

1 HB564
2 167187-1
3 By Representatives Mooney, Moore (B), Hanes, Ledbetter,
4 Whorton (I), Butler, Wood, Fridy, Wingo, Fincher, Lee,
5 McMillan, Ingram, Polizos and Holmes (M)
6 RFD: Education Policy
7 First Read: 28-APR-15

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8 SYNOPSIS: This bill would set limits on student data
9 that may not be collected and provide what data may
10 be used on a local level to a minimum degree for
11 clearly stated academic purposes.

12 This bill would set limits on the state
13 government and data collection systems and programs
14 in order to protect students and parents from
15 invasive government practices.

16 This bill would protect the civil liberties
17 of students and parents which are foundational to
18 strong academics, freedom of speech, and progress.

19 This bill would limit the collection of
20 certain sensitive information and the disclosure of
21 personally identifiable information to third
22 parties and provide for enforcement and penalties.

23
24 A BILL
25 TO BE ENTITLED
26 AN ACT
27

1 Relating to student data collected in the course of
2 education in Alabama's public education systems; to establish
3 what data may be collected and maintained and to prohibit the
4 State Board of Education, the Department of Education, and
5 other state bodies from compiling or sharing data about
6 students, except under limited circumstances.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

8 Section 1. (a) As used in this section, the
9 following terms shall have the following meanings:

10 (1) AFFECTIVE COMPUTING. Systems and devices that
11 can or attempt to recognize, interpret, process, or simulate
12 aspects of human feelings or emotions.

13 (2) BIOMETRIC RECORD. A record of one or more
14 measurable biological or behavioral characteristics that can
15 be used for automated recognition of an individual, including
16 fingerprints, retina and iris patterns, voiceprints, DNA
17 sequence, including newborn screening information, facial
18 characteristics, and handwriting.

19 (3) CLOUD COMPUTING SERVICE. A service that enables
20 on-demand network access to a shared pool of configurable
21 computing resources, e.g., networks, servers, storage,
22 applications, and services, to provide a student, teacher, or
23 staff member account-based productivity applications such as
24 email, document storage, and document editing that can be
25 rapidly provisioned and released with minimal management
26 effort, or cloud computing service provider interaction. A
27 cloud computing service has the characteristics of on-demand

1 self-service, broad network access, resource pooling, rapid
2 elasticity, and measured service.

3 (4) CLOUD COMPUTING SERVICE PROVIDER. An entity,
4 other than an educational institution, that operates a cloud
5 computing service.

6 (5) DEPARTMENT. The Alabama Department of Education.

7 (6) EDUCATION PROGRAM. A program of instruction
8 administered by an education agency or education institution
9 within the state.

10 (7) ELIGIBLE STUDENT. A student who has reached the
11 age of majority under Alabama law or attends a school beyond
12 the high school level to whom rights have transferred.

13 (8) INTERPERSONAL RESOURCES or INTERPERSONAL SKILLS.
14 Noncognitive emotional and psychological characteristics and
15 attributes and skills used to manage relationships and
16 interactions between or among individuals.

17 (9) INTRAPERSONAL RESOURCES or INTRAPERSONAL SKILLS.
18 Noncognitive emotional and psychological characteristics and
19 attributes used to manage emotions and attitudes within an
20 individual.

21 (10) LOCAL EDUCATION AGENCY or LEA. A public board
22 of education or other public authority legally constituted
23 within a state for either administrative control or direction
24 of, or to perform a service function for, public elementary or
25 secondary schools in a city, county, township, school
26 district, or other political subdivision of a state, or for a
27 combination of school districts or counties as are recognized

1 in a state as an administrative agency for its public
2 elementary schools or secondary schools.

3 (11) LOCAL EDUCATION INSTITUTION or INSTITUTION. Any
4 public or secondary school.

5 (12) PARENT. Either the actual biological or
6 adoptive parent of the child or legal guardian of the child.

7 (13) PERSONALLY IDENTIFIABLE INFORMATION.
8 Information which can be used on its own or with other
9 information to identify, contact, or locate a single person or
10 to identify an individual in context.

11 (14) PREDICTIVE MODELING. Use of educational
12 data-mining methods to make predictions about future behaviors
13 or performance.

14 (15) PROCESS or PROCESSING. To use, access,
15 manipulate, scan, modify, transform, disclose, store,
16 transmit, transfer, retain, aggregate, or dispose of student
17 or teacher data.

