

**First Regular Session
Seventieth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 15-0279.02 Jane Ritter x4342

SENATE BILL 15-173

SENATE SPONSORSHIP

Holbert,

HOUSE SPONSORSHIP

Pabon,

Senate Committees
Education

House Committees

A BILL FOR AN ACT

101 **CONCERNING EXPANDING PROTECTIONS FOR STUDENT DATA SECURITY.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill adds additional protections to existing law concerning student data privacy and transparency. A vendor is defined as an operator of a web site, on-line service, on-line application, or mobile application (site or service) with knowledge that the site or service is used primarily for public school purposes and was designed and marketed for public school purposes.

The bill prohibits vendors from:

! Engaging in targeted advertising if the targeting is based

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

upon any student information acquired because of the use of a vendor's site or service;

- ! Using information acquired through the site or service to create a profile of a student that is not in furtherance of a public school purpose;
- ! Selling a student's information; and
- ! Disclosing covered student information unless specific requirements are met.

The bill allows vendors to:

- ! Implement and maintain reasonable security procedures and practices;
- ! Delete a student's data at the request of the school or school district with control of the data;
- ! Disclose covered student information if required by state or federal law;
- ! Disclose covered student information for legitimate research purposes, provided applicable requirements of state and federal law are met;
- ! Disclose deidentified covered student information in order to improve the vendor's sites or services or other educational products or for marketing uses.

The bill does not:

- ! Limit the authority of law enforcement to access any information allowed by law or authorized by a court order;
- ! Apply to general audience sites and services or to internet service providers in the course of providing internet connectivity;
- ! Prohibit a vendor from marketing its product or services, provided the marketing did not result from the use of covered student information obtained by the vendor in violation of the bill;
- ! Impose duties on electronic stores, gateways, marketplaces, or other means of purchasing or downloading software or applications; or
- ! Impede the ability of a student to download, export, or otherwise save or maintain his or her own student-created data or documents.

The bill moves existing law related to parental written consent for obtaining and releasing data to part 3 of article 2 of title 22, C.R.S., along with other relevant law related to student data.

1 *Be it enacted by the General Assembly of the State of Colorado:*

1 **SECTION 1. In Colorado Revised Statutes, amend 22-2-301 as**
2 **follows:**

3 **22-2-301. Short title.** This part 3 shall be known and may be cited
4 as the "**Data Reporting and Technology PROTECTION Act**".

5 **SECTION 2. In Colorado Revised Statutes, add 22-2-310 as**
6 **follows:**

7 **22-2-310. Student data protection - accountability and**
8 **transparency - legislative declaration - definitions - prohibited actions**

9 **- remedies.** (1) **THE GENERAL ASSEMBLY FINDS THAT ALTHOUGH THERE**
10 **ARE FEDERAL STATUTES LIMITING THE USE OF STUDENT DATA COLLECTED**
11 **BY SCHOOLS, THESE STATUTES PRIMARILY GOVERN THE ACTIONS OF**
12 **SCHOOLS AND GOVERNMENT ENTITIES AND HAVE LESS APPLICABILITY TO**
13 **THIRD-PARTY VENDORS. THE EFFECTIVE USE OF STUDENT DATA TO**
14 **IMPROVE LEARNING REQUIRES A FRAMEWORK OF TRUST AROUND ITS USE.**

15 (2) **IT IS THEREFORE THE INTENT OF THE GENERAL ASSEMBLY TO**
16 **ACHIEVE THE FOLLOWING PURPOSES:**

17 (a) **TO ENSURE THE PRIVACY OF ALL PUBLIC SCHOOL STUDENTS BY**
18 **RESTRICTING THIRD-PARTY VENDORS FROM SHARING, MINING, SELLING, OR**
19 **USING PERSONALLY IDENTIFIABLE DATA COLLECTED BY SCHOOLS AND**
20 **SCHOOL DISTRICTS; AND**

21 (b) **TO PROHIBIT AN OPERATOR OF AN INTERNET WEB SITE, ON-LINE**
22 **SERVICE, ON-LINE APPLICATION, OR MOBILE APPLICATION FROM USING,**
23 **DISCLOSING, OR COMPILING PERSONAL INFORMATION OF A PUBLIC SCHOOL**
24 **STUDENT FOR THE PURPOSE OF MARKETING OR ADVERTISING.**

