

General Assembly Passes All Four Bills on Attorney General's Internet Privacy and Safety Agenda

DOVER, DE – The Delaware General Assembly on Thursday passed the third and fourth parts of the four-part internet privacy and safety package proposed by Attorney General Matt Denn and a bipartisan group of legislators. The package of bills, proposed in April, will now go to the Governor for his signature, and will be enforced by the Delaware Department of Justice.

The bills prevent educational software companies from misusing or improperly disclosing the personal data of Delaware schoolchildren; prevent companies from advertising inappropriate products on websites directed at children; prevent employers from inappropriately demanding access to the social media accounts of employees or job applicants; require web sites to clearly disclose how they are using the personal data they collect about web site users; place restrictions on the ability of companies to disclose the reading habits of e-book readers; and prevent the location of crime victims whose addresses have been changed for their protection from being disclosed on the internet.

Passage of the bills through the General Assembly was a difficult process, with with opposition and issues raised at various times by internet providers, social media companies, and the National Rifle Association.

“I am very grateful to the sponsors of these bills for standing up to a great deal of pressure and doing the right thing for Delawareans, especially children,” Attorney General

Denn said. "If these bills are signed by the Governor, we are going to vigorously enforce them to make Delaware the safest state in America for kids to use the internet."

Delaware Online Privacy and Protection Act – Senate Substitute 1 for Senate Bill 68 sponsored by Sen. Patricia Blevins and Rep. Pete Schwartzkopf

This bill expands the legal protections available under Delaware law to individuals, in particular children, relating to their online and digital activities. It prohibits marketing certain age-restricted products and services such as alcohol, tobacco, firearms, and body-piercing to children on websites or mobile apps directed to children, and it prohibits using a child's personal information to market those products and services to that child. It also requires commercial websites and online apps that collect personally identifiable information about users to post a privacy policy explaining what information the website or online app collects and what it does with that information. Finally, the bill restricts the ability of online book service providers from disclosing information about customers' reading choices without a court order, since what people read can reveal or imply much about them.

"This bill simply ensures that products and services that are intended for adults are not marketed toward children," said Senate President Pro Tem Patricia Blevins. "These are common-sense safeguards that will protect our kids."

"Decades ago, cigarette companies advertised on television, where they could easily reach children. Government put a stop to that practice. Today, we have children and teens using social media sites and being bombarded with ads for alcohol, tobacco products, weapons and other things that are not appropriate – or even legal – for people that age," said House Speaker Pete Schwartzkopf. "This bill will be an important tool in protecting our children from these ads and also

addressing the issue of companies collecting our personally identifiable information and how they use it.”

Student Data Privacy Protection Act – Senate Substitute 1 for Senate Bill 79 sponsored by Sen. David Sokola and Reps. Earl Jaques and Michael Ramone

This bill enables students and educators in Delaware public schools to use technology to enhance student educational opportunities without compromising the privacy and security of student data. The bill prohibits education technology service providers from selling student data, using student data to engage in targeted advertising to students or their families, amassing a profile on students to be used for non-educational purposes, or disclosing student data except as permitted by the bill. The bill requires education technology service providers to have reasonable procedures and practices for ensuring the security of student data they collect or maintain, protecting that student data from unauthorized access, destruction, use, modification, or disclosure, and deleting the student data if appropriately requested to do so by a school or school district. The bill also establishes a Student Data Privacy Task Force to study and make findings and recommendations regarding the development and implementation of a comprehensive framework to govern the privacy, protection, accessibility, and use of student data at all levels of the State’s public education system.

“This legislation strikes the right balance between protecting the privacy of our children and acknowledging our school’s needs to track their academic progress,” said Sen. David Sokola, who chairs the Senate Education Committee. “The Department of Education and the Internet service providers it contracts with have a responsibility to protect that data, and Senate Bill 79 codifies that. It’s a good law, and I’m pleased it received bi-partisan support.”

“It is paramount that educational data is safeguarded as well

as we protect our credit card info. Students and parents alike should expect and demand it from us,” said Rep. Earl Jaques. “We need to protect our children as these new technologies invade our everyday lives, and the Online Privacy & Protection Act will take important steps toward that goal.”

State Representative Mike Ramone stated, “Thank you to my colleagues for approving SS 1 for SB 79. As I have said before, I believe that the privacy of both students and their parents and guardians should not be compromised once the student walks inside a school building. This legislation is designed to put necessary safeguards in place for our students and their families while they are in our public school system.”

Victim Online Privacy Act – House Bill 102 sponsored by Sen. Blevins and Reps. Michael Barbieri and Deborah Hudson

This bill is an extension of the Department Of Justice Address Confidentiality Program for victims of domestic violence, sexual assault, and stalking, as well as material witnesses, and members of their households. Under this bill, it will be unlawful to publicly display, post online, or solicit, sell, or trade online the address, image, or telephone number of a participant in DOJ’s Address Confidentiality Program for the purpose of inciting someone to commit violence or harm against that person or members of their household. It will also outlaw a person’s ability to publicly display or post such information online if the program participant or their representative has made a written demand on the person to stop.

“This legislation gives law enforcement another tool to protect the victims of violent crimes,” said Sen. Blevins. “Using the internet to threaten revenge or intimidate a victim is criminal and this makes that clear in our code.”

“Our landscape is changing and the internet provides us great

opportunities but also many threats,” said Rep. Michael Barbieri. “We need to make sure that our laws make sure that we do not use this new technology to harm people who are most vulnerable, our children and victims of crime.”

Rep. Deborah Hudson said, “I am pleased to see House Bill 102 pass the legislature and I look forward to this measure being enacted in the near term. This legislation is very much needed and will go a long way in ensuring that a crime victim’s identity is protected and that they remain safe.”

Employee/Applicant Protection for Social Media – House Bill 109 sponsored by Sen. Bryan Townsend and Rep. Bryon Short

This bill will protect the online activities of Delawareans by prohibiting employers from requiring employees, or applicants, to disclose information that would give the employer access to their personal social media accounts, to log in so the employer may view such accounts, to accept a “friend” request from the employer, or to disable privacy settings on those accounts. The bill respects employers’ rights to investigate and penalize conduct which harms or reflects poorly on the employer. The bill does not restrict employers’ existing control over accounts created for their business purposes and the activities of their employees on such accounts, any electronic device issued or paid for by the company, and their own networks.

“Delaware has now taken the important step of updating its privacy laws and protecting employees’ social media privacy rights,” said Sen. Bryan Townsend. “I thank Attorney General Denn and his team for their work on this increasingly important issue and for helping to strike a fair balance between employer and employee rights.”

“Delaware’s laws have to catch up with technology and the way Delawareans use social media on a daily basis. Our social media accounts contain much of our private lives, and it’s

critically important that we make sure that private information stays private if we wish it to be," said Rep. Bryon Short. "House Bill 109 is an important part of that goal and it's an important step for Delaware."

Attorney General Denn also recognized and thanked Deputy Attorney General Christian Wright of the Consumer Fraud Division for his work on the legislation.