18 (16) PSYCHOLOGICAL RESOURCES. Noncognitive,
19 emotional characteristics, attributes, and skills, including
20 mindsets, learning strategies, and effortful control, used by
21 an individual to address or manage various life situations.

22 (17) STATE AGENCIES. The Alabama Department of
23 Education, the State Board of Education, or any regional
24 education service agency, or any other state education entity
25 which operates or serves the entire state.

26 (18) STUDENT DATABASE. The Alabama Statewide
27 Longitudinal Data System, as well as any other data warehouse

1 containing Alabama student information, including regional,
2 interstate, or federal data warehouse organizations under
3 contract to or with a memorandum of understanding with the
4 Department of Education.

5 (19) TEACHER RECORDS. Applies to teachers,
6 paraprofessionals, principals, and other administrators and
7 shall mean the following:

8 a. Social Security number.

9 b. Name.

10 c. Address.

11 d. Birthdate.

12 e. Email address and telephone number.

13 f. Compensation information.

14 g. Resume information.

15 h. Performance evaluations.

16 i. Other information that, alone or in combination,
17 is linked or linkable to a specific staff member that would
18 allow a reasonable person in the school community, who does
19 not have personal knowledge of the relevant circumstances, to
20 identify the staff member with reasonable certainty.

21 (20) TERRY SEARCH. A onetime search for weapons or
22 items prohibited by the school which includes a pat down of
23 outer clothing only and the search must take place at entrance
24 to the school only.

25 (21) TRACK. To collect and maintain records of a
26 student's activities once he or she exits the educational

1 system, including, but not limited to, his or her entrance
2 into and progression through the workforce or the military.

3 (22) WORKFORCE INFORMATION. Information related to
4 unemployment insurance (UI), wage records, UI benefit claims,
5 or employment and earnings data from workforce data sources,
6 such as state wage records, or the Federal Employment Data
7 Exchange System (FEDES).

8 (23) WRITTEN CONSENT. Written consent given within
9 six months before the data collection or disclosure consented
10 to, specifically referencing that data collection or
11 disclosure, and dated and signed on the same day.

12 (b) Types of data that may be utilized on a local
13 level include:

14 (1) The student data that may only be collected on a
15 local level by an educational institution without the written
16 consent of parents of students who are enrolled in a public
17 school in Alabama shall be limited to the following:

- 18 a. Name and address.
- 19 b. State and national assessment results.
- 20 c. Course taking and completion and credits earned.
- 21 d. Course grades and grade point average.
- 22 e. Date of birth, grade level, and expected
23 graduation date/graduation cohort.
- 24 f. Degree, diploma, or credential attainment.
- 25 g. Enrollment.
- 26 h. Attendance and transfers.

1 i. Medical records limited to immunization records
2 required by state law, records needed or created by a
3 school-based health professional for administering
4 prescription drugs or otherwise treating a student at school,
5 records needed or created by a school-based counselor when a
6 student seeks counseling while at school, or records required
7 by the Individuals with Disabilities Education Act, 20 U.S.C.
8 Section 1400, et seq.

9 j. Discipline reports limited to objective
10 information sufficient to produce the Title IV Annual Incident
11 Report pursuant to the Clery Act, 20 U.S.C. Section 1092(f).

12 k. Juvenile delinquency or other criminal or
13 correctional records if necessary to meet the educational
14 needs of the student or to ensure the safety of staff or
15 students, provided that an institution of higher education may
16 collect records sufficient to produce the Title IV Annual
17 Incident Report pursuant to the Clery Act, 20 U.S.C. Section
18 1092(f).

19 l. Remediation data.

20 m. Special education data, limited to data required
21 by the Individuals with Disabilities Education Act, 20 U.S.C
22 Section 1400 et seq.

23 n. Data limited to that required by the Elementary
24 and Secondary Education Act.

25 o. Student workforce information is limited to
26 information related to work-study programs participated in for
27 academic credit.

1 p. Student or family Social Security numbers only if
2 needed by an institution of higher education to comply with
3 state or federal law.

4 q. Student or family income data, limited to data
5 required by law to determine eligibility to participate in or
6 receive financial assistance under a program.

7 r. Information about extracurricular activities,
8 limited to activities that are school-sponsored or engaged in
9 for academic credit.