25 (3) **AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE**
26 **REQUIRES:**

27 (a) **"COVERED INFORMATION" MEANS PERSONALLY IDENTIFIABLE**

1 INFORMATION OR MATERIALS, IN ANY MEDIA OR FORMAT THAT IS:

2 (I) CREATED OR PROVIDED BY A STUDENT, OR THE STUDENT'S
3 PARENT OR LEGAL GUARDIAN, TO AN OPERATOR IN THE COURSE OF THE
4 STUDENT'S, PARENT'S, OR LEGAL GUARDIAN'S USE OF THE OPERATOR'S WEB
5 SITE, SERVICE, OR APPLICATION FOR PUBLIC SCHOOL PURPOSES;

6 (II) CREATED OR PROVIDED BY AN EMPLOYEE OR AGENT OF THE
7 PUBLIC SCHOOL, SCHOOL DISTRICT, CHARTER SCHOOL INSTITUTE, LOCAL
8 EDUCATION AGENCY, OR DEPARTMENT TO AN OPERATOR; OR

9 (III) GATHERED BY AN OPERATOR THROUGH THE OPERATION OF A
10 WEB SITE, ON-LINE SERVICE, OR ON-LINE APPLICATION THAT IS USED
11 PRIMARILY FOR PUBLIC SCHOOL PURPOSES, WAS DESIGNED AND MARKETED
12 FOR PUBLIC SCHOOL PURPOSES, AND IS DESCRIPTIVE OF OR OTHERWISE
13 IDENTIFIES A STUDENT. THIS INCLUDES, BUT IS NOT LIMITED TO:

14 (A) INFORMATION IN THE STUDENT'S EDUCATIONAL RECORD OR
15 ELECTRONIC MAIL;

16 (B) STUDENT DATA;

17 (C) FIRST AND LAST NAME, HOME ADDRESS, TELEPHONE NUMBER,
18 ELECTRONIC MAIL ADDRESS, OR ANY OTHER INFORMATION THAT ALLOWS
19 PHYSICAL OR ON-LINE CONTACT; OR

20 (D) DISCIPLINE OR CRIMINAL RECORDS, JUVENILE DEPENDENCY
21 RECORDS, MEDICAL OR HEALTH RECORDS, SOCIAL SECURITY NUMBER,
22 BIOMETRIC INFORMATION, DISABILITIES, SOCIOECONOMIC INFORMATION,
23 POLITICAL AFFILIATIONS, RELIGIOUS INFORMATION, TEXT MESSAGES,
24 DOCUMENTS, STUDENT IDENTIFIERS, SEARCH ACTIVITY, PHOTOS, VOICE
25 RECORDINGS, FOOD PURCHASES, OR GEOLOCATION INFORMATION.

26 (b) "EDUCATION RECORD" HAS THE SAME MEANING AS DEFINED IN
27 THE FEDERAL "FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT OF

1 1974", AS AMENDED, 20 U.S.C. SEC. 1232g. "EDUCATION RECORD"
2 INCLUDES AN INDIVIDUALIZED EDUCATION PROGRAM.

3 (c) "OPERATOR" MEANS ANY OPERATOR OF AN INTERNET WEB SITE;
4 AN ON-LINE SERVICE, INCLUDING CLOUD COMPUTING SERVICES; AN
5 ON-LINE APPLICATION; OR A MOBILE APPLICATION WITH ACTUAL
6 KNOWLEDGE THAT THE SITE, SERVICE, OR APPLICATION IS USED PRIMARILY
7 FOR PUBLIC SCHOOL PURPOSES AND WAS DESIGNED AND MARKETED FOR
8 PUBLIC SCHOOL PURPOSES. "OPERATOR" DOES NOT INCLUDE A SCHOOL, A
9 SCHOOL DISTRICT, THE CHARTER SCHOOL INSTITUTE, THE DEPARTMENT,
10 OR THE STATE BOARD.

