

SECOND REGULAR SESSION

# SENATE BILL NO. 819

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WALLINGFORD.

Read 1st time February 3, 2014, and ordered printed.

TERRY L. SPIELER, Secretary.

5666S.011

## AN ACT

To amend chapters 1 and 160, RSMo, by adding thereto nineteen new sections relating to protecting personal privacy from government intrusion, with penalty provisions and an emergency clause.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Chapters 1 and 160, RSMo, are amended by adding thereto  
2 nineteen new sections, to be known as sections 1.270, 1.275, 1.280, 160.1500,  
3 160.1503, 160.1506, 160.1509, 160.1512, 160.1515, 160.1518, 160.1521, 160.1524,  
4 160.1527, 160.1530, 160.1533, 160.1536, 160.1539, 160.1542, and 160.1545, to  
5 read as follows:

**1.270. 1. Sections 1.270 to 1.280 shall be known and may be cited  
2 as the "Fourth Amendment Protection Act."**

**3 2. It is the policy of the state of Missouri to refuse material  
4 support, participation, or assistance to any federal agency which claims  
5 the power, or with any federal law, rule, regulation, or order which  
6 purports to authorize the collection of electronic data or metadata of  
7 any person pursuant to any action not based on a warrant that  
8 particularly describes the person, place, and thing to be searched or  
9 seized.**

**1.275. Notwithstanding any provision of law to the contrary, no  
2 agency of this state, political subdivision, or employee of an agency or  
3 political subdivision acting in his or her official capacity, or  
4 corporation or contractor providing services on behalf of this state or  
5 a political subdivision of this state shall:**

**6 (1) Provide material support, participation, or assistance in any  
7 form with any federal agency which claims the power, or with any**

8 federal law, rule, regulation, or order which purports to authorize, the  
9 collection of electronic data or metadata of any person pursuant to any  
10 action not based on a warrant that particularly describes the person,  
11 place, and thing to be searched or seized;

12 (2) Utilize any assets, state funds, or funds allocated by the state  
13 to local entities on or after the effective date of sections 1.270 to 1.280,  
14 in whole or in part, to engage in any activity that aids a federal agency,  
15 federal agent, or corporation or contractor providing services to the  
16 federal government in the collection of electronic data or metadata of  
17 any person pursuant to any action not based on a warrant that  
18 particularly describes the person, place, and thing to be searched or  
19 seized;

20 (3) Provide services, or participate or assist in any way with the  
21 providing of services, to a federal agency, federal agent, or corporation  
22 or contractor providing services to the federal government which is  
23 involved in the collection of electronic data or metadata of any person  
24 pursuant to any action not based on a warrant that particularly  
25 describes the person, place, and thing to be searched or seized.

1.280. 1. A political subdivision of this state shall not receive  
2 state grant funds if the political subdivision adopts a rule, order,  
3 ordinance, or policy under which the political subdivision violates the  
4 provisions of section 1.275. State grant funds for the political  
5 subdivision shall be denied for the fiscal year following the year in  
6 which a final judicial determination in an action brought under this  
7 section is made that the political subdivision has intentionally required  
8 actions which violate the provisions of section 1.275.

9 2. Any agent or employee of this state, or of any political  
10 subdivision of this state, who knowingly violates the provisions of  
11 section 1.275 shall be deemed to have resigned any commission from the  
12 state of which he or she may possess, his or her office shall be deemed  
13 vacant, and he or she shall be forever thereafter ineligible to any office  
14 of trust, honor, or emolument under the laws of this state.

15 3. Any corporation or person that provides services to or on  
16 behalf of this state and violates the provisions of section 1.275 shall be  
17 forever ineligible to act on behalf of, or provide services to, this state  
18 or any political subdivision of this state.

160.1500. 1. As used in sections 160.1500 to 160.1545, the

2 following terms shall mean:

3 (1) "Affective computing", systems and devices that can or  
4 attempt to recognize, interpret, process, or simulate aspects of human  
5 feelings or emotions;

6 (2) "Biometric record", a record of one or more measurable  
7 biological or behavioral characteristics that can be used for automated  
8 recognition of an individual, including fingerprints, retina and iris  
9 patterns, voice prints, DNA sequence, including newborn screening  
10 information, facial characteristics, and handwriting;

11 (3) "Cloud computing service", a service that enables on-demand  
12 network access to a shared pool of configurable computing resources,  
13 including but not limited to networks, servers, storage, applications,  
14 and services to provide a student, teacher, or staff member account-  
15 based productivity applications, including but not limited to email,  
16 document storage and document editing that can be rapidly  
17 provisioned and released with minimal management effort, or cloud-  
18 computing service-provider interaction. A cloud computing service has  
19 the characteristics of on-demand self-service, broad network access,  
20 resource pooling, rapid elasticity, and measured service;

