) (1) (I) IF A COUNTY BOARD FINDS THAT A DIGITAL TOOL FAILS TO MEET THE ACCESSIBILITY STANDARDS UNDER SUBSECTION (B) OF THIS SECTION, INCLUDING NONVISUAL ACCESS, WITHIN 18 MONTHS AFTER DEVELOPMENT OR PURCHASE OF THE DIGITAL TOOL, THE COUNTY BOARD SHALL SEND A WRITTEN NOTICE TO THE VENDOR OF THE VENDOR’S FAILURE TO COMPLY WITH THE ACCESSIBILITY STANDARDS REQUIRED UNDER THE PROCUREMENT CONTRACT.

(II) ON RECEIPT OF NOTICE FROM A COUNTY BOARD UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE VENDOR, AT THE VENDOR’S EXPENSE, SHALL MODIFY THE DIGITAL TOOL TO MEET THE REQUIRED ACCESSIBILITY STANDARDS WITHIN 12 MONTHS OF THE DATE THE VENDOR RECEIVED THE NOTICE FROM THE COUNTY BOARD.

(2) A VENDOR THAT FAILS TO MEET THE ACCESSIBILITY STANDARDS IN ACCORDANCE WITH PARAGRAPH (1)(II) OF THIS SUBSECTION:

(I) IS SUBJECT TO A CIVIL PENALTY OF:

1. FOR A FIRST OFFENSE, A FINE NOT EXCEEDING $5,000; OR

2. FOR A SUBSEQUENT OFFENSE, A FINE NOT EXCEEDING $10,000; AND

(II) SHALL INDEMNIFY THE STATE FOR LIABILITY RESULTING FROM THE USE OF A DIGITAL TOOL THAT FAILS TO MEET THE ACCESSIBILITY STANDARDS UNDER SUBSECTION (B) OF THIS SECTION, INCLUDING NONVISUAL ACCESS.

(E) (1) ON OR BEFORE OCTOBER 1, 2022, AND EACH OCTOBER 1 THEREAFTER, A COUNTY BOARD SHALL SUBMIT A REPORT TO THE DEPARTMENT ON THE ACCESSIBILITY OF THE DIGITAL TOOLS THE LOCAL SCHOOL SYSTEM DEVELOPED OR PURCHASED FOR USE DURING THE IMMEDIATELY PRECEDING FISCAL YEAR.

(2) (I) THE DEPARTMENT SHALL COMPIL THE INFORMATION RECEIVED UNDER PARAGRAPH (1) OF THIS SUBSECTION AND MAKE THE INFORMATION AVAILABLE ON ITS WEBSITE, INCLUDING THE STATUS OF THE ACCESSIBILITY OF THE DIGITAL TOOLS USED IN EACH LOCAL SCHOOL SYSTEM.

(II) EACH YEAR, THE DEPARTMENT SHALL UPDATE THE INFORMATION REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.
SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2021.