

CHAPTER 2014-41

Committee Substitute for Committee Substitute for Senate Bill No. 188

An act relating to education data privacy; amending s. 1002.22, F.S.; providing for annual notice to K-12 students and parents of rights relating to education records; revising provisions relating to remedy in circuit court with respect to education records and reports of students and parents; creating s. 1002.222, F.S.; providing limitations on the collection of information and the disclosure of confidential and exempt student records; defining the term “biometric information”; providing an exception; authorizing fees; amending s. 1008.386, F.S.; revising provisions relating to the submission of student social security numbers and the assignment of student identification numbers; requiring the Department of Education to establish a process for assigning student identification numbers; amending s. 1011.622, F.S.; conforming provisions; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (e) of subsection (2) and subsection (4) of section 1002.22, Florida Statutes, are amended to read:

1002.22 Education records and reports of K-12 students; rights of parents and students; notification; penalty.—

(2) RIGHTS OF STUDENTS AND PARENTS.—The rights of students and their parents with respect to education records created, maintained, or used by public educational institutions and agencies shall be protected in accordance with the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. s. 1232g, the implementing regulations issued pursuant thereto, and this section. In order to maintain the eligibility of public educational institutions and agencies to receive federal funds and participate in federal programs, the State Board of Education shall comply with the FERPA after the board has evaluated and determined that the FERPA is consistent with the following principles:

(e) Students and their parents shall receive annual notice of their rights with respect to education records.

(4) PENALTY.—If any official or employee of an institution refuses to comply with this section, the aggrieved parent or student has an immediate right to bring an action in circuit court to enforce his or her rights by injunction. Any aggrieved parent or student who receives injunctive relief ~~brings such action and whose rights are vindicated~~ may be awarded attorney ~~attorney's~~ fees and court costs.

Section 2. Section 1002.222, Florida Statutes, is created to read:

1002.222 Limitations on collection of information and disclosure of confidential and exempt student records.—

(1) An agency or institution as defined in s. 1002.22(1) may not:

(a) Collect, obtain, or retain information on the political affiliation, voting history, religious affiliation, or biometric information of a student or a parent or sibling of the student. For purposes of this subsection, the term “biometric information” means information collected from the electronic measurement or evaluation of any physical or behavioral characteristics that are attributable to a single person, including fingerprint characteristics, hand characteristics, eye characteristics, vocal characteristics, and any other physical characteristics used for the purpose of electronically identifying that person with a high degree of certainty. Examples of biometric information include, but are not limited to, a fingerprint or hand scan, a retina or iris scan, a voice print, or a facial geometry scan.

Notwithstanding the provisions of this paragraph, a school district that used a palm scanner system for identifying students for breakfast and lunch programs on March 1, 2014, may continue to use the palm scanner system through the 2014-2015 school year.

(b) Provide education records made confidential and exempt by s. 1002.221 or federal law to:

1. A person as defined in s. 1.01(3) except when authorized by s. 1002.221 or in response to a lawfully issued subpoena or court order;

2. A public body, body politic, or political subdivision as defined in s. 1.01(8) except when authorized by s. 1002.221 or in response to a lawfully issued subpoena or court order; or

3. An agency of the Federal Government except when authorized by s. 1002.221, required by federal law, or in response to a lawfully issued subpoena or court order.

(2) The governing board of an agency or institution may only designate information as directory information in accordance with 20 U.S.C. s. 1232g and applicable federal regulations. Such designation must occur at a regularly scheduled meeting of the governing board. The governing board of an agency or institution must consider whether designation of such information would put students at risk of becoming targets of marketing campaigns, the media, or criminal acts. An agency or institution may charge fees for copies of designated directory information as provided in s. 119.07(4).

Section 3. Section 1008.386, Florida Statutes, is amended to read:

1008.386 Florida Social security numbers used as student identification numbers.—

(1) When a student enrolls in a public school in this state, the Each district school board shall request that the each student enrolled in a public school in this state provide his or her social security number and shall indicate whether the student identification number assigned to the student is a social security number. A student satisfies this requirement by presenting his or her social security card or a copy of the card to a school enrollment official. ~~Each school district shall use social security numbers as student identification numbers in the management information system maintained by the school district. However, a student is not required to provide his or her social security number as a condition for enrollment or graduation. A student satisfies this requirement by presenting to school enrollment officials his or her social security card or a copy of the card. The school district shall include the social security number in the student's permanent records and shall indicate if the student identification number is not a social security number. The Commissioner of Education shall assist provide assistance to school districts with to assure that the assignment of student identification numbers other than social security numbers is kept to a minimum and to avoid duplication of any student identification number.~~

(2) The department shall establish a process for assigning a Florida student identification number to each student in the state, at which time a school district may not use social security numbers as student identification numbers in its management information systems.

(3) The State Board of Education may adopt rules to implement this section.

Section 4. Section 1011.622, Florida Statutes, is amended to read:

1011.622 Adjustments for students without a Florida common student identification number identifier.—The Florida Education Finance Program funding calculations, including the calculations authorized in ss. 1011.62, 1011.67, 1011.68, and 1011.685, shall include funding for a student only when all of the student's records are reported to the Department of Education under a Florida common student identification number identifier. The State Board of Education may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this section.

Section 5. This act shall take effect upon becoming a law.

Approved by the Governor May 12, 2014.

Filed in Office Secretary of State May 12, 2014.