

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 84th General Assembly  
3 Regular Session, 2003  
4

As Engrossed: H3/14/03

# A Bill

HOUSE BILL 2607

5 By: Representative Creekmore  
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## For An Act To Be Entitled

9 AN ACT TO CREATE THE ARKANSAS INTERNET PRIVACY  
10 ACT; TO REQUIRE CERTAIN DISCLOSURES TO INTERNET  
11 USERS; TO PROVIDE FOR ENFORCEMENT OF THE ACT; AND  
12 FOR OTHER PURPOSES.  
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### Subtitle

14 INTERNET PRIVACY ACT.  
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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20 *SECTION 1. Title.*

21 *This act shall be known as the "Internet Privacy Act".*  
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23 *SECTION 2. Definitions.*

24 *For purposes of this act:*

25 *(1) "Collect" means to gather personally identifiable information*  
26 *about a consumer by any means, except as otherwise provided in this act;*

27 *(2) "Consumer" means a person who uses an Internet service provider*  
28 *for access to the Internet for personal, family, or household purposes, and*  
29 *who does not resell access;*

30 *(3) "Disclose" means to release, publish, share, transfer, transmit,*  
31 *disseminate, show, or otherwise divulge personally identifiable information*  
32 *to any person, corporation, company, association, firm, partnership or other*  
33 *entity other than the individual who is the subject of the personally*  
34 *identifiable information;*

35 *(4) "Internet" means the global information system, comprising the*  
36 *interconnected world-wide network or networks that:*



1 (A) Is logically linked together by a globally unique address  
2 space based on the Internet Protocol (IP) or its subsequent extensions;

3 (B) Is able to support communications using the Transmission  
4 Control Protocol/ Internet Protocol (TCP/IP) suite or its subsequent  
5 extensions/follow-ons, or other IP-compatible protocols; and

6 (C) Provides, uses, or makes accessible, either publicly or  
7 privately, high level data services layered on the communications and related  
8 infrastructure;

9 (5) "Internet service provider" means a person or business that  
10 provides consumers authenticated access to, or presence on, the Internet, by  
11 means of a switched or dedicated telecommunications channel upon which the  
12 provider provides transit routing or Internet Protocol (IP) packets for and  
13 on behalf of the consumer;

14 (6)(A) "Personally identifiable information" means information about  
15 an individual collected online, including the individual's first and last  
16 name, electronic mail address, current and prior address, telephone number,  
17 social security number, date of birth, amount of income, account numbers,  
18 access codes, security passwords, credit card or debit card numbers, mother's  
19 maiden name, equipment or software serial number, and preferences of other  
20 designations that are capable of identifying a specific individual.

21 (B) "Personally identifiable information" does not include  
22 information that is collected that cannot be linked to a specific individual;

23 (7) "Third party" means anyone other than a consumer, Internet service  
24 provider, or an employee of the Internet service provider; and

25 (8) "User" means a person who uses an Internet service provider.

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27 SECTION 3. Internet service providers.

28 (a) An Internet service provider shall not disclose any personally  
29 identifiable information about a user to a third party unless the provider  
30 has provided notice to the user as required under this act and has provided  
31 the consumer with the ability to electronically request at any time that the  
32 provider limit its disclosure of the user's personally identifiable  
33 information.

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35 SECTION 4. Notice to consumers.

36 (a) An Internet service provider that maintains personally

1 identifiable information of its users must provide the user, at the time that  
2 personally identifiable information is collected, with a clear and  
3 conspicuous notice substantially indicating:

4 (1) That personally identifiable information is collected,  
5 stored, or disclosed to third parties;

6 (2) What information is or will be collected, stored, or  
7 disclosed;

8 (3) A description of the methods of obtaining information, such  
9 as an electronic means of observing Internet browsing history or buying  
10 habits;

11 (4) The intended use of the information including marketing or  
12 online profiling;

13 (5) That the user may at any time direct the provider to limit  
14 the collection, disclosure, and storage of personally identifiable  
15 information, except to the extent that the information is necessary for the  
16 processing, billing, collection, and maintenance of an individual account;

17 (6) The period of time the information will be maintained; and

18 (7) A description of the procedures by which a user may correct  
19 any erroneous information.

20 (b) If the user has requested that the provider limit disclosure of  
21 any personally identifying information, the provider must comply with the  
22 request within a reasonable time period.

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24 SECTION 5. Information security obligations.

25 In order to prevent the unauthorized access, disclosure, or release of  
26 personally identifiable information, each Internet service provider shall  
27 prepare and implement an information security policy that is applicable to  
28 the information security practices and treatment of personally identifiable  
29 information maintained by the provider, which shall be considered and  
30 approved by the provider's senior management.

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32 SECTION 6. Permissible disclosure of personally identifiable  
33 information.

34 An Internet service provider may only disclose personally identifiable  
35 information under this act when:

36 (1) The provider has provided proper notice under Section 4 and has

1 provided the user with the ability to electronically request at any time that  
2 the provider limit the disclosure of personally identifiable information;

3 (2) The information is published in response to the court order issued  
4 by a court of competent jurisdiction;

5 (3) The information is required to be disclosed under Arkansas law;

6 (4) The information will be used to evaluate, detect, or reduce the  
7 risk of fraud or other criminal activity, verify personally identifiable  
8 information provided by the consumer, or other risk management activity; or

9 (5) The information may be provided to a third party to perform  
10 services for, or functions on behalf of, the provider, if the provider enters  
11 into a contractual agreement with the third party that requires the third  
12 party to maintain the confidentiality and security of information.

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14 SECTION 7. Enforcement.

15 (a) A violation of this act or a regulation prescribed under this act,  
16 shall be a deceptive and unconscionable trade practice under Arkansas Code §  
17 4-88-107.

18 (b)(1) All remedies, penalties and authority granted to the Attorney  
19 General under Arkansas Code § 4-88-104 are available to the Attorney General  
20 for enforcement of this act.

21 (2) The remedies and penalties provided by this section are  
22 cumulative to each other and to the remedies or penalties available under  
23 other laws of this state.

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25 SECTION 8. Scope.

26 This act applies to Internet service providers that supply Internet  
27 services to consumers in the State of Arkansas.

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29 /s/ Creekmore  
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