

# HOUSE BILL 607

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4r2501  
CF 4r2546

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By: ~~Delegates Kaiser, Afzali, Barkley, Barnes, Bates, Carr, Clagett, Elliott, Fraser-Hidalgo, George, Glenn, Guzzone, Healey, Hogan, Krebs, Lafferty, Luedtke, McDermott, McDonough, McIntosh, Pendergrass, Schulz, Serafini, Smigiel, Stocksdale, Valentino-Smith, Vitale, and Zucker~~ Zucker, Ivey, Stukes, F. Turner, Walker, and A. Washington

Introduced and read first time: January 30, 2014

Assigned to: Ways and Means

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 27, 2014

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Education – Student Data Privacy ~~and Cloud Computing~~ Act of 2014**

3 FOR the purpose of ~~authorizing certain educational institutions to use certain cloud~~  
4 ~~computing services to provide certain individuals access to certain documents;~~  
5 ~~requiring a certain educational institution and a certain cloud computing~~  
6 ~~service provider to enter into a certain agreement; providing for the content of a~~  
7 ~~certain agreement; prohibiting a certain cloud computing service provider from~~  
8 ~~using or processing certain student data in a certain manner; requiring the~~  
9 State Department of Education, on or before a certain date, to consult with  
10 certain experts on certain issues relating to student data privacy, establish  
11 certain parameters for using a certain software service, and develop certain  
12 sample contracts; requiring certain local education agencies to use a certain  
13 sample contract for certain contracts entered into on or after a certain date;  
14 requiring the ~~State Superintendent of Schools~~ Department to adopt certain  
15 regulations; ~~defining certain terms;~~ and generally relating to the Student Data  
16 Privacy ~~and Cloud Computing~~ Act of 2014.

17 ~~BY adding to~~

18 ~~Article – Education~~

19 ~~Section 4 – 131~~

20 ~~Annotated Code of Maryland~~

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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.



~~(2008 Replacement Volume and 2013 Supplement)~~

~~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) “CLOUD COMPUTING SERVICE” MEANS A SERVICE THAT ALLOWS A PERSON TO ACCESS A NETWORK OF SHARED FILES AND APPLICATIONS ON DEMAND.~~

~~(3) “CLOUD COMPUTING SERVICE PROVIDER” MEANS A PERSON THAT PROVIDES A CLOUD COMPUTING SERVICE TO AN EDUCATIONAL INSTITUTION.~~

~~(4) “EDUCATIONAL INSTITUTION” MEANS A PUBLIC SCHOOL, NONPUBLIC SCHOOL, CHARTER SCHOOL, OR LOCAL SCHOOL SYSTEM.~~

~~(5) “PROCESS” MEANS TO USE, ACCESS, MANIPULATE, SCAN, MODIFY, TRANSFORM, DISCLOSE, STORE, TRANSMIT, TRANSFER, RETAIN, AGGREGATE, OR DISPOSE OF STUDENT DATA.~~

~~(6) (i) “STUDENT DATA” MEANS INFORMATION OR MATERIAL CREATED OR PROVIDED BY:~~

~~1. AN INDIVIDUAL WHILE ENROLLED AS A STUDENT AT AN EDUCATIONAL INSTITUTION; OR~~

~~2. AN EMPLOYEE OF THE EDUCATIONAL INSTITUTION IN RELATION TO A STUDENT OF THE EDUCATIONAL INSTITUTION.~~

~~(ii) “STUDENT DATA” INCLUDES THE FOLLOWING INFORMATION OF A STUDENT:~~

~~1. NAME;~~

~~2. ELECTRONIC MAIL ADDRESS OR ELECTRONIC MAIL MESSAGES;~~

~~3. POSTAL ADDRESS;~~

1 ~~4. PHONE NUMBER;~~

2 ~~5. WORD PROCESSING DOCUMENTS; AND~~

3 ~~6. METADATA OR OTHER UNIQUE IDENTIFIERS.~~

4 ~~(B) AN EDUCATIONAL INSTITUTION MAY USE A CLOUD COMPUTING~~  
5 ~~SERVICE TO PROVIDE STUDENTS, TEACHERS, AND OTHER EMPLOYEES OF THE~~  
6 ~~EDUCATIONAL INSTITUTION ACCESS TO SHARED FILES AND APPLICATIONS.~~

7 ~~(C) (1) IF AN EDUCATIONAL INSTITUTION DECIDES TO USE A CLOUD~~  
8 ~~COMPUTING SERVICE, THE EDUCATIONAL INSTITUTION AND THE CLOUD~~  
9 ~~COMPUTING SERVICE PROVIDER SHALL ENTER INTO AN AGREEMENT TO~~  
10 ~~ESTABLISH THE TYPE OF SERVICE THE CLOUD COMPUTING SERVICE PROVIDER~~  
11 ~~WILL PROVIDE.~~

12 ~~(2) IN THE INITIAL WRITTEN AGREEMENT, THE CLOUD~~  
13 ~~COMPUTING SERVICE PROVIDER SHALL AGREE:~~

14 ~~(I) TO PROCESS OR MONITOR STUDENT DATA ONLY TO THE~~  
15 ~~EXTENT NECESSARY TO PROVIDE THE TYPE OF SERVICE AGREED ON BY BOTH~~  
16 ~~PARTIES; AND~~

17 ~~(II) NOT TO PROCESS OR MONITOR STUDENT DATA IN A~~  
18 ~~MANNER THAT SUBSTANTIALLY BENEFITS THE CLOUD COMPUTING SERVICE~~  
19 ~~PROVIDER OR A THIRD PARTY, INCLUDING:~~

20 ~~1. ONLINE BEHAVIORAL ADVERTISING;~~

21 ~~2. CREATING OR CORRECTING A CLOUD PROFILE;~~

22 ~~3. SELLING DATA FOR A COMMERCIAL PURPOSE; OR~~

23 ~~4. ANY OTHER SIMILAR COMMERCIAL FOR PROFIT~~  
24 ~~ACTIVITY.~~

25 ~~(D) THE STATE SUPERINTENDENT SHALL ADOPT REGULATIONS TO~~  
26 ~~IMPLEMENT THIS SECTION.~~

27 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
28 MARYLAND, That:

29 (a) On or before December 31, 2014, the State Department of Education  
30 shall:

1           (1) Consult with experts in the field of children's privacy protection on  
 2 best practices for protecting student data privacy if a local education agency decides to  
 3 use a software service to host student data;

4           (2) Establish parameters for the appropriate manner in which a local  
 5 education agency may use a software service to host student data;

6           (3) Develop, in consultation with industry experts, a sample contract,  
 7 that includes a provision that student data may not be used for online behavioral  
 8 advertising or marketing purposes, to be used by a local education agency if the local  
 9 education agency decides to use a software service provider to process student data;  
 10 and

11           (4) Once the sample contract is developed, provide each local  
 12 education agency with the sample contract.

13           (b) Each local education agency shall use the sample contract developed by  
 14 the Department under subsection (a)(3) and (4) of this section in contracts entered into  
 15 with a software service provider on or after March 31, 2015.

16           (c) The Department shall adopt regulations to implement this section.

17           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
 18 ~~October~~ June 1, 2014.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.