11 (d) "PERSONALLY IDENTIFIABLE INFORMATION" HAS THE SAME
12 MEANING AS DEFINED IN THE FEDERAL "FAMILY EDUCATIONAL RIGHTS
13 AND PRIVACY ACT OF 1974", AS AMENDED, 20 U.S.C. SEC. 1232g.

14 (e) "PUBLIC SCHOOL PURPOSE" MEANS ANY PURPOSE THAT
15 CUSTOMARILY TAKES PLACE AT THE DIRECTION OF A PUBLIC SCHOOL,
16 TEACHER, SCHOOL DISTRICT, OR CHARTER SCHOOL, OR AIDS IN THE
17 ADMINISTRATION OF SCHOOL ACTIVITIES, INCLUDING, BUT NOT LIMITED
18 TO, INSTRUCTION IN THE CLASSROOM OR AT HOME, ADMINISTRATIVE
19 ACTIVITIES, AND COLLABORATION BETWEEN STUDENTS, SCHOOL
20 PERSONNEL, OR PARENTS, OR ANY OTHER PURPOSE THAT IS FOR THE USE
21 AND BENEFIT OF A PUBLIC SCHOOL OR CHARTER SCHOOL.

22 (f) "TARGETED ADVERTISING" MEANS DELIVERING
23 ADVERTISEMENTS TO A STUDENT WHERE THE ADVERTISEMENT IS
24 SELECTED BASED ON INFORMATION OBTAINED OR INFERRED FROM THAT
25 STUDENT'S ON-LINE VIEWING BEHAVIOR, USAGE OF APPLICATIONS, OR
26 COVERED INFORMATION. "TARGETED ADVERTISING" DOES NOT INCLUDE
27 USE OF SEARCH ENGINES OR RECOMMENDATION ENGINES, CONTEXTUAL

1 ADVERTISING, RUN OF NETWORK ADVERTISING, OR ADAPTIVE OR
2 INDIVIDUALIZED LEARNING.

3 (4) AN OPERATOR SHALL NOT KNOWINGLY ENGAGE IN ANY OF THE
4 FOLLOWING ACTIVITIES WITH RESPECT TO ITS WEB SITE, SERVICE, OR
5 APPLICATION:

6 (a) (I) ENGAGE IN TARGETED ADVERTISING ON THE OPERATOR'S
7 WEB SITE, SERVICE, OR APPLICATION; OR

8 (II) TARGET ADVERTISING ON ANY OTHER WEB SITE, SERVICE, OR
9 APPLICATION WHEN THE TARGETING OF THE ADVERTISING IS BASED UPON
10 ANY INFORMATION, INCLUDING COVERED INFORMATION AND PERSISTENT
11 UNIQUE IDENTIFIERS, THAT THE OPERATOR HAS ACQUIRED BECAUSE OF
12 THE USE OF THAT OPERATOR'S WEB SITE, SERVICE, OR APPLICATION;

13 (b) USE INFORMATION, INCLUDING PERSISTENT UNIQUE
14 IDENTIFIERS, CREATED OR GATHERED BY THE OPERATOR'S WEB SITE,
15 SERVICE, OR APPLICATION, TO AMASS A PROFILE ABOUT A PUBLIC SCHOOL
16 STUDENT, EXCEPT IN FURTHERANCE OF A PUBLIC SCHOOL PURPOSE.
17 AMASSING A PROFILE DOES NOT INCLUDE COLLECTION AND RETENTION OF
18 ACCOUNT RECORDS OR INFORMATION THAT REMAINS UNDER THE CONTROL
19 OF THE STUDENT, PARENT, SCHOOL, OR SCHOOL DISTRICT.

20 (c) SELL A STUDENT'S INFORMATION, INCLUDING COVERED
21 INFORMATION. THIS PROHIBITION DOES NOT APPLY TO THE PURCHASE,
22 MERGER, OR OTHER TYPE OF ACQUISITION OF AN OPERATOR BY ANOTHER
23 ENTITY, PROVIDED THAT THE OPERATOR OR SUCCESSOR ENTITY
24 CONTINUES TO COMPLY WITH THE PROVISIONS OF THIS SECTION
25 CONCERNING PREVIOUSLY ACQUIRED STUDENT INFORMATION.

