

1 HB267  
2 173186-1  
3 By Representatives Mooney, Fridy, Moore (B), Wingo, Black,  
4 Hammon, Beech, Williams (P), Daniels, Farley, Whorton (R),  
5 Holmes (M), Hanes, Todd, Fincher, Williams (JW), Whorton (I),  
6 Shedd, Ainsworth, Ledbetter, Scott, Drake, Pettus, Warren,  
7 Knight, Harbison, Hall, Polizos, Henry, Carns, Brown, Martin,  
8 Standridge, Beckman, Wadsworth and Givan  
9 RFD: Education Policy  
10 First Read: 18-FEB-16

2  
3  
4  
5  
6  
7  
8 SYNOPSIS: This bill would establish the Alabama  
9 Student and Parent Privacy Protection Act.

10 This bill would limit the collection and  
11 disclosure of information relating to public school  
12 students and teachers to academic purposes.

13 This bill would provide civil penalties for  
14 violations.

15  
16 A BILL  
17 TO BE ENTITLED  
18 AN ACT

19  
20 Relating to public prekindergarten, elementary, and  
21 secondary education; to limit the collection and disclosure of  
22 student and teacher information to specific academic purposes;  
23 and to provide civil penalties for violations.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. This act shall be known and may be cited  
26 as the Alabama Student and Parent Privacy Protection Act.

1           Section 2. For the purposes of this act, the  
2 following terms shall have the following meanings:

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

6           (2) BIOMETRIC RECORD. A record of one or more  
7 measurable biological or behavioral characteristics that can  
8 be used for automated recognition of an individual, but not  
9 limited to, fingerprints; retina and iris patterns;  
10 voiceprints; DNA sequence, including newborn screening  
11 information; facial characteristics; and handwriting, unless  
12 handwriting for cursive academic assignment.

13           (3) CLOUD-BASED COMPUTING SERVICE. A service that  
14 enables on demand network access to a shared pool of  
15 configurable computing resources such as networks, servers,  
16 storage, applications, and services, to provide a student,  
17 teacher, or staff member account-based productivity  
18 applications such as email, document storage, and document  
19 editing that may be rapidly provisioned and released with  
20 minimal management effort, or cloud-computing service-provider  
21 interaction. A cloud computing service has the characteristics  
22 of on-demand self-service, broad network access, resource  
23 pooling, rapid elasticity, and measured service.

24           (4) DEPARTMENT. The State Department of Education.

25           (5) EDUCATION PROGRAM. A program of instruction  
26 administered by a local education agency or local education  
27 institution within the state.

1           (6) ELIGIBLE STUDENT. A student who has reached the  
2 age of majority under Alabama law or attends a local education  
3 institution beyond the high school level to whom rights have  
4 transferred.

5           (7) INTERPERSONAL RESOURCES or INTERPERSONAL SKILLS.  
6 Noncognitive, emotional, and psychological characteristics and  
7 attributes and skills used to manage relationships and  
8 interactions between or among individuals.

9           (8) INTRAPERSONAL RESOURCES or INTRAPERSONAL SKILLS.  
10 Noncognitive emotional and psychological characteristics and  
11 attributes used to manage emotions and attitudes within an  
12 individual.

13           (9) LOCAL EDUCATION AGENCY. A public city or county  
14 board of education or other public authority legally  
15 constituted within the state for either administrative control  
16 or direction of, or to perform a service function for, public  
17 elementary or secondary schools in a city, county, township,  
18 school district, or other political subdivision of the state,  
19 or for a combination of school districts or counties as are  
20 recognized in the state as an administrative agency for its  
21 public elementary schools or secondary schools.

22           (10) LOCAL EDUCATION INSTITUTION. Any public  
23 prekindergarten, elementary, or secondary school.

24           (11) PARENT. Either the actual biological or  
25 adoptive parent of the child or legal guardian of the child.