10 (2) Unless explicitly mandated by federal statute, a
11 local education agency or education institution must obtain
12 written informed consent from parents or eligible students
13 before collecting any data points other than those listed in
14 subsection (1), including, but not limited to, the following:

15 a. Medical, health, including height, weight, and
16 body mass index, and mental health records, except as provided
17 in paragraph (b)(1)i.

18 b. Student or family workforce information, except
19 as provided in paragraph (b)(1)o.

20 (3) No funds from any source shall be used on
21 construction, enhancement, or expansion of any data system
22 that does not comply with these limitations, or that is
23 designed to track students beyond their K-12 or postsecondary
24 education careers or compile their personal, nonacademic
25 information beyond what is necessary for either administrative
26 functions directly related to the student's education, or
27 evaluation of academic programs and student progress.

1 (4) No state agency or education institution shall
2 pursue or accept any grant, whether from the federal
3 government or any private entity, that would require
4 collecting or reporting any types of data in violation of this
5 subsection.

6 (5) Only aggregate data will be transmitted from a
7 local education agency to state.

8 (6) Any PII currently residing within the SDLS shall
9 be destroyed.

10 (c) TRANSPARENCY OF DATA SYSTEM.

11 (1) State agencies and educational institutions
12 shall publicly and conspicuously disclose on their websites
13 the existence and character of any form of education records
14 or teacher records maintained by the agencies or educational
15 institutions, directly or through contracts with outside
16 parties. Local educational institutions shall annually notify
17 parents, eligible students, and teachers of this website
18 posting. Local agencies shall also provide annual electronic
19 notification of this information to the Chairs of the Senate
20 Education Committee and House Education Committee. Such
21 disclosure and electronic notifications shall include the
22 following:

23 a. The legal authority that authorizes the
24 establishment and existence of the data repository.

25 b. The principal purpose or purposes for which the
26 information is intended to be used.

1 c. The categories of individuals on whom records are
2 maintained in the data repository.

3 d. The categories of records maintained in the data
4 repository.

5 e. Each expected disclosure of the records contained
6 in the data repository, including the categories of recipients
7 and the purpose of such disclosure.

8 f. The policies and practices of the state agency or
9 educational institution regarding storage, irretrievability,
10 access controls, retention, and disposal of the records.

11 g. The title and business address of the official
12 who is responsible for the data repository, and the name and
13 business address of any contractor or other outside party
14 maintaining the data repository for or on behalf of the state
15 agency or education institution.

16 (2) State education agencies shall use only
17 aggregate data in published reports.

18 Section 2. No state or national student assessment
19 shall be adopted or administered in this state that collects
20 any type of psychological data, including assessment of
21 noncognitive skills or attributes, psychological resources,
22 mindsets, learning strategies, effortful control, attitudes,
23 dispositions, social skills, or other interpersonal or
24 intrapersonal resources.

25 Section 3. No state agency, district board of
26 education, or pre K-12 educational institution shall
27 administer any student survey, assessment, analysis,

1 evaluation, or similar instrument that solicits information
2 about the student or the student's family concerning the
3 following:

4 (1) Political affiliations or beliefs.

5 (2) Mental or psychological problems, psychological
6 resources, mindsets, learning strategies, effortful control,
7 attributes, dispositions, social skills, attitudes, or
8 intrapersonal resources.

9 (3) Sexual behavior or attitudes.

10 (4) Illegal, antisocial, self-incriminating, or
11 demeaning behavior.

12 (5) Critical appraisals of another individual with
13 whom a student has a close family relationship.

14 (6) Legally recognized privileged or analogous
15 relationships, such as those with a lawyer, physician,
16 therapist, psychotherapist, or clergyman.

17 (7) Religious practices, affiliations, or beliefs.

18 (8) Personal or family gun ownership.

19 (9) Income or other income-related information
20 except that required by law to determine eligibility to
21 participate in or receive financial assistance under a
22 program.

23 (10) Language spoken in student's home.

24 (11) Criminal records of family members.

25 (12) Student biometric records.

26 (13) Any data collected via affective computing,
27 including analysis of facial expressions, EEG brain wave

1 patterns, skin conductance, galvanic skin response, heart-rate
2 variability, pulse, blood volume, posture, and eye-tracking.

3 (14) Any data, including any resulting from state or
4 national assessments, that measure psychological resources,
5 mindsets, learning strategies, effortful control, attributes,
6 dispositions, social skills, attitudes, or intrapersonal
7 resources.

8 (15) Any data collected through predictive modeling.