26 (d) DISCLOSE COVERED INFORMATION UNLESS THE DISCLOSURE IS
27 MADE, TO THE EXTENT REASONABLY NECESSARY:

1 (I) IN FURTHERANCE OF THE PUBLIC SCHOOL PURPOSE OF THE WEB
2 SITE, SERVICE, OR APPLICATION, PROVIDED THE RECIPIENT OF THE
3 COVERED INFORMATION DISCLOSED PURSUANT TO THIS PARAGRAPH (d):

4 (A) DOES NOT FURTHER DISCLOSE THE COVERED INFORMATION
5 UNLESS DONE TO ALLOW OR IMPROVE OPERABILITY AND FUNCTIONALITY
6 WITHIN THAT STUDENT'S CLASSROOM OR SCHOOL; AND

7 (B) IS LEGALLY REQUIRED TO COMPLY WITH SUBSECTION (6) OF
8 THIS SECTION;

9 (II) TO PROTECT THE SECURITY OR INTEGRITY OF ITS WEB SITE,
10 SERVICE, OR APPLICATION;

11 (III) TO TAKE PRECAUTIONS AGAINST LIABILITY;

12 (IV) TO RESPOND TO THE JUDICIAL PROCESS;

13 (V) TO THE EXTENT PERMITTED UNDER OTHER PROVISIONS OF
14 LAW, TO PROVIDE INFORMATION TO LAW ENFORCEMENT AGENCIES OR FOR
15 AN INVESTIGATION ON A MATTER RELATED TO PUBLIC SAFETY; OR

16 (VI) TO A SERVICE PROVIDER, PROVIDED THAT THE OPERATOR
17 CONTRACTUALLY;

18 (A) PROHIBITS THE SERVICE PROVIDER FROM USING ANY COVERED
19 INFORMATION FOR ANY PURPOSE OTHER THAN PROVIDING THE
20 CONTRACTED SERVICE TO, OR ON BEHALF OF, THE OPERATOR;

21 (B) PROHIBITS THE SERVICE PROVIDER FROM DISCLOSING ANY
22 COVERED INFORMATION PROVIDED BY THE OPERATOR WITH SUBSEQUENT
23 THIRD PARTIES, EXCEPT TO THE EXTENT NECESSARY TO CARRY OUT
24 LEGITIMATE EDUCATIONAL FUNCTIONS DELEGATED TO IT BY THE AGENCY
25 OR INSTITUTION; AND

26 (C) REQUIRES THE SERVICE PROVIDER TO IMPLEMENT AND
27 MAINTAIN REASONABLE SECURITY PROCEDURES AND PRACTICES AS

1 PROVIDED FOR IN SUBSECTION (6) OF THIS SECTION.

2 (5) NOTHING IN SUBSECTION (4) OF THIS SECTION SHALL BE
3 CONSTRUED TO PROHIBIT THE OPERATOR'S USE OF INFORMATION FOR
4 MAINTAINING, DEVELOPING, SUPPORTING, IMPROVING, OR DIAGNOSING
5 THE OPERATOR'S WEB SITE, SERVICE, OR APPLICATION.

6 (6) AN OPERATOR SHALL:

7 (a) IMPLEMENT AND MAINTAIN REASONABLE SECURITY
8 PROCEDURES AND PRACTICES THAT, AT A MINIMUM, MEET THE
9 REQUIREMENTS DEVELOPED BY THE DEPARTMENT AND STATE BOARD
10 PURSUANT TO SECTION 22-2-309 AND THAT ARE APPROPRIATE TO THE
11 NATURE OF THE COVERED INFORMATION AND PROTECT THAT
12 INFORMATION FROM UNAUTHORIZED ACCESS, DESTRUCTION, USE,
13 MODIFICATION, OR DISCLOSURE;

14 (b) DELETE A STUDENT'S COVERED INFORMATION IF THE PUBLIC
15 SCHOOL, SCHOOL DISTRICT, CHARTER SCHOOL, OR CHARTER SCHOOL
16 INSTITUTE REQUESTS SUCH DELETION OF ANY DATA UNDER THE CONTROL
17 OF THE PUBLIC SCHOOL, SCHOOL DISTRICT, CHARTER SCHOOL OR CHARTER
18 SCHOOL INSTITUTE;