26           (12) PERSONALLY IDENTIFIABLE STUDENT INFORMATION.  
27 One or more of the following:

- 1           a. The name of a student.
- 2           b. The name of the parent or other family member of
- 3 the student.
- 4           c. The address of a student or the parent or other
- 5 family member of the student.
- 6           d. A photograph, video, or audio recording that
- 7 contains an image of or the voice of the student.
- 8           e. Indirect identifiers including, but not limited
- 9 to, the date of birth, place of birth, maiden name of the
- 10 mother of, Social Security number, student number, biometric
- 11 record, telephone number, credit card account number,
- 12 insurance account number, financial services account number,
- 13 customer number, persistent online identifier, email address,
- 14 personal social media account address, and other electronic
- 15 address of the student.
- 16           f. Any aggregate or deidentified student data that
- 17 is capable of being deaggregated or reconstructed to the point
- 18 that an individual student may be identified.
- 19           g. Any student data or other information that, alone
- 20 or in combination, is linked or linkable to a specific student
- 21 that would allow a reasonable person, who does not have
- 22 personal knowledge of the relevant circumstances, to identify
- 23 a specific student with reasonable certainty.

24           (13) PERSONAL SOCIAL MEDIA ACCOUNT. An account with  
25 an electronic medium or service where users may create, share,  
26 and view user-generated content including, but not limited to,  
27 uploading or downloading videos or still photographs, blogs,

1 video blogs, podcasts, messages, emails, or Internet website  
2 profiles or locations. The term does not include an account  
3 opened at the request of a local education institution, or  
4 provided by a local education institution, and intended to be  
5 used solely on behalf of the local education institution.

6 (14) PREDICTIVE MODELING. The use of educational  
7 data-mining methods to make predictions about future behaviors  
8 or performance.

9 (15) PROCESS or PROCESSING. To use, access,  
10 manipulate, scan, modify, transform, disclose, store,  
11 transmit, transfer, retain, aggregate, or dispose of student  
12 or teacher data.

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

17 (17) SPECIFIC CONTENT. Data or information on a  
18 personal social media account that is identified with  
19 sufficient particularity to demonstrate prior knowledge of the  
20 details of the content and distinguish the content from other  
21 data or information on the account with which the account may  
22 share similar characteristics.

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

1                   (19) STUDENT DATABASE. The Alabama Statewide  
2 Longitudinal Data System, as well as any other data warehouse  
3 containing Alabama student information, including regional,  
4 interstate, or federal data warehouse organizations under  
5 contract to or with a memorandum of understanding with the  
6 department, any local education institution, or local  
7 education agency.

8                   (20) STUDENT INFORMATION SYSTEM. A software  
9 application or cloud-based computing service, or both, that  
10 allows a local education institution to input, maintain,  
11 manage, or retrieve student data, or personally identifiable  
12 student information, including applications that track or  
13 share personally identifiable student information in real  
14 time.

15                   (21) STUDENT INFORMATION SYSTEM PROVIDER. An entity  
16 that sells, leases, provides, operates, or maintains a student  
17 information system for the benefit of a local education  
18 institution.

19                   (22) TEACHER RECORDS. Information pertaining to  
20 teachers, paraprofessionals, principals, and other  
21 administrators that includes, but is not limited to, any of  
22 the following:

- 23                   a. Social Security number.
- 24                   b. Name.
- 25                   c. Address.
- 26                   d. Birthdate.
- 27                   e. Email address.

1 f. Telephone number.

2 g. Compensation information.

3 h. Resume information.

4 i. Performance evaluations.

5 j. Other information that, alone or in combination,  
6 is linked or linkable to a specific staff member that would  
7 allow a reasonable person in the local education institution  
8 community, who does not have personal knowledge of the  
9 relevant circumstances, to identify the staff member with  
10 reasonable certainty.

11 (23) TERRY SEARCH. A onetime search for weapons or  
12 items prohibited by the local education institution which  
13 includes a pat down of outer clothing only and is conducted  
14 only at the main entrance to the local education institution.

15 (24) TRACK. To collect and maintain records of the  
16 activities of a student after he or she exits the educational  
17 system including, but not limited to, his or her entrance into  
18 and progression through the workforce or the military.

