1 State of Arkansas
2 93rd General Assembly $\qquad$ A Bill
3 Regular Session, 2021 $\qquad$ HOUSE BILL 1514
4
5 By: Representative S. Meeks
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7 ### For An Act To Be Entitled
8 AN ACT TO PROHIBIT A DATA COMPANY FROM PREVENTING
9 AUTHORIZED ACCESS BY A PUBLIC ENTITY TO THE PUBLIC
10 ENTITY'S DATA; AND FOR OTHER PURPOSES.
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13 ### Subtitle
14 TO PROHIBIT A DATA COMPANY FROM
15 PREVENTING AUTHORIZED ACCESS BY A PUBLIC
16 ENTITY TO THE PUBLIC ENTITY'S DATA.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. Arkansas Code Title 19, Chapter 11, Subchapter 1, is
22 amended to add an additional section to read as follows:
23 19-11-107. Data company — Definitions.
24 (a) As used in this section:
25 (1) "Contractor" means a person having a public contract with a
26 public entity for storage services or software services;
27 (2) "Data" means recorded information, regardless of form or
28 characteristic;
29 (3) "Data company" means a contractor that provides software and
30 stores data for a public entity or provides storage services for a public
31 entity;
32 (4) "Entity of the state" means any department, institution of
33 higher education, board, commission, agency, quasi-public organization,
34 official, office, or employee, or any agency, instrumentality, or function
35 thereof;
36 (5) "Political subdivision of the state" means any county,

1   municipality, quasi-public organization, district, official, office, or

2   employee, or any agency, instrumentality, or function thereof;

3   (6)(A) "Public contract" means an agreement for the purchase of

4   commodities and services by a public entity.

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

6   (7) "Public entity" means an entity of the state or a political

7   subdivision of the state or a school;

8   (8) "School" means any public school district, charter school,

9   or education service cooperative, or any publicly supported entity having

10   supervision over public educational entities; and

11   (9) "Storage services" means the storage of data of a public

12   entity.

13   (b)(1) Data that is stored by a data company for a public entity is

14   the property of the public entity.

15   (2) A data company shall comply with the Arkansas Information

16   Systems Act of 1997, § 25-4-101 et seq.

17   (c)(1) Upon the expiration or termination of a public contract, a data

18   company shall return all data to the public entity in the format specified in

19   the public contract and in a secure manner.

20   (2) If the public contract does not specify a format for return

21   of the data, as an express term of the public contract, the data company

22   shall return all data to the public entity in a secure common data format

23   specified by the public entity in writing and delivered to the data company

24   within thirty (30) days after the expiration or termination of the public

25   contract.

26   (d)(1) A data company shall provide for the destruction of data still

27   in its possession in a secure manner such that data cannot be reconstructed

28   with backups or duplicate copies of data.

29   (2) The data company shall provide a certificate of destruction

30   and describe the methods used for destruction.

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

32   (A) Upon written approval by the public entity that

33   acknowledges destruction of the data; and

34   (B) No later than six (6) months after the expiration or

35   termination of the public contract.

36   (e) This section does not prevent a public entity and a data company

1 from negotiating a public contract to determine the type of data format that
2 is acceptable for transferring data from a data company.
3   (f) A public entity and a data company may bring an action for breach
4 of contract to enforce this section.
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