



Letter of Information

Senate Judicial Proceedings Committee
Senate Bill 889 (Henson)
Criminal Law – Distribution of Students Personal Information - Prohibitions

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On behalf of Maryland’s independent colleges and universities and the 55,000 students we serve, thank you for the opportunity to provide a letter of information regarding ***Senate Bill 889 (Henson) Criminal Law – Distribution of Students’ Personal Information – Prohibition***. MICUA institutions expend a tremendous amount of resources and care to protect their students’ personal information and commend this legislation’s intent. Institutions of higher education are already required to comply with the Federal Education and Data Privacy Act (FERPA) and the Maryland Data Privacy Act. The security of personal information is a priority on every campus.

Our campuses are concerned however about some of the definitions in the bill and the broad range of activities that might potentially be covered. The bill defines “distribute” in a very expansive way, including uploading, circulating, or making information available electronically. This could inadvertently capture conduct not intended to harm students, potentially criminalizing actions such as legitimate news reporting or academic discourse.

Although the bill includes a clause stating that it “may not be construed or applied in a manner that violates an individual’s right to free speech,” the interplay between safeguarding student privacy and protecting constitutional rights is always a fine line. The current wording in SB 889 could pose a risk if the law is strictly adhered to, and as a result, it could have a chilling effect on free expression — especially in contexts where the sharing of information may be protected.

The bill establishes penalties that include imprisonment for up to one year or fines up to \$5,000, or both, for violations. While deterrence is important, these penalties seem disproportionate in instances where the harm is minimal or unintentional.

Given the complex issues involved – ranging from student privacy and safety to free speech and public accountability – we would like to work with the sponsor to better understand the need for the legislation, given existing restrictions included in FERPA and Maryland’s Data Privacy Act.