19 (25) WORKFORCE INFORMATION. Information related to  
20 unemployment insurance, wage records, unemployment insurance  
21 benefit claims, or employment and earnings data from workforce  
22 data sources, such as state wage records, or the federal  
23 Employment Data Exchange System.

24 (26) WRITTEN CONSENT. Consent, in writing, given  
25 within six months before the data collection or data  
26 disclosure consented to, specifically referencing the precise  
27 type of data collection or data disclosure that is being



1 consented to, and dated and signed on the same day. The term  
2 does not include general, nonspecific consent to collect or  
3 disclose data.

4 Section 3. (a) Student data that may only be  
5 collected at the local level by a local education institution,  
6 and without the written consent of the parent of a student who  
7 is enrolled in a local education institution in the state,  
8 shall be limited to the following:

9 (1) Name or address, or both.

10 (2) State and national assessment results.

11 (3) Course taking and completion, and credits  
12 earned.

13 (4) Course grades and grade point average.

14 (5) Date of birth, grade level, and expected  
15 graduation date or graduation cohort.

16 (6) Degree, diploma, or credential attainment.

17 (7) Enrollment.

18 (8) Attendance and transfers.

19 (9) Medical records limited to immunization records  
20 required by state law, records needed or created by a local  
21 education institution-based health professional for  
22 administering prescription drugs or otherwise treating a  
23 student at a local education institution, records needed or  
24 created by a local education institution-based counselor when  
25 a student seeks counseling while at the local education  
26 institution, or records required by the Individuals with  
27 Disabilities Education Act, 20 U.S.C.A. Section 1400 et seq.

1 (10) Discipline reports limited to objective  
2 information about disciplinary incidents or, for institutions  
3 of higher education, objective information sufficient to  
4 produce the Title IV Annual Incident Report pursuant to the  
5 Clery Act, 20 U.S.C.A. Section 1092(f).

6 (11) Juvenile delinquency or other criminal or  
7 correctional records only if necessary to meet the educational  
8 needs of the student or to ensure staff or student safety,  
9 provided that an institution of higher education may collect  
10 records sufficient to produce the Title IV Annual Incident  
11 Report pursuant to the Clery Act, 20 U.S.C.A. Section 1092(f).

12 (12) Remediation data.

13 (13) Special education data, limited to data  
14 required by the Individuals with Disabilities Education Act,  
15 20 U.S.C.A. Section 1400 et seq.

16 (14) Data limited to that required by the Elementary  
17 and Secondary Education Act.

18 (15) Student workforce information is limited to  
19 information related to work study programs participated in for  
20 academic credit.

21 (16) Student or family Social Security numbers only  
22 if needed by an institution of higher education to comply with  
23 state or federal law.

24 (17) Student or family income data, limited to data  
25 required by law to determine eligibility to participate in or  
26 receive financial assistance under a program.

1           (18) Information about extracurricular activities,  
2 limited to activities that are local education  
3 institution-sponsored or engaged in for academic credit.

4           (b) Unless explicitly mandated by federal statute, a  
5 local education agency or local education institution shall  
6 obtain informed written consent from parents or eligible  
7 students before collecting any data points other than those  
8 listed in subsection (a) including, but not limited to, the  
9 following:

10           (1) Medical; health, including height, weight, and  
11 body mass index; and mental health records, except as provided  
12 in subdivision (9) of subsection (a).

13           (2) Student or family workforce information, except  
14 as provided in subdivision (15) of subsection (a).

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

24           (d) No state agency or local education institution  
25 shall pursue or accept any grant, whether from the federal  
26 government or any private entity, that would require the

1 collecting or reporting of any type of data in violation of  
2 this section.

3 (e) Only aggregate data may be transmitted from a  
4 local education agency to state.

5 (f) Any personally identifiable student information  
6 on current students discovered within the Alabama Statewide  
7 Longitudinal Data System shall be destroyed.