19 (c) PUBLICLY AND CONSPICUOUSLY POST:

20 (I) THE NAME, CONTACT INFORMATION, AND LOCATION OF ANY
21 DATA REPOSITORY WHERE ANY COVERED INFORMATION WOULD BE
22 MAINTAINED BY THE OPERATOR, SERVICE PROVIDER, OR OTHER THIRD
23 PARTY TO WHOM THE OPERATOR DISCLOSED THE COVERED INFORMATION;

24 (II) THE PRINCIPAL PURPOSE OR PURPOSES FOR WHICH THE
25 COVERED INFORMATION IS INTENDED TO BE USED;

26 (III) A DATA DICTIONARY OF THE COVERED INFORMATION OR ANY
27 OTHER INFORMATION THAT IS COLLECTED OR MAINTAINED BY THE

1 OPERATOR, SERVICE PROVIDER, OR OTHER THIRD PARTY TO WHOM THE
2 OPERATOR DISCLOSED COVERED INFORMATION;

3 (IV) THE PROCESS BY WHICH COVERED INFORMATION IS
4 COLLECTED;

5 (V) THE OPERATOR'S POLICIES AND PRACTICES REGARDING
6 STORAGE, RETRIEVABILITY, ACCESS CONTROLS, RETENTION, AND DISPOSAL
7 OF COVERED INFORMATION;

8 (VI) DATE OF ANY TRANSFER, MERGE, OR SHARE OF COVERED
9 INFORMATION; AND

10 (VII) THE NAME AND CONTACT INFORMATION OF THE SOURCE AND
11 CONTENTS OF ANY DATA SETS MERGED WITH ANY COVERED INFORMATION
12 MAINTAINED BY THE OPERATOR; AND

13 (d) RETAIN PERSONAL INFORMATION COLLECTED ON-LINE FROM
14 A STUDENT FOR ONLY AS LONG AS IS REASONABLY NECESSARY TO FULFILL
15 THE PURPOSE FOR WHICH THE INFORMATION WAS COLLECTED, BUT IN NO
16 INSTANCE LONGER THAN THREE YEARS. THE OPERATOR SHALL DELETE
17 SUCH INFORMATION USING REASONABLE MEASURES TO PROTECT AGAINST
18 UNAUTHORIZED ACCESS TO OR USE OF THE INFORMATION IN CONNECTION
19 WITH ITS DELETION.

20 (7) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (d) OF
21 SUBSECTION (4) OF THIS SECTION, AN OPERATOR MAY DISCLOSE COVERED
22 INFORMATION OF A STUDENT UNDER THE FOLLOWING CIRCUMSTANCES, AS
23 LONG AS PARAGRAPHS (a) TO (c) OF SUBSECTION (4) OF THIS SECTION,
24 INCLUSIVE, ARE NOT VIOLATED:

25 (a) IF OTHER PROVISIONS OF STATE OR FEDERAL LAW REQUIRE THE
26 OPERATOR TO DISCLOSE THE COVERED INFORMATION AND THE OPERATOR
27 COMPLIES WITH THE APPLICABLE REQUIREMENTS OF STATE AND FEDERAL

