

# Internet Privacy and Safety Agenda Becomes Law With Governor's Signature

Governor Jack Markell signed four pieces of legislation into law Friday, giving Delawareans, especially children, enhanced privacy and protection for their online activities. The Delaware General Assembly passed the four-part Internet privacy and safety package proposed by Attorney General Matt Denn and a bipartisan group of legislators earlier this year.

The bills prevent educational technology service providers from selling or improperly disclosing the personal data of Delaware schoolchildren, or using it to send targeted advertising to students or their families; prevent companies from advertising inappropriate products on websites and mobile apps directed to 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; restrict the ability of companies to disclose the reading habits of e-book readers; and prevent the location of crime victims and witnesses whose addresses have been changed for their protection from being disclosed on the internet.

"While the internet has revolutionized the way we live and work, and made possible countless advances in our society, we must also recognize that it has made our citizens' personal information more vulnerable than ever," said Governor Markell. "Some restrictions on how personal information is shared are reasonable and I commend the legislators, Attorney General Denn and everyone involved in working on these bills for finding a balance between online commerce and personal privacy."

“The Department of Justice now has the ability to enforce these laws, and make Delaware one of the safest states in the country for kids to use the internet,” said Attorney General Denn. “I’m grateful to the sponsors and supporters from both sides of the aisle, who realized the importance of doing the right thing and supporting these bills.”

**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.

“With the Governor’s signature, Delaware now has the ability better to protect our children while they’re online,” said Senate President Pro Tempore Patricia Blevins. “Parents should have the peace of mind to know that products and services intended for adults won’t be marketed to their children on the Internet.”

“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 new law 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. Delaware will be at the forefront of social media laws thanks to the bills being signed today.”

**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.

“The Department of Education, school districts, and the educational technology service providers with whom they contract have a moral responsibility to protect sensitive data

about our students, and with the Governor's signature today, they now have a legal responsibility as well," said Sen. David Sokola, who chairs the Senate Education Committee.

"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. "I'm honored and proud to stand with the Attorney General in creating the Student Data Privacy Protection Act. We need to protect our children as these new technologies continue to become part of our everyday lives."

Rep. Mike Ramone said, "I am glad to be part of this bill-signing event today for SS 1 for SB 79. This is a bill that is very much needed in Delaware. The privacy of our school children, along with their parents and guardians, is of the same value as any other Delawarean, and this legislation will help ensure that students' data and other private information are kept safe and protected."

### **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's 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 the 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 law makes it crystal clear that using the internet to

threaten or intimidate a victim of a violent crime is criminal,” said Senate President Pro Tem Blevins. “We owe it to these victims to do all we can to protect them from further violence.”

“It is our responsibility to provide adequate protection for those who are victims of – or witness to – a crime so that they do not feel intimidated or threatened. This is a first step,” said former Rep. Michael Barbieri. “We must work hard to make sure we foster the idea of a safe community where intimidation is not tolerated.”

Rep. Deborah Hudson said, “Many thanks to our criminal justice and law enforcement communities who worked hard on the bills that have been enacted today. In particular, I was very pleased to have sponsored House Bill 102. This will only enhance the many steps already in place in Delaware to protect the identity of a crime victim and ensure his or her safety.”

### **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.

“As our digital world evolves, it was important for Delaware to update its privacy laws in a way that acknowledges the role

social media plays in many of our lives,” said Sen. Bryan Townsend, who chairs the Senate Banking and Business Committee and who was the Senate prime sponsor of HB 109. “I thank the Governor and Attorney General Denn for their work on crafting a law that strikes the right balance between the rights of employers and employees.”

“More and more, people are including a lot of personal information on their social media sites. Giving an employer or potential employer access to those accounts is akin to letting a stranger read your personal journal,” said Rep. Bryon Short, the House prime sponsor of the bill. “It’s a fine line to walk, between respecting a company’s right to know whether an employee is potentially causing harm to the business through their social media behavior, and forcing a worker to give access to his or her sites. We have accomplished this balance with this new law, which will be an important step forward in social media privacy.”

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