8 Section 4. (a) State agencies and education  
9 institutions shall publicly and conspicuously disclose on  
10 their websites the existence and character of any form of  
11 education records or teacher records maintained by the  
12 agencies or education institutions, directly or through  
13 contracts with outside parties. Local education institutions  
14 shall annually notify parents, eligible students, and teachers  
15 of this website posting. Local agencies shall also provide  
16 annual electronic notification of this information to the  
17 Chairs of the Senate Education and Youth Affairs Committee and  
18 the House Education Policy Committee. The disclosure and  
19 electronic notifications shall include all of the following:

20 (1) The legal authority that authorizes the  
21 establishment and existence of the data repository.

22 (2) The principal purpose or purposes for which the  
23 information is intended to be used.

24 (3) The categories of individuals on whom records  
25 are maintained in the data repository.

26 (4) The categories of records maintained in the data  
27 repository.

1           (5) Each expected disclosure of the records  
2 contained in the data repository, including the categories of  
3 recipients and the purpose of such disclosure.

4           (6) The policies and practices of the state agency  
5 or local education institution regarding storage,  
6 irretrievability, access controls, retention, and disposal of  
7 records.

8           (7) The title and business address of the official  
9 who is responsible for the data repository, and the name and  
10 business address of any contractor or other outside party  
11 maintaining the data repository for or on behalf of the state  
12 agency or local education institution.

13           (b) State education agencies shall use only  
14 aggregate data in published reports.

15           Section 5. No state assessment, including national  
16 student assessment, shall be adopted or administered in this  
17 state that collects any type of psychological data, including  
18 assessment of noncognitive skills or attributes, psychological  
19 resources, mindsets, effortful control, attitudes,  
20 dispositions, social skills, or other interpersonal or  
21 intrapersonal resources.

22           Section 6. No state agency, local education agency,  
23 or local education institution shall administer any student  
24 survey, assessment, analysis, evaluation, or similar  
25 instrument that solicits information about the student or the  
26 family of the student concerning any of the following:

27           (1) Political affiliations or beliefs.

1           (2) Noncognitive and nonacademic mental or  
2 psychological problems, psychological resources, mindsets,  
3 effortful control, attributes, dispositions, social skills,  
4 attitudes, or intrapersonal resources.

5           (3) Sexual behavior or attitudes unless the student  
6 is receiving medical care or physiological care from a  
7 licensed medical professional.

8           (4) Illegal, antisocial, self-incriminating, or  
9 demeaning behavior.

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

12          (6) Legally recognized privileged or analogous  
13 relationships, such as those with a lawyer, physician,  
14 therapist, psychotherapist, or clergy.

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

16          (8) Personal or family gun ownership.

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

21          (10) Language spoken in the home of a student unless  
22 required by federal law, which shall be cited when the data is  
23 collected.

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 data resulting from  
4 state or national assessments, that measure psychological  
5 resources, mindsets, effortful control, attributes,  
6 dispositions, social skills, attitudes, or intrapersonal  
7 resources.

8 (15) Any data collected through predictive modeling.

9 Section 7. (a) Subject to the exceptions contained  
10 in this act, access to student education records in a student  
11 information system shall be restricted to the authorized  
12 representatives of the local education agency or local  
13 education institution who requires access to perform their  
14 assigned duties. No individual may be designated as an  
15 authorized representative unless he or she is on the staff or  
16 under the direct control of the designating state agency,  
17 local education agency, or local education institution.

18 (b) Subject to the exceptions contained in this act,  
19 no personally identifiable student information or teacher  
20 records shall be disclosed without the written consent of the  
21 parent or eligible student.

22 (c) (1) The department may develop and publish  
23 criteria for the approval of research-related data requests  
24 from state and local governmental agencies, the Legislature,  
25 and academic researchers, and may allow release in accordance  
26 with that criteria. Only aggregate data may be provided for  
27 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 student information from  
5 an 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 local education agencies or local education institutions  
8 without the written consent of the parent or eligible student,  
9 except to do either of the following:

10           a. Administer assessments.

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

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



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

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

11 b. Is under the direct control of the local  
12 education agency or local education institution, or on the  
13 staff with respect to the use and maintenance of education  
14 records or teacher records including, but not limited to, a  
15 student information system provider.

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 purpose other than those explicitly authorized  
22 in the contract, which in no way conflicts with this act.