1 LAW IN PROTECTING AND DISCLOSING THE INFORMATION;
2 (b) FOR LEGITIMATE RESEARCH PURPOSES APPROVED BY THE
3 SCHOOL DISTRICT OR THE CHARTER SCHOOL INSTITUTE:
4 (I) AS REQUIRED BY STATE OR FEDERAL LAW AND SUBJECT TO THE
5 RESTRICTIONS UNDER APPLICABLE STATE AND FEDERAL LAW; OR
6 (II) AS ALLOWED BY STATE OR FEDERAL LAW AND UNDER THE
7 DIRECTION OF A PUBLIC SCHOOL, SCHOOL DISTRICT, CHARTER SCHOOL,
8 CHARTER SCHOOL INSTITUTE, OR THE DEPARTMENT, IF NO COVERED
9 INFORMATION IS USED FOR ANY PURPOSE IN FURTHERANCE OF
10 ADVERTISING OR TO AMASS A PROFILE ON A STUDENT FOR A PURPOSE
11 OTHER THAN A PUBLIC SCHOOL PURPOSE; AND
12 (c) TO A STATE OR LOCAL EDUCATION AGENCY, INCLUDING PUBLIC
13 SCHOOLS, SCHOOL DISTRICTS, CHARTER SCHOOLS, OR THE CHARTER
14 SCHOOL INSTITUTE FOR A PUBLIC SCHOOL PURPOSE, AS PERMITTED BY
15 STATE OR FEDERAL LAW.
16 (8) NOTHING IN THIS SECTION PROHIBITS AN OPERATOR FROM
17 USING DEIDENTIFIED COVERED INFORMATION AS FOLLOWS:
18 (a) WITHIN THE OPERATOR'S WEB SITE, SERVICE, OR APPLICATION,
19 OR OTHER WEB SITES, SERVICES, OR APPLICATIONS OWNED BY THE
20 OPERATOR, TO IMPROVE ITS EDUCATIONAL PRODUCTS; OR
21 (b) TO DEMONSTRATE THE EFFECTIVENESS OF THE OPERATOR'S
22 PRODUCTS OR SERVICES, INCLUDING ITS MARKETING.
23 (9) NOTHING IN THIS SECTION PROHIBITS AN OPERATOR FROM
24 SHARING AGGREGATED AND DEIDENTIFIED COVERED INFORMATION FOR
25 THE DEVELOPMENT AND IMPROVEMENT OF EDUCATIONAL WEB SITES,
26 SERVICES, OR APPLICATIONS.
27 (10) THIS SECTION DOES NOT:

1 (a) LIMIT THE AUTHORITY OF A LAW ENFORCEMENT AGENCY TO
2 OBTAIN ANY CONTENT OR INFORMATION FROM AN OPERATOR AS
3 AUTHORIZED BY LAW OR PURSUANT TO AN ORDER OF A COURT OF
4 COMPETENT JURISDICTION;

5 (b) LIMIT THE ABILITY OF AN OPERATOR TO USE STUDENT DATA,
6 INCLUDING COVERED INFORMATION, FOR ADAPTIVE LEARNING OR
7 CUSTOMIZED STUDENT LEARNING PURPOSES;

8 (c) APPLY TO GENERAL-AUDIENCE INTERNET WEB SITES, ON-LINE
9 SERVICES, ON-LINE APPLICATIONS, OR MOBILE APPLICATIONS, EVEN IF
10 LOG-IN CREDENTIALS CREATED FOR AN OPERATOR'S WEB SITE, SERVICE, OR
11 APPLICATION MAY BE USED TO ACCESS THE GENERAL-AUDIENCE WEB SITE,
12 SERVICE, APPLICATION, OR MOBILE APPLICATION;

13 (d) LIMIT INTERNET SERVICE PROVIDERS FROM PROVIDING
14 INTERNET CONNECTIVITY TO SCHOOLS OR STUDENTS AND THEIR FAMILIES;

15 (e) PROHIBIT AN OPERATOR OF AN INTERNET WEB SITE, ON-LINE
16 SERVICE, ON-LINE APPLICATION, OR MOBILE APPLICATION FROM
17 MARKETING EDUCATIONAL PRODUCTS DIRECTLY TO PARENTS, SO LONG AS
18 THE MARKETING DID NOT RESULT FROM THE USE OF COVERED
19 INFORMATION OBTAINED BY THE OPERATOR THROUGH THE PROVISION OF
20 SERVICES COVERED UNDER THIS SECTION;

21 (f) IMPOSE A DUTY UPON A PROVIDER OF AN ELECTRONIC STORE,
22 GATEWAY, MARKETPLACE, OR OTHER MEANS OF PURCHASING OR
23 DOWNLOADING SOFTWARE OR APPLICATIONS TO REVIEW OR ENFORCE
24 COMPLIANCE OF THIS SECTION ON THOSE APPLICATIONS OR SOFTWARE;

25 (g) IMPOSE A DUTY UPON A PROVIDER OF AN INTERACTIVE
26 COMPUTER SERVICE, AS DEFINED IN SECTION 230 OF TITLE 47, U.S.C., TO
27 REVIEW OR ENFORCE COMPLIANCE WITH THIS SECTION BY THIRD-PARTY

1 CONTENT PROVIDERS; AND

2 (h) IMPEDE THE ABILITY OF A STUDENT TO DOWNLOAD, EXPORT,
3 OR OTHERWISE SAVE OR MAINTAIN HIS OR HER STUDENT-CREATED DATA
4 OR DOCUMENTS.

