

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas As Engrossed: H3/3/21 H3/8/21 S4/5/21

2 93rd General Assembly

A Bill

3 Regular Session, 2021

HOUSE BILL 1514

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5 By: Representative S. Meeks

6 By: Senator J. English

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For An Act To Be Entitled

9 AN ACT TO PROHIBIT A DATA COMPANY FROM PREVENTING
10 AUTHORIZED ACCESS BY A PUBLIC ENTITY TO THE PUBLIC
11 ENTITY'S DATA; AND FOR OTHER PURPOSES.

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Subtitle

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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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22 SECTION 1. Arkansas Code Title 19, Chapter 11, Subchapter 1, is
23 amended to add an additional section to read as follows:

24 19-11-107. Data company – Definitions.

25 (a) As used in this section:

26 (1) "Contractor" means a person having a public contract with a
27 public entity for storage services or software services;

28 (2) "Data" means recorded information, regardless of form or
29 characteristic;

30 (3) "Data company" means a contractor that provides software and
31 stores data for a public entity or provides storage services for a public
32 entity;

33 (4) "Entity of the state" means any department, institution of
34 higher education, board, commission, agency, quasi-public organization,
35 official, office, or employee, or any agency, instrumentality, or function
36 thereof;



1 (5) "Political subdivision of the state" means any county,
2 municipality, quasi-public organization, district, official, office, or
3 employee, or any agency, instrumentality, or function thereof;

4 (6)(A) "Public contract" means an agreement for the purchase of
5 commodities and services by a public entity.

6 (B) "Public contract" includes supplemental agreements;

7 (7) "Public entity" means an entity of the state or a political
8 subdivision of the state or a school;

9 (8) "School" means any public school district, charter school,
10 or education service cooperative, or any publicly supported entity having
11 supervision over public educational entities; and

12 (9) "Storage services" means the storage of data of a public
13 entity.

14 (b)(1) Data that is stored by a data company for a public entity is
15 the property of the public entity.

16 (2) A data company shall not sell, disclose, or otherwise use
17 the data that is stored for any other purpose without express authorization
18 from the public entity unless the data is:

19 (A) Considered open; or

20 (B) Released in the public domain by the public entity.

21 (3) A data company shall comply with the Arkansas Information
22 Systems Act of 1997, § 25-4-101 et seq.

23 (c)(1) Upon the expiration or termination of a public contract, a data
24 company shall return all data to the public entity in the format specified in
25 the public contract and in a secure manner.

26 (2)(A) If the public contract does not specify a format for
27 return of the data, as an express term of the public contract, the data
28 company shall return all data to the public entity in a secure common data
29 format specified by the public entity in writing and delivered to the data
30 company within thirty (30) days after the expiration or termination of the
31 public contract.

32 (B) Notwithstanding the requirement of a public entity to
33 specify in writing the secure common data format for return of the data and
34 to deliver the data in that format to a data company under subdivision

35 (c)(2)(A) of this section, a data company shall return all data to a public
36 entity in a usable format within sixty (60) days after the expiration or

1 termination of a public contract unless there is a contractual agreement that
2 specifies what data can be kept, how long the data can be kept, and the
3 purposes for which the data can be used by the data company.

4 (d)(1) A data company shall provide for the destruction of data still
5 in its possession in a secure manner such that data cannot be reconstructed
6 with backups or duplicate copies of data.

7 (2) The data company shall provide a certificate of destruction
8 and describe the methods used for destruction.

9 (3) Destruction of the data shall be effected:

10 (A) Upon written approval by the public entity that
11 acknowledges destruction of the data; and

12 (B) No later than six (6) months after the expiration or
13 termination of the public contract.

14 (e) This section does not prevent a public entity and a data company
15 from negotiating a public contract to determine the type of data format that
16 is acceptable for transferring data from a data company or from negotiating a
17 public contract that expressly contemplates alternate terms with regard to
18 data return or data destruction, which alternate terms shall prevail over
19 this section.

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21 /s/S. Meeks
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