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

26 1. Without the written consent of the parent or  
27 eligible student.

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

7           f. Maintains administrative, technical, and physical  
8 safeguards to protect the security, confidentiality, and  
9 integrity of the personally identifiable student information  
10 or teacher records in its custody.

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

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

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

25           j. Provides the state agency, local education  
26 agency, or local education institution with a breach  
27 remediation plan which does not conflict with this act and is

1 acceptable to the state agency, local education agency, or  
2 local education institution before initial receipt of  
3 education records or teacher records.

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

10 l. Reports all actual security breaches to the  
11 office of the Attorney General, state agency, local education  
12 agency, or local education institution that provided education  
13 records as soon as possible, but not later than 24 hours after  
14 an actual breach was known or should have been known by  
15 exercising reasonable diligence.

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

1           n. Returns to the state agency, local education  
2 agency, or local education institution all personally  
3 identifiable student information in its custody at the  
4 termination of the contract.

5           (f) In the event of a security breach or  
6 unauthorized disclosure of personally identifiable student  
7 information or teacher records, whether by a state agency,  
8 local education agency, or local education institution, or by  
9 a third party given access to education records or teacher  
10 records pursuant to subsection (c), (d), or (e), the state  
11 agency, local education agency, or local education institution  
12 shall do all of the following:

13           (1) Immediately notify the subjects of the breach or  
14 disclosure.

15           (2) Report the breach or disclosure to the Family  
16 Policy Compliance Office of the United States Department of  
17 Education.

18           (3) Allow the office of the Attorney General and the  
19 local district attorney access to investigate the causes and  
20 consequences of the breach or disclosure.

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

1                   (2) Any student information system provider  
2 performing services for a state agency, local education  
3 agency, or local education institution is prohibited from  
4 using information from education records or teacher records  
5 for any secondary purposes that benefit the student  
6 information system provider or any third party including, but  
7 not limited to, online behavioral advertising, creating or  
8 correcting an individual or household profile primarily for  
9 the benefit of the student information system provider, the  
10 sale of the data for any commercial purpose, or any other  
11 similar commercial for-profit activity. A student information  
12 system provider may process or monitor student data solely to  
13 provide such service to the state agency, local education  
14 agency, or local education institution, and to maintain the  
15 integrity of the service.

16                   (3) Any student information system provider that  
17 enters into an agreement to provide a student information  
18 system to a state agency, local education agency, or local  
19 education institution shall certify in writing to that state  
20 agency, local education agency, or local education institution  
21 that the student information system provider shall comply with  
22 the terms and conditions set forth in subsection (e) and that  
23 the state agency, local education agency, or local education  
24 institution maintains ownership of all student and teacher  
25 records.

1           (4) Any student or teacher records stored by a  
2 student information system provider shall be stored within the  
3 boundaries of the United States.

4           (h) No student data shall be used for predictive  
5 modeling, for detecting behaviors, beliefs, or value systems,  
6 or for predicting or forecasting student outcomes.

7           (i) There shall be no video or audio monitoring of  
8 classrooms for any purpose, including for teacher evaluation,  
9 without the approval of the local education agency after  
10 public hearings and the written consent of the teacher, of all  
11 eligible students, and of the parents of all other students in  
12 the classroom.

13           (j) Personally identifiable student information from  
14 education records or teacher records may not be disclosed to  
15 any noneducation government agency including, but not limited  
16 to, the Alabama Department of Labor, whether within or outside  
17 the state, or to any person that intends to use or disclose  
18 the information or data for the purpose of workforce  
19 development or economic planning.

20           (k) Subject to this subsection and subsections (c),  
21 (d), (e), and (m), personally identifiable student information  
22 from education records or teacher records may not be disclosed  
23 to any government agency or other entity outside the state,  
24 except disclosure may be made in any of the following  
25 circumstances:

26           (1) To a local education institution attended by a  
27 student who has transferred out of state.

1           (2) To an out-of-state program in which a student  
2 voluntarily participates and for which the data transfer is a  
3 condition or requirement of participation.