5 (11) ANY INTERESTED PARTY MAY MAKE AN INITIAL REPORT OF
6 ALLEGED VIOLATIONS OF THIS SECTION TO THE DEPARTMENT. THE
7 DEPARTMENT SHALL CONTACT THE OPERATOR DIRECTLY AND PROVIDE
8 THE OPERATOR WITH THE OPPORTUNITY TO EXPLAIN OR RECTIFY. IF THE
9 DEPARTMENT CONTINUES TO RECEIVE COMPLAINTS ABOUT THE SAME
10 OPERATOR, IT MAY BRING THE ISSUE TO THE OFFICE OF THE ATTORNEY
11 GENERAL FOR REVIEW AND ACTION.

12 **SECTION 3.** In Colorado Revised Statutes, add 22-2-311 as
13 follows:

14 **22-2-311. Data protection - disclosure and transparency -**
15 **definition.** (1) BEGINNING WITH THE START OF THE 2015-16 ACADEMIC
16 YEAR, AND AT THE START OF EACH ACADEMIC YEAR THEREAFTER:

17 (a) EACH SCHOOL DISTRICT, CHARTER SCHOOL, AND THE CHARTER
18 SCHOOL INSTITUTE SHALL PROVIDE AN ANNUAL NOTICE TO PARENTS AND
19 LEGAL GUARDIANS LISTING ALL OPERATORS WITH WHOM THE SCHOOL
20 DISTRICT, CHARTER SCHOOL, OR CHARTER SCHOOL INSTITUTE HAS
21 ENTERED INTO A NEGOTIATED CONTRACT, EXCLUDING END-USER
22 AGREEMENTS, THAT PROVIDES FOR THE TRANSFER OF COVERED
23 INFORMATION FOR THE UPCOMING ACADEMIC YEAR; AND

24 (b) EACH OPERATOR THAT HAS ENTERED INTO A NEGOTIATED
25 CONTRACT, EXCLUDING END-USER AGREEMENTS, WITH A SCHOOL
26 DISTRICT, CHARTER SCHOOL, OR THE CHARTER SCHOOL INSTITUTE FOR THE
27 UPCOMING ACADEMIC YEAR SHALL POST ALL SUCH CONTRACTS ON THE

1 OPERATOR'S WEB SITE.

2 (2) THE REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION DO
3 NOT APPLY TO RURAL PUBLIC SCHOOLS, RURAL SCHOOL DISTRICTS, OR
4 RURAL CHARTER SCHOOLS AS THOSE TERMS ARE DEFINED BY THE
5 DEPARTMENT.

6 (3) AS USED IN THIS SECTION, "OPERATOR" MEANS ANY OPERATOR
7 OF AN INTERNET WEB SITE; AN ON-LINE SERVICE, INCLUDING CLOUD
8 COMPUTING SERVICES; AN ON-LINE APPLICATION; OR A MOBILE
9 APPLICATION WITH ACTUAL KNOWLEDGE THAT THE SITE, SERVICE, OR
10 APPLICATION IS USED PRIMARILY FOR PUBLIC SCHOOL PURPOSES AND WAS
11 DESIGNED AND MARKETED FOR PUBLIC SCHOOL PURPOSES. "OPERATOR"
12 DOES NOT INCLUDE A SCHOOL, A SCHOOL DISTRICT, THE DEPARTMENT, OR
13 THE STATE BOARD.