9 Section 4. (a) Subject to the exceptions contained
10 in this act, access to student education records in the
11 student database shall be restricted to the authorized
12 representatives of the local agency or education institution
13 who require such access to perform their assigned duties. No
14 party may be designated an authorized representative unless
15 that party is on the staff and under the direct control of the
16 designating state agency or institution.

17 (b) Subject to the exceptions contained in this act,
18 no personally identifiable student or teacher data shall be
19 disclosed without the written consent of the parents or
20 eligible students.

21 (c) RESEARCH AND STUDIES.

22 (1) The department may develop and publish criteria
23 for the approval of research-related data requests from state
24 and local governmental agencies, the Legislature, academic
25 researchers, and the public. Only aggregate data may be
26 provided for such requests.

1 (2) The data request and process shall be
2 administered in a full and equal manner to all academic
3 researchers and the public.

4 (3) Personally identifiable information from an
5 education record of a student, or from teacher records, may
6 not be released to a party conducting studies for or on behalf
7 of the local educational agencies or educational institutions
8 without the written consent of the parent or eligible student
9 except to:

10 a. Administer assessments.

11 b. Administer student aid programs provided that the
12 outside party conducting the study meets all the requirements
13 for contractors set forth in subsection (e).

14 (d) AUDITS, EVALUATIONS, AND COMPLIANCE.

15 In conducting any audit or evaluation of an
16 education program, the State Board of Examiners of Public
17 Accounts or any compliance or enforcement activity in
18 connection with legal requirements that relate to state or
19 district supported education programs, when such audit,
20 evaluation, or activity involves access to personally
21 identifiable student or teacher information, education records
22 and teacher records may be released only to authorized
23 representatives of state education agencies, local boards of
24 education, or institutions. No party may be designated an
25 authorized representative unless that party is on the staff
26 and under the direct control of the designating state
27 education agency, district board, or institution.

1 (e) OUTSOURCING.

2 (1) Local education agency, district boards of
3 education, and institutions may not disclose personally
4 identifiable information from education records or teacher
5 records without the written consent of parents or eligible
6 students, to a contractor, consultant, or other party to whom
7 the local agency, district board, or institution has
8 outsourced institutional services or functions unless that
9 outside party:

10 a. Performs an institutional service or function for
11 which the local education agency or institution would
12 otherwise use its employees.

13 b. Is under the direct control of the local agency
14 or institution with respect to the use and maintenance of
15 education records or teacher records.

16 c. Limits internal access to education records or
17 teacher records to those individuals who require access to
18 those records for completion of the contract that in no way
19 conflicts with this act.

20 d. Does not use the education records or teacher
21 records for any purposes other than those explicitly
22 authorized in the contract which in no way conflicts with this
23 act.

24 e. Does not disclose any personally identifiable
25 information from education records or teacher records to any
26 other party:

1 1. Without the written consent of the parent or
2 eligible student.

3 2. Unless required by statute or court order and the
4 party provides a notice of the disclosure to the local
5 education agency, or institution that provided the information
6 no later than the time the information is disclosed, unless
7 providing notice of the disclosure is expressly prohibited by
8 the statute or court order.

9 f. Maintains administrative, technical, and physical
10 safeguards to actually protect the security, confidentiality,
11 and integrity of the personally identifiable student or
12 teacher data in its custody.

13 g. Uses encryption technologies to protect data
14 while in motion or in its custody from unauthorized disclosure
15 using a technology or methodology specified by the Secretary
16 of the U.S. Department of Health and Human Services in
17 guidance issued under Section 13402(H)(2) of Public Law 111-5.

18 h. Has sufficient administrative and technical
19 procedures to monitor continuously the security of personally
20 identifiable student or teacher data in its custody.

21 i. Conducts a security audit annually and provides
22 the results of that audit to each state agency, district
23 board, or institution that provides education records or
24 teacher records.

25 j. Provides the state agency, district board, or
26 institution with a breach-remediation plan which does not
27 conflict with this act and is acceptable to the state agency,

1 district board, or institution before initial receipt of
2 education records or teacher records.

3 k. Reports all suspected security breaches to the
4 local education agency or institution that provided education
5 records or teacher records as soon as possible but not later
6 than 48 hours after a suspected breach was known or would have
7 been known by exercising reasonable diligence.