4           (3) When a student is classified as a migrant for  
5 federal reporting purposes.

6           (1)(1) No personally identifiable student  
7 information from education records or teacher records may be  
8 disclosed to any federal agency, including the United States  
9 Department of Education or the United States Department of  
10 Labor, or their representatives. Only aggregate data may be  
11 provided.

12           (2) No personally identifiable student information  
13 collected may be sold or distributed to third parties or to  
14 other government agencies, federal or state, about any student  
15 in the public school system of the state that has been  
16 collected through the public school system or during the  
17 participation of the student in a state public school  
18 activity. No research data collected regarding individual  
19 students by the state public schools may be sold to third  
20 parties in return for money or supplies in those public  
21 schools. Any violation of this section shall result in a  
22 strict liability for the violating party or parties. Any  
23 student whose data is sold that has been collected by the  
24 state agency, local education agency, local education  
25 institution, or employee of any of these, shall have standing  
26 to sue for damages regardless of the profit made off of the  
27 data.

1 (m) State agencies, local education agencies, or  
2 local education institutions may not disclose personally  
3 identifiable student information or teacher records to any  
4 assessment consortium of which the state is a member, or  
5 company with which the state contracts for development or  
6 administration of any assessment, or both, unless:

7 (1) The information is transmitted in nonindividual  
8 record format.

9 (2) The information is limited to information  
10 directly related to the assessment, such as the grade level  
11 and test scores of the student.

12 (3) No psychological information of any kind,  
13 including that listed in Section 4, is included as part of the  
14 test scores.

15 (n) A local education institution shall destroy and  
16 remove from the student database all education records of a  
17 student within five years after the graduation of the student  
18 from that local education institution, provided that the local  
19 education institution may retain records showing dates of  
20 attendance, grades, diploma or degrees received, and contact  
21 information. If a student withdraws from a local education  
22 institution before graduating, the local education  
23 institution, within one year after the withdrawal, shall  
24 destroy and remove from the student database all education  
25 records of that student, except records showing dates of  
26 attendance and grades.



1           Section 8. (a) The Legislature presupposes parental  
2 authority over the education of their children and personal  
3 information regarding their children; therefore, all student  
4 academic materials and records shall be available to parents  
5 or eligible students upon request and without question.

6           (b) Parents or eligible students may access any  
7 information regarding their students, or themselves, that is  
8 held in any student information system, or student information  
9 system provider's student database, and may request the  
10 correction or removal of data within those student records.  
11 Upon receiving a written request from a parent or eligible  
12 student to remove data believed to be in error or held in  
13 violation of this act, the local education agency or local  
14 education institution shall expeditiously correct or remove  
15 all information found to be in error or data collected on a  
16 student or family in violation of this act. Any local  
17 education institution official or local education agency that  
18 refuses to provide information about the data of a student in  
19 a timely manner, or ignores a written request for student  
20 information from a parent or eligible student, is in violation  
21 of this act.

22           (1) A parent or eligible student is entitled to any  
23 information a local education agency or local education  
24 institution maintains on the student of the parent or the  
25 eligible student including, but not limited to, the curriculum  
26 and any programs implemented or curriculum used by the local  
27 education agency or in the local education institution.

1           (2) Any student information system data that is  
2 accessible online by an employee of a local education agency,  
3 local education institution, or student information system  
4 provider concerning a specific student, shall be viewable at  
5 all times by the parent or eligible student online or at the  
6 local education institution, during normal business hours, at  
7 no charge to the parent or eligible student. A copy or any  
8 record in the file shall be provided free of charge to the  
9 parent or eligible student, upon request.

10           (c) No student shall be required to complete any  
11 questionnaire, survey, or assessment regarding personal habits  
12 or attitudes or activities without prior informed parental  
13 written consent. The written consent shall include a complete  
14 copy of the questionnaire, survey, or assessment.

15           (d) No student may be denied services in a local  
16 education institution because his or her parent has exercised  
17 any right provided by this act.

18           (e) Redisclosure of personally identifiable student  
19 information to a third party is forbidden without the informed  
20 written consent of a parent.

