

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 711 (Delegate Charkoudian, *et al.*)
Economic Matters

Data Privacy - Consumer Data, Public Records, and Message Switching System
(Data Privacy Act)

This bill modifies the Online Data Privacy Act, the Public Information Act, provisions of law governing access to law enforcement databases, and provisions of law governing the protection of personal records by government entities to enhance the protection of an individual’s personal data when that data is to be used for the purpose of immigration enforcement.

Fiscal Summary

State Effect: While most State agencies can handle the bill’s requirements using existing budgeted resources, general fund expenditures for the Judiciary and Department of Public Safety and Correctional Services (DPSCS) may increase to comply with the bill, as discussed below. Revenues are not directly affected.

Local Effect: It is anticipated that many local governments can handle the bill’s requirements using existing budgeted resources; however, some local governments may be significantly affected, as discussed below. Revenues are not affected.

Small Business Effect: Minimal.

Analysis

Bill Summary/Current Law:

Online Data Privacy Act

Chapters 454 and 455 of 2024 (the Maryland Online Data Privacy Act of 2024) established new consumer protections and rights, as well as disclosure obligations, relating to online

personal data controlled or processed by certain entities that conduct business in the State or provide services or products that are targeted to residents of the State. Violation of the Maryland Online Data Privacy Act is an unfair, abusive, or deceptive trade practice under the Maryland Consumer Protection Act (MCPA), subject to MCPA's civil and criminal penalty provisions. The bill makes the following changes to the Online Data Protection Act:

- various definitions are modified and/or expanded related to the type of data and information to which the Act's protections apply, including geolocation data, publicly available information, and sensitive data;
- the Act does not apply to personal data collected, processed, sold, or disclosed *to the extent necessary to comply* with the federal Driver's Privacy Protection Act of 1994, instead of all data collected, processed, sold, or disclosed in compliance with the Act;
- a controller, meaning a person that determines the purpose and means of processing personal data, is prohibited from selling the personal data of a consumer if the controller knows or should know that the purchaser seeks to use the data for the purpose of immigration enforcement; and
- the bill specifies that nothing in the Act may be construed to restrict a controller's or a data processor's ability to comply with a civil, criminal, or regulatory inquiry, investigation, or summons by a federal, State, local, or other governmental authority, *except* to the extent that an inquiry, investigation, subpoena, or summons pertains solely to immigration enforcement.

Public Information Act

Under current law, Maryland's Public Information Act establishes that all persons are entitled to have access to information about the affairs of government and the official acts of public officials and employees. Each governmental unit that maintains public records must identify a representative whom a member of the public may contact to request a public record. OAG must post all such contact information on its website and in any Public Information Act Manual published by OAG. The bill makes the following changes to the Public Information Act:

- references to the Act's application pertaining to the access of records by federal agents and agencies (which is broadly prohibited under current law for the purpose of enforcing immigration law) are generally expanded to apply to any person or government agency requesting such data;
- a custodian of public records must take reasonable steps to determine whether a person seeking access to a public record is doing so for the purpose of enforcing

immigration law and adopt reasonable rules or regulations to prevent any such related and unauthorized disclosure or inspection; and

- the Motor Vehicle Administration, Department of State Police, and DPSCS must adopt regulations and procedures to implement, enforce, and ensure compliance with the provisions related to the access of public records for the enforcement of immigration law, as modified by the bill.

Access to Law Enforcement Databases

Under current law, an entity operating a database must (1) deny access to the database to any person who is seeking access for the purpose of enforcing federal immigration law, unless the individual presents a valid warrant issued by a federal court or a court of the State and (2) require an individual accessing the database to provide specified information to the entity. The bill makes the following changes to these provisions:

- the prohibition and requirement for information applicable to a database also applies for a “message switching system,” which means a law enforcement communications platform that automatically routes, formats, and delivers electronic queries and responses between law enforcement agencies and databases; and
- references to the provisions’ application pertaining to individuals who may seek access for the purpose of enforcing federal immigration law are modified to, instead, apply to *persons* who may seek access for the purpose of enforcing immigration law; and
- each entity operating a database and, with respect to a message switching system, DPSCS, must adopt regulations to implement these provisions, as modified by the bill.

Protection of Personal Records

Under current law, by July 1, 2026, each governmental entity, in consultation with the Department of Information Technology must develop and publish procedures that prevent the sale and redisclosure of personal records and geolocation data provided or made available by the governmental entity in a way that harms the privacy of residents of the State. The procedures must address specified issues and considerations. The bill makes the following changes to these provisions:

- instead of specifically preventing the sale and redisclosure of geolocation data, the bill requires the prevention of the sale and redisclosure of all data containing sensitive attributes;

- other references to geolocation data in the provisions specifying the issues and considerations the procedures must address are changed to specify “sensitive attributes” instead.

State Expenditures: Most State agencies that responded to a request for information for this fiscal and policy note responded that either they are already in compliance with the bill’s requirements or can handle the bill’s requirements and changes using existing budgeted resources with two notable exceptions.

First, the Judiciary advises that the bill may have a significant operational impact on its procedures and processes and may necessitate additional staff and/or programming changes to ensure compliance. Specifically, the Judiciary is responsible for a significant amount of personal information and many documents related to court proceedings are public and accessible at kiosks in courthouses throughout the State. Because the bill broadly establishes that a custodian must determine a person’s intent and purpose when they are seeking information and/or data, the Judiciary needs to implement new procedures to allow it to make such determinations for every data request; currently it must only make such determinations when the request is from a federal agent or agency.

Second, DPSCS advises that its message switching system is not technically capable of meeting the bill’s requirements. DPSCS estimates that the upgrades necessary to the system to ensure compliance with the bill total \$4.3 million over a five-year period beginning in fiscal 2027. The Department of Legislative Services has neither the technical expertise nor the knowledge of DPSCS’s system to independently verify this estimate.

Local Expenditures: Similar to State agencies, it is anticipated that many local governments are likely already in compliance with the bill’s requirements or can handle the bill’s requirements and changes using existing budgeted resources. However, the Maryland Association of Counties advises that some local government custodians may be significantly affected as the bill may require greater scrutiny of public documents both readily available and requested through the Public Information Act. Any such impact, however, cannot be reliably predicted without actual experience under the bill.

Additional Comments: Chapter 1 and 2 of 2026 prohibit the State, a unit of local government, a county sheriff, or any agency, officer, employee, or agent of the State or a unit of local government from entering into an “immigration enforcement agreement.” The State, a unit of local government, a county sheriff, or any agency, officer, employee, or agent of the State or a unit of local government with an existing immigration enforcement agreement must exercise the agreement’s termination provision.

“Immigration enforcement agreement” means a contract, an agreement, an intergovernmental service agreement, or a memorandum of understanding with the federal

government that authorizes the State, a unit of local government, a county sheriff, or any agency, officer, employee, or agent of the State or a unit of local government to enforce civil immigration law. "Immigration enforcement agreement" includes an agreement made in accordance with (1) 8 U.S.C. § 1103; (2) 8 U.S.C. § 1357; or (3) any other federal law.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 504 (Senator Lam) - Finance.

Information Source(s): Office of the Attorney General; Comptroller's Office; Judiciary (Administrative Office of the Courts); Maryland State Department of Education; Maryland Department of Health; Department of Public Safety and Correctional Services; Department of State Police; Maryland Department of Transportation; Calvert and Prince George's counties; Maryland Association of Counties; City of Annapolis; Maryland Municipal League; Baltimore City Public Schools; Montgomery County Public Schools; Department of Legislative Services

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