

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1184
Judiciary

(Delegate Cardin)

Maryland Judiciary - Personal Identifying Information - Protection

This bill authorizes an “at-risk individual” (*i.e.*, a judge) to obtain the removal and nondisclosure of specified “personal identifying information” (PII) relating to the at-risk individual or an “immediate family member,” as defined. The bill authorizes bringing an action for an injunction and/or damages against disclosure violations. Additionally, the bill requires the Secretary of State (SOS) to establish and administer a Maryland Judiciary Personal Identifying Information (MJPII) Program, under which SOS notifies State and local agencies of the names of program participants so that PII of program participants is not publicly displayed or available. The bill applies prospectively only and may not be applied or interpreted to have any effect on, or application to, any cause of action arising before the bill’s October 1, 2021 effective date.

Fiscal Summary

State Effect: The bill’s requirements can be handled with existing budgeted resources, as discussed below. Revenues are not affected.

Local Effect: The bill’s requirements can be handled with existing local government resources, as discussed below. Local revenues are not affected.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary:

Selected Definitions

“At-risk individual” means a judge of a court, as defined in § 1-101 of the Courts and Judicial Proceedings Article, and includes a recalled or retired judge of a court. “Immediate family member” means a spouse, child, parent, or another individual related by blood or marriage to an at-risk individual who lives in the same residence as the at-risk individual.

“Data broker” means a commercial entity that collects, assembles, or maintains PII of an individual who is not a customer or an employee of the entity in order to sell the information or provide third-party access to the information.

“Personal identifying information” means information that, when used alone or with other relevant information, can identify an at-risk individual or an immediate family member of the individual. It includes (1) home address, including primary residence and vacation home; (2) home and cell phone number; (3) personal email address; (4) Social Security number, driver’s license number, and voter registration information; (5) bank account and credit and debit card information; (6) property tax records and any property ownership, as specified; (7) birth and marriage records; (8) vehicle registration information; (9) children younger than age 18; (10) date of birth; (11) directions to a home; (12) photograph of any vehicle, including license plate, or home, including the address of the home; (13) the name and location of a school or day care facility attended by a child; and (14) the name and location of an employer.

Removal of Personal Identifying Information

An at-risk individual may submit a written notice to a data broker, person, business, or other entity that (1) identifies the individual as an at-risk individual; (2) identifies immediate family members of the individual; and (3) requests the removal of PII of the at-risk individual or the immediate family members of the individual from publicly available content within 72 hours of receipt of the notification.

A covered entity that receives such notification may not (1) publicly display PII of the at-risk individual or the immediate family members of the individual or (2) sell, license, trade, purchase, or otherwise provide or make available for consideration the PII of the at-risk individual or the immediate family members of the individual. Additionally, the covered entity must remove PII of the at-risk individual or the immediate family members of the individual from publicly available content within 72 hours of receipt of the notification.

Civil Actions

An at-risk individual or an immediate family member who is aggrieved by a violation of the above provisions may bring an action in any court of competent jurisdiction. A court may issue an injunction ordering the removal of PII and award damages. Damages awarded pursuant to the bill must include \$10,000 in punitive damages and may include up to three times the amount of actual damages.

Maryland Judiciary Personal Identifying Information Program

SOS must establish and administer a MJPII Program for at-risk individuals and immediate family members. The stated purpose of the program is to enable State and local agencies to remove from public view PII of a program participant.

At-risk individuals, acting on their own behalf or on behalf of an immediate family member, may apply to participate in the program. SOS must review program applications. If an application is properly completed, as specified, and accurate, SOS must designate the applicant as a program participant. A program participant may withdraw from participation by filing a signed request for withdrawal with SOS.

SOS must notify State and local agencies of the names of program participants. A State or local agency that receives such notification may not publicly display PII of the program participant and must remove PII of the program participant from publicly available content within 72 hours of receipt of the notification.

SOS may adopt regulations to carry out the bill.

Current Law: State law does not generally regulate Internet privacy, although businesses are required under the Maryland Personal Information Protection Act to take precautions to secure the personal information of customers and to provide notice of information of breaches.

State/Local Fiscal Effect: SOS can establish and administer the MJPII Program, including reviewing applications, designating program participants, and notifying State and local agencies of the names of program participants, using existing budgeted resources.

State and local agencies can likely meet the bill's nondisclosure and removal requirements with existing budgeted resources. This estimate assumes that notifications from SOS regarding at-risk individuals and immediate family members are provided in a timely and accurate manner and that the number of individuals enrolled in the program, for whom agencies will have to remove PII from public view, are not especially extensive.

Any increase in case filings under the bill is not anticipated to materially affect the operations or finances of the Judiciary or the circuit courts.

Small Business Effect: Small businesses that receive a notification under the bill may not sell, license, trade, purchase, or otherwise provide or make available for consideration the PII of at-risk individuals or their immediate family members. Additionally, small business entities face increased liability risks under the bill, including the award of punitive damages and treble damages.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Montgomery County; City of Bowie; Comptroller's Office; Secretary of State; Judiciary (Administrative Office of the Courts); Maryland State Department of Education; Maryland Department of Transportation; State Department of Assessments and Taxation; Baltimore City Public Schools; Department of Legislative Services

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