21           (f) (1) No student may be arrested, seized, or  
22 searched on local education institution property without  
23 probable cause or proper warrant issued by a court of proper  
24 jurisdiction. The personal property of a student, while on  
25 local education institution property, may not be seized or  
26 searched without probable cause or proper warrant. For the

1 purposes of this subsection, personal property includes all of  
2 the following:

3 a. Email accounts of the student, regardless of  
4 whether the email account is provided by the local education  
5 institution or controlled by a private company.

6 b. Digital correspondence created by a student on  
7 his or her personal laptop or other electronic device.

8 c. Any document stored on a computer or other  
9 electronic device of any type owned by the student.

10 d. Cell phone or home phone records on an electronic  
11 device owned by a student.

12 e. Any online account in which the student is  
13 required to use a username or email and password.

14 (2) A proper warrant or probable cause shall be  
15 established before any information or data from any accounts  
16 used by a student, or associated with the name of the student,  
17 are searched or seized. A student locker may not be searched  
18 without probable cause or proper warrant. A student may not be  
19 questioned or interrogated by law enforcement without the  
20 presence of either his or her attorney or his or her parent.

21 (g) A student may only be searched in a local  
22 education institution without a warrant or probable cause if  
23 the local education institution has established a security  
24 check point or installed metal detectors at the entrance to  
25 the local education institution. The search shall be a  
26 minimally invasive pat down limited to searching only for  
27 items that may impact safety and are prohibited by the local

1 education institution. Any item obtained during a search  
2 conducted pursuant to this subsection including, but not  
3 limited to, items that are illegal or in violation of local  
4 education institution rules, may be used as evidence in court  
5 or noted in an official local education institution record  
6 relating to the student, regardless of who performs the  
7 search. If a student objects to a body scan for medical or  
8 privacy reasons, a terry search shall be offered as an  
9 alternative to a full body search or metal detector scan.

10 Section 9. (a) A local education institution may not  
11 do any of the following:

12 (1) Require, request, or coerce a student or  
13 prospective student to disclose a username, password, or any  
14 other means of authentication, or provide access through the  
15 username or password, to a personal social media account.

16 (2) Require, request, or coerce a student or  
17 prospective student to access a personal social media account  
18 in the presence of an employee or volunteer of the local  
19 education institution including, but not limited to, a coach,  
20 teacher, or local education institution administrator, in a  
21 manner that enables the employee or volunteer to observe the  
22 contents of the account.

23 (3) Compel a student or prospective student to add  
24 anyone including, but not limited to, a coach, teacher, local  
25 education institution administrator, or other employee or  
26 volunteer, to his or her list of contacts associated with a  
27 personal social media account or require, request, or

1 otherwise coerce a student or applicant to change the settings  
2 that affect the ability of a third party to view the contents  
3 of a personal social media account.

4 (4) Take any action or threaten to take any action  
5 to discharge, discipline, prohibit from participating in  
6 curricular or extracurricular activities, or otherwise  
7 penalize a student for his or her refusal to disclose any  
8 information specified in subdivision (1), for refusal to take  
9 any action specified in subdivision (2), or for refusal to add  
10 a coach, teacher, local education institution administrator,  
11 or other employee or volunteer to his or her list of contacts  
12 associated with a personal social media account, or to change  
13 the settings that affect a third party's ability to view the  
14 contents of a personal social media account as specified in  
15 subdivision (3).

16 (5) Fail or refuse to admit any prospective student  
17 as a result of the prospective student's refusal to disclose  
18 any information specified in subdivision (1), for refusal to  
19 take any action specified in subdivision (2), or for refusal  
20 to add a coach, teacher, local education institution  
21 administrator, or other employee or volunteer to his or her  
22 list of contacts associated with a personal social media  
23 account, or to change the settings that affect a third party's  
24 ability to view the contents of a personal social media  
25 account as specified in subdivision (3).

26 (b) Nothing in this act shall prevent a local  
27 education institution from doing any of the following:

1           (1) Accessing information about a student or  
2 prospective student that is publicly available.