8 l. Reports all actual security breaches to the
9 Attorney General, state agency, district board, or institution
10 that provided education records as soon as possible but not
11 later than 24 hours after an actual breach was known or would
12 have been known by exercising reasonable diligence.

13 m. In the event of a security breach or unauthorized
14 disclosure of personally identifiable information, pays all
15 costs and liabilities incurred by the state agency, district
16 board, or institution related to the security breach or
17 unauthorized disclosure, including, but not limited to, the
18 costs of responding to inquiries about the security breach or
19 unauthorized disclosure, of notifying subjects of personally
20 identifiable information about the breach, of mitigating the
21 effects of the breach for the subjects of the personally
22 identifiable information, and of investigating the cause or
23 consequences of the security breach or unauthorized
24 disclosure.

25 n. Returns to the local education association or
26 institution all personally identifiable information in its
27 custody at the termination of the contract.

1 (f) ACTIONS REQUIRED IN CASE OF SECURITY BREACH OR
2 UNAUTHORIZED DISCLOSURE.

3 In the event of a security breach or unauthorized
4 disclosure of personally identifiable student or teacher data,
5 whether by a state agency, district board, or educational
6 institution, or by a third party given access to education
7 records or teacher records pursuant to subsections (c), (d),
8 or (e), the state agency, district board, or education
9 institution shall do all of the following:

10 (1) Immediately notify the subjects of the breach or
11 disclosure.

12 (2) Report the breach or disclosure to the Family
13 Policy Compliance Office of the U. S. Department of Education.

14 (3) Allow the Attorney General and district
15 attorneys access to investigate the causes and consequences of
16 the breach or disclosure.

17 (g) COMMERCIAL USE PROHIBITED.

18 (1) Personally identifiable information from
19 education records or teacher records may not be disclosed to
20 any party for a commercial use, including, but not limited to,
21 marketing products or services, compilation of lists for sale
22 or rental, development of products or services, or creation of
23 individual, household, or group profiles.

24 (2) Any cloud computing service provider performing
25 services for a state agency, district board, or institution is
26 prohibited from using information from education records or
27 teacher records for any secondary purposes that benefit the

1 cloud computing service provider or any third party,
2 including, but not limited to, online behavioral advertising,
3 creating or correcting an individual or household profile
4 primarily for the cloud computing service provider's benefit,
5 the sale of the data for any commercial purpose, or any other
6 similar commercial for-profit activity; provided, however,
7 that a cloud computing service provider may process or monitor
8 student data solely to provide such service to the state
9 agency, district board, or institution, and to maintain the
10 integrity of such service.

11 (3) Any cloud computing service provider that enters
12 into an agreement to provide cloud computing services to a
13 state agency, district board, or institution shall certify in
14 writing to that state agency, district board, or institution
15 that it will comply with the terms and conditions set forth in
16 subsection (e); and that the state agency, district board, or
17 institution maintains ownership of all student and teacher
18 data.

19 (4) Any student or teacher data stored by a cloud
20 computing service provider shall be stored within the
21 boundaries of the United States.

22 (h) PREDICTIVE MODELING PROHIBITED.

23 No student data shall be used for predictive
24 modeling for detecting behaviors, beliefs, or value systems,
25 or predicting or forecasting student outcomes.

26 (i) LIMITATIONS ON VIDEO OR AUDIO MONITORING.

1 There shall be no video or audio monitoring of
2 classrooms for any purpose, including for teacher evaluation,
3 without the approval of the district school board after public
4 hearings and the written consent of the teacher, of all
5 eligible students, and of the parents of all other students in
6 the classroom.

7 (j) INTERAGENCY DISCLOSURE PROHIBITED.

8 Personally identifiable information from education
9 records or teacher records may not be disclosed to any
10 non-education governmental agency, including, but not limited
11 to, the Alabama Department of Labor, whether within or outside
12 the state, or to any party that intends to use or disclose the
13 information or data for the purpose of workforce-development
14 or economic planning.

15 (k) LIMITATIONS ON INTERSTATE DISCLOSURE.

16 Subject to the provisions of subsections (c), (d),
17 (e), (m), and this subsection, personally identifiable
18 information from education records or teacher records may not
19 be disclosed to any governmental agency or other entity
20 outside the state, except disclosure may be made in the
21 following circumstances:

22 (1) To an institution attended by a student who has
23 transferred out of state.

24 (2) To an out-of-state program in which a student
25 voluntarily participates and for which such a data transfer is
26 a condition or requirement of participation.

