

Bill: SB664 Declaration of Rights - Right to Privacy

Name: Leslie Mansfield

Organization: Individual

Position: Opposed

Thank you for accepting written testimony in opposition to SB664. While on the surface, this bill appears to protect individuals from “intrusion caused by or directly traceable to the unauthorized collection of data concerning the individual by another,” it follows on the heels of the 2020 effort by Delegate Busch to introduce his Declaration of Rights – Right of Bodily Integrity and Privacy amendment.

As a Marylander, who opposed Delegate Busch’s effort, I was following the submission of legislation to see if another “bodily integrity” bill would be introduced. As it was not submitted, I became interested in knowing more about this bill, SB664. And, in talking with a member of Senator Lee’s staff, I was told that she was concerned about third party use of personal data. While I do not want to appear to call into question her concern, there is precedent for bills such as this to unknowingly protect abortion from being regulated as has happened in other states.

It is clear that Senator Lee and this committee are concerned about consumer data protection. To address this concern, it appears that this type of legislation has been proposed in the past here in Maryland. In 2019, HB141, HB901, SB490 and SB613 were all proposed to address this issue. SB613, titled Online Consumer Protection Act, was sponsored by Senator Lee and this year she has now sponsored SB957. In her testimony on February 9, 2020, before the Finance Committee, she pointed out that the bill provides “five basic rights in a digital landscape.” But, she goes on to say that, “Privacy is a complicated subject, but I hope the opposition will not muddy the waters.” One of the experts testifying points out that the bill gives individuals the “right to say ‘no’ to certain disclosures of it [their personal data]” and “the right to delete information.”

Given these efforts, it would appear that SB644 would then not be necessary to protect Marylanders from data collection and sharing; however, staff has indicated that SB644 addresses government intrusion which is not covered in SB957. If that is the issue, then it seems reasonable that a bill similar to SB957 could be written to provide the same “five basic rights in a digital landscape” that Senator Lee addressed in her testimony February 9, 2020. If we are to lay SB957 side-by-side with SB644, it does not seem that the same detailed procedures are being outlined for our protection against government or public entity data collection. Admittedly, it then raises a concern for me that *this bill is not as it appears*. The broad language and move toward a constitutional right, could possibly have great unintended consequences.

I am a regular Maryland resident with no background in law whatsoever, but I attempted to look at abortion regulations in other states which have provided privacy rights in the state constitution and whether or not there was a correlation between that amendment and abortion rights. It appears to have started in California prior to the passage of *Roe v. Wade*. “Also in 1972, only a few months before *Roe v. Wade* was decided, California voters added the right of ‘privacy’ to the California Constitution by

voter initiative. By the time Roe v. Wade was decided by the U.S. Supreme Court in 1973, the right to abortion was firmly established under California law.” Further, “In 1981, the California Supreme Court struck down state funding restrictions on abortion in California’s Medi-Cal program, recognizing that the right of privacy in the state constitution was broader than the federal right. In 1997, the California Supreme Court struck down California’s parental consent law, finding the law violated the right of privacy in the state constitution. Over the years, California voters have repeatedly rejected attempts to amend the California Constitution to require parental consent or notification for abortion.” These statements are from “Abortion in California: A Medical-Legal Handbook.”
<http://californiaabortionlaw.com/wp/wp-content/uploads/2012/03/AIC-Handbook1.pdf>

I very respectfully request that this committee oppose SB644. At a minimum, I would very respectfully request that the sponsor address the concern that this bill may be a broader attempt to prevent real open, honest, transparent discuss of abortion in Maryland.

“Congress and the states have enacted laws to protect individuals' privacy in various specific areas, such as medical and financial records, and courts have determined a right to privacy in certain areas. State constitutions also have provided for an expanded scope of privacy protections than are provided by federal law.” <https://www.ncsl.org/research/telecommunications-and-information-technology/privacy-protections-in-state-constitutions.aspx>

Please ensure that SB644 is not an effort to present last year’s “bodily integrity” bill under a different name and with a different approach – one which may leave Marylanders blind-sided.

Very respectfully submitted,

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