3           (2) Complying with state and federal laws, rules,  
4 and regulations and the rules of self-regulatory  
5 organizations, where applicable.

6           (3) Prohibiting a student or prospective student  
7 from using a personal social media account for local education  
8 institution purposes.

9           (4) Prohibiting a student or prospective student  
10 from accessing or operating a personal social media account  
11 during local education institution hours or while on local  
12 education institution property.

13           (c) If a local education institution inadvertently  
14 receives the username, password, or other means of  
15 authentication that provides access to a personal social media  
16 account of an employee, applicant, student, or prospective  
17 student through the use of an otherwise lawful virus scan or  
18 firewall that monitors the network of the local education  
19 institution or devices provided by the local education  
20 institution, the local education institution is not liable for  
21 having the information, but may not use the information to  
22 access the personal social media account of the student or  
23 prospective student or share the information with any other  
24 person, and shall also delete the information immediately, or  
25 as soon as is reasonably practicable.

26           Section 10. (a) A student may not be denied access  
27 to any public educational service or grade advancement in the

1 public schools for failure to participate in or utilize any  
2 assessments, career counseling, workshops, psychological  
3 counseling session, or other activities that the parent of the  
4 student deems inappropriate or offensive.

5 (b) A parent or eligible student shall notify the  
6 local education institution in writing and name the program or  
7 programs they choose not to participate in pursuant to  
8 subsection (a).

9 (c) The parent or eligible student shall be offered  
10 a reasonable academic alternative.

11 Section 11. Evidence or information obtained or  
12 collected in violation of this act is not admissible in any  
13 civil or criminal trial or legal proceeding, disciplinary  
14 action, or administrative hearing except when used against the  
15 party who violated this act.

16 Section 12. (a) Each violation of this act by an  
17 organization, state agency, local education agency, or local  
18 education institution shall be punishable by a civil penalty  
19 of up to one thousand dollars (\$1,000). A second violation by  
20 the same organization or entity involving the education  
21 records and privacy of the same student shall be punishable by  
22 a civil penalty of up to five thousand dollars (\$5,000). Any  
23 subsequent violation by the same organization or entity  
24 involving the education records and privacy of the same  
25 student shall be punishable by a civil penalty of up to ten  
26 thousand dollars (\$10,000). Each violation of this act  
27 involving a different individual education record or a

1 different individual student shall be considered a separate  
2 violation for purposes of civil penalties and reasonable  
3 attorney fees and other costs of litigation.

4 (b) The Attorney General or a local district  
5 attorney may enforce compliance with this act by investigation  
6 and subsequent commencement of a civil action, seek civil  
7 penalties for violations, and seek appropriate injunctive  
8 relief including, but not limited to, a prohibition against  
9 obtaining personally identifiable student information for an  
10 appropriate time period. In conducting an investigation and in  
11 maintaining a civil action, the Attorney General or district  
12 attorney may subpoena witnesses, compel their attendance,  
13 examine them under oath, and require that any books, records,  
14 documents, papers, or electronic records relevant to the  
15 inquiry be turned over for inspection, examination, or audit.  
16 Subpoenas issued pursuant to this subsection may be enforced  
17 pursuant to the Alabama Rules of Civil Procedure and state  
18 law.

19 (c) This act creates a private right of action for  
20 parents, eligible students, and residents of the state to  
21 enforce this act and seek civil damages for any violation of  
22 this act. Parents, eligible students, and residents of the  
23 state may seek appropriate injunctive relief from any  
24 governmental agency or branch of government including, but not  
25 limited to, a prohibition on obtaining personally identifiable  
26 student information for an appropriate time period. Residents  
27 of the state may also seek injunctive relief against private



1 businesses for violating this act. Parents, eligible students,  
2 and residents of the state may sue in their own accord for any  
3 violation of this act without regard to actions taken by the  
4 Attorney General or local district attorney. The same  
5 penalties as provided in subsection (a) shall be available to  
6 private citizens, eligible students, and parents.

7 Section 13. This act shall become effective on July  
8 1, 2016, following its passage and approval by the Governor,  
9 or its otherwise becoming law.