1 (3) When a student is classified as a migrant for
2 federal reporting purposes.

3 (1) LIMITATIONS ON DISCLOSURE TO FEDERAL GOVERNMENT.

4 (1) No personally identifiable information from
5 education records or teacher records may be disclosed to any
6 federal agency, including the U. S. Department of Education or
7 the U. S. Department of Labor or their representatives, only
8 aggregate data may be provided.

9 (2) No information or data collected may be sold or
10 distributed to third parties or to other government agencies,
11 federal or state, about any student in Alabama's public
12 schools system that has been collected through Alabama's
13 public schools or during a student's participation in an
14 Alabama public school activity. No research data collected
15 regarding individual students by Alabama's public schools may
16 be sold to third parties in return for money or supplies in
17 Alabama's public schools. Any violation of this subdivision
18 will result in a strict liability for the violating party or
19 parties. Any student whose data is sold that has been
20 collected by the school or a state educational agency or
21 employee will have standing to sue for damages regardless of
22 the profit from the data.

23 (m) DISCLOSURE TO ASSESSMENT CONSORTIUM OR COMPANY.

24 State agencies, district boards, or institutions
25 shall not disclose student or teacher information to any
26 assessment consortium of which the state is a member, or
27 company with which the state contracts for development and

1 administration of any assessment, unless all of the following
2 are met:

3 (1) The information is transmitted in non-individual
4 record format.

5 (2) The information is limited to information
6 directly related to the assessment, such as a student's grade
7 level and test scores.

8 (3) No psychological information of any kind,
9 including that listed in Section 2, is included as part of the
10 test scores.

11 (n) DESTRUCTION OF DATA.

12 An educational institution shall destroy and remove
13 from the student database all education records of a student
14 within five years of the student's graduation from that
15 institution, provided that the institution may retain records
16 showing dates of attendance, diploma, degree, or degrees
17 received, and contact information. If a student withdraws from
18 an educational institution before graduating, the institution,
19 within one year of the student's withdrawal, shall destroy and
20 remove from the database all education records of that student
21 except records showing dates of attendance.

22 Section 5. (a) The Legislature presupposes parental
23 authority over the education of their children and personal
24 information regarding their children; therefore, all student
25 academic materials and records shall be made available to
26 parents or eligible students upon request and without
27 question.

1 (b) Parents or eligible students shall have the
2 right to access their student's information that is held in
3 any education database and a right to request the correction
4 or removal of data within those student records. Upon
5 receiving a written request from a parent to the local board
6 or institution that states the information believed to be in
7 error or inappropriate, the institution shall expeditiously
8 correct or remove all information found to be in error or
9 inappropriate. Any public school official or district that
10 refuses to provide information about the child's education or
11 any other data compiled on the child to parents or ignores a
12 written request for student information is in clear violation
13 of this act and is committing a strict liability offense.

14 (1) A parent has a right not only to the education
15 record, meaning any material the school holds on the specific
16 student, but also to the curriculum and any programs
17 implemented or curriculum used in the school.

18 (2) Anything that is accessible online by any
19 Alabama public school personnel about a specific student in
20 file or records of the students must be viewable at all times
21 by the parent or eligible student online. The parent or
22 eligible student must also be able to view the information
23 physically by visiting the school because not all parents have
24 access to the Internet. Parents must be able to view this
25 information during normal business hours at no charge to the
26 parent or eligible student. A parent or eligible student must
27 be able to keep his or her own personal copy of the record and

1 take the copy of the official record off school grounds. A
2 copy of the student's record must be provided free of charge
3 to the parent or eligible students, if requested.

4 (c) No student shall be required to complete any
5 questionnaire, survey, or assessment regarding personal habits
6 or attitudes or activities without written informed parental
7 permission obtained in advance of administering any such
8 questionnaire or assessment. Such permission document must
9 include a complete copy of the questionnaire, survey, or
10 assessment.

11 (d) No student shall be denied services in Alabama's
12 public schools because the student's parent requested
13 information of any kind about his or her child's education.

14 (e) Re-disclosure of personally identifiable
15 information to any third party is forbidden without informed
16 consent of a parent or legal guardian.