14 **SECTION 4. In Colorado Revised Statutes, 22-1-123, add (14)**
15 **as follows:**

16 **22-1-123. Protection of student data - parental or legal**
17 **guardian consent for surveys. (14) (a) IF A PUBLIC SCHOOL, SCHOOL**
18 **DISTRICT, CHARTER SCHOOL, OR THE CHARTER SCHOOL INSTITUTE**
19 **UTILIZES CLOUD COMPUTING SERVICES, WEB SITES, ON-LINE PROGRAMS,**
20 **OR APPLICATIONS THAT COLLECT OR STORE STUDENT INFORMATION,**
21 **WHETHER THE INFORMATION IS PERSONALLY IDENTIFIABLE OR NOT, IT**
22 **SHALL DEVELOP AN EDUCATION TECHNOLOGY PLAN THAT PROVIDES FOR**
23 **THE FOLLOWING:**

24 **(I) ANNUAL NOTICE TO PARENTS AND LEGAL GUARDIANS**
25 **CONCERNING THE TYPE OF DATA TRANSFERRED TO CLOUD COMPUTING**
26 **SERVICE PROVIDERS;**

27 **(II) TRAINING FOR STUDENTS AND STAFF CONCERNING THE**

1 APPROPRIATE USE OF TECHNOLOGY, INCLUDING SAFETY AND PRIVACY
2 SAFEGUARDS AND PROTOCOLS; AND

3 (III) NOTICE TO THE PARENT OR LEGAL GUARDIAN IF THERE IS A
4 SECURITY BREACH OR OTHER UNAUTHORIZED DISCLOSURE OF HIS OR HER
5 CHILD'S INFORMATION.

6 (b) THE PROVISIONS OF THIS SECTION DO NOT APPLY TO RURAL
7 PUBLIC SCHOOLS, RURAL SCHOOL DISTRICTS, OR RURAL CHARTER
8 SCHOOLS, AS THOSE TERMS ARE DEFINED BY THE DEPARTMENT OF
9 EDUCATION.

10 SECTION 5. In Colorado Revised Statutes, amend 22-2-106.5
11 as follows:

12 22-2-106.5. State board - duties with regard to student data -
13 memorandum of understanding. (1) Notwithstanding the provisions of
14 section 22-2-111 (3) (a), the state board shall enter into a memorandum
15 of understanding on or before September 1, 2006, with the Colorado
16 commission on higher education to adopt a policy to share student data.
17 At a minimum, the policy shall ensure that the exchange of information
18 is conducted in conformance with the requirements of the federal "Family
19 Educational Rights and Privacy Act of 1974", as amended, 20 U.S.C. sec.
20 1232g, and all federal regulations and applicable guidelines adopted in
21 accordance therewith. The policy shall additionally require the state
22 board, upon request, to share student data with qualified researchers. For
23 purposes of this section, qualified researchers shall include, but need not
24 be limited to, institutions of higher education, school districts, and public
25 policy research and advocacy organizations.

26 (2) ANY RELEASE OF DATA PURSUANT TO SUBSECTION (1) OF THIS
27 SECTION MUST CONFORM TO THE REQUIREMENTS OF SECTION 22-2-310.

1 **SECTION 6.** In Colorado Revised Statutes, 22-2-111, **add** (4) as
2 follows:

3 **22-2-111. Commissioner of education - office - records -**
4 **confidential nature.** (4) ANY RELEASE OF DATA PURSUANT TO
5 SUBSECTION (3) OF THIS SECTION MUST CONFORM TO THE REQUIREMENTS
6 OF SECTION 22-2-310.

7 **SECTION 7.** In Colorado Revised Statutes, 25-1-1202, **amend**
8 (1) (II) as follows:

9 **25-1-1202. Index of statutory sections regarding medical**
10 **record confidentiality and health information.** (1) Statutory provisions
11 concerning policies, procedures, and references to the release, sharing,
12 and use of medical records and health information include the following:

13 (II) ~~Section~~ SECTIONS 22-1-123 (5) AND 22-2-310, C.R.S.,
14 concerning the protection of student data;

15 **SECTION 8. Act subject to petition - effective date.** This act
16 takes effect at 12:01 a.m. on the day following the expiration of the
17 ninety-day period after final adjournment of the general assembly
18 (August 5, 2015, if adjournment sine die is on May 6, 2015); except that,
19 if a referendum petition is filed pursuant to section 1 (3) of article V of
20 the state constitution against this act or an item, section, or part of this act
21 within such period, then the act, item, section, or part will not take effect
22 unless approved by the people at the general election to be held in
23 November 2016 and, in such case, will take effect on the date of the
24 official declaration of the vote thereon by the governor.