17 (f) No student shall be arrested, seized, or
18 searched without probable cause or proper warrant issued from
19 a court with proper jurisdiction. No student's personal
20 property may be seized or searched without probable cause or
21 proper warrant. Personal property includes student's email
22 accounts regardless of whether or not it is a school email
23 account or one controlled by a private company. Any digital
24 correspondence created by a student on his or her personal
25 laptop or another device, any documents stored on computer or
26 electronic devices of any type owned by a student, cell phone
27 or home phone records on the student's electronic devices may

1 not be searched or seized without probable cause or a warrant.
2 Any online account in which the student must use a user name
3 or email and password creates an expectation of privacy
4 regardless of whether public or privately controlled. A proper
5 warrant or probable cause must be established to search or
6 seize information or data from any of these accounts used by
7 the student or which are associated with the student's name.
8 No student locker may be searched without probable cause or
9 proper warrant. No student may be questioned or interrogated
10 by law enforcement without the presence of either his or her
11 attorney or a parent.

12 (g) The only time a student may be searched in
13 school without warrant or probable cause is to a minimum
14 degree for security purposes only if the school has
15 established metal detectors or a security check point at the
16 entrance to the school. This search must be limited to
17 searching for the school's prohibited items that impact
18 safety. Nothing obtained in these searches that is illegal or
19 in violation of school rules may be used as evidence or appear
20 in official school record against the student or court
21 regardless of who performs these searches. If the student
22 objects to body scans for health or privacy reasons then a
23 terry search must be offered as an alternative to full body
24 scans or metal detectors.

25 Section 6. (a) No student shall be denied access to
26 any public educational service or grade advancement in Alabama
27 public schools whose parent, guardian, or eligible student who

1 decides not to participate in or utilize any assessments,
2 career counseling, workshops, psychological counseling
3 session, or other activities that the parent or guardian deems
4 inappropriate or offensive.

5 (b) A parent or eligible student shall notify the
6 school in writing and name what program or programs he or she
7 chooses not to participate in as outlined in subsection (a) of
8 Section 5.

9 (c) A parent or eligible student must have a sound
10 academic alternative.

11 Section 7. (a) Each violation of any provision of
12 this act by an organization, state agency, a district board of
13 education, or an institution as defined in this subsection
14 shall be punishable by a civil penalty of up to one thousand
15 dollars (\$1,000); a second violation by the same organization
16 or entity involving the education records and privacy of the
17 same student shall be punishable by a civil penalty of up to
18 five thousand dollars (\$5,000); any subsequent violation by
19 the same organization or entity involving the education
20 records and privacy of the same student shall be punishable by
21 a civil penalty of up to ten thousand dollars (\$10,000); and
22 each violation involving a different individual education
23 record or a different individual student shall be considered a
24 separate violation for purposes of civil penalties.

25 (b) The Attorney General or a district attorney
26 shall have the authority to enforce compliance with this act
27 by investigation and subsequent commencement of a civil

1 action, to seek civil penalties for violations of this
2 section, and to seek appropriate injunctive relief, including,
3 but not limited to, a prohibition on obtaining personally
4 identifiable information for an appropriate time period. In
5 carrying out such investigation and in maintaining such civil
6 action, the Attorney General or any deputy or assistant
7 attorney general or a district attorney is authorized to
8 subpoena witnesses, compel their attendance, examine them
9 under oath, and require that any books, records, documents,
10 papers, or electronic records relevant to the inquiry be
11 turned over for inspection, examination, or audit; subpoenas
12 issued pursuant to this subsection may be enforced pursuant to
13 the civil practice law and rules.

14 (c) This act creates a private right of action for
15 parents, eligible students, and Alabama citizens to enforce
16 this act and seek civil damages for violations of this act.
17 Parents and students and Alabama citizens may seek appropriate
18 injunctive relief from any governmental agency or governmental
19 branch, including, but not limited to, a prohibition on
20 obtaining personally identifiable information for an
21 appropriate time period. Alabama citizens may also seek
22 injunctive relief against private businesses for violating any
23 part of this act. Parents and eligible students and Alabama
24 citizens will be able to sue in their own accord for
25 violations of the act without regard to actions taken by the
26 Attorney General or district attorney. The same penalties

1 outlined in subsection (a) of Section 7 will be available to
2 private citizens, eligible students, and parents.

3 Section 8. The provisions of this act are severable.
4 If any part of this act is declared invalid or
5 unconstitutional, that declaration shall not affect the part
6 which remains.

7 Section 9. This act shall become effective July 1,
8 2015, and shall apply beginning with the 2015-2016 academic
9 year.