21 (4) "Cloud computing service provider", an entity, other than an  
22 education institution, that operates a cloud computing service;

23 (5) "Department", the department of elementary and secondary  
24 education;

25 (6) "Education institution" or "institution", any school district,  
26 charter school, private school, community college, and any public or  
27 private institution of higher education;

28 (7) "Education program", a program of instruction administered  
29 by an education institution within this state;

30 (8) "Interpersonal resources" or "interpersonal skills",  
31 noncognitive, emotional, and psychological characteristics and  
32 attributes and skills used to manage relationships and interactions  
33 among or between individuals;

34 (9) "Intrapersonal resources" or "intrapersonal skills",  
35 noncognitive, emotional, and psychological characteristics and  
36 attributes used to manage emotions and attitudes within an individual;

37 (10) "Predictive modeling", the use of educational data-mining  
38 methods to make predictions about future behaviors or performance;

39 (11) "Process" or "processing", to use, access, manipulate, scan,  
40 modify, transform, disclose, store, transmit, transfer, retain, aggregate,  
41 or dispose of student or teacher data;

42 (12) "Psychological resources", noncognitive, emotional  
43 characteristics, attributes, and skills, including mindsets, learning  
44 strategies, and effortful control, used by an individual to address or  
45 manage various life situations;

46 (13) "State agencies", includes the department, the department of  
47 higher education, the state board of education, the P-20 Council, the  
48 coordinating board for early childhood, the coordinating board for  
49 higher education, and companion student-finance agencies, any  
50 regional education service agency, any other state education entity, or  
51 any entity with which a state agency has entered into an agreement for  
52 the sharing of agency data;

53 (14) "Student database", the Missouri Student Information System  
54 (MOSIS), as well as any other data system or data warehouse  
55 containing student information, including regional, interstate, or  
56 federal data warehouse organizations under contract to or with a  
57 memorandum of understanding with the department;

58 (15) "Teacher records", shall apply to teachers, paraprofessionals,  
59 principals, and other administrators and shall mean the following:

60 (a) Address;

61 (b) Birthdate;

62 (c) Compensation information;

63 (d) Email address;

64 (e) Name;

65 (f) Performance evaluations;

66 (g) Resume information;

67 (h) Social Security number;

68 (i) Telephone number; and

69 (j) Other information that, alone or in combination, is linked or  
70 linkable to a specific staff member that would allow a reasonable  
71 person in the school community, who does not have personal knowledge  
72 of the relevant circumstances, to identify the staff member with  
73 reasonable certainty;

74 (16) "Track", to collect and maintain records of a student's  
75 activities once the student exits the education system, including but not

76 limited to the student's entrance into and progression through the  
77 workforce or the military;

78 (17) "Workforce information", information related to  
79 unemployment insurance, wage records, unemployment insurance  
80 benefit claims, or employment and earnings data from workforce data  
81 sources, such as state wage records, wage record interchange system,  
82 or the federal employment data exchange system;

83 (18) "Written consent", written consent given within six months  
84 before the data collection or disclosure consented to, specifically  
85 referencing that data collection or disclosure, and dated and signed on  
86 the same day.

87 2. As used in sections 160.1500 to 160.1545, the following terms  
88 shall have the same meaning as defined in 34 C.F.R. §99.3:

89 (1) "Disclosure";

90 (2) "Education records";

91 (3) "Eligible student";

92 (4) "Parent";

93 (5) "Party";

94 (6) "Personally identifiable information";

95 (7) "Record"; and

96 (8) "Student".

160.1503. 1. Student data collected by any state agency or  
2 education institution without the written consent of parents for any  
3 student under the age of eighteen or eligible students shall be limited  
4 to the following:

5 (1) Name, address, email address, and family contact  
6 information;

7 (2) Assessment results of the statewide assessment system;

8 (3) Course taking and completion, credits earned, course grades,  
9 grade point average, date of birth, grade level, and expected graduation  
10 date and graduation cohort;

11 (4) Degree, diploma, or credential attainment;

12 (5) Enrollment, attendance, and transfers;

13 (6) Medical, health, and mental-health records limited to  
14 immunization records required by state law, records needed or created  
15 by a school-based health professional for administering prescription  
16 drugs or otherwise treating a student at school, records needed or

17 created by a school-based counselor when a student seeks counseling  
18 while at school, or records required by the Individuals with Disabilities  
19 Education Act or section 504 of the Rehabilitation Act;

20 (7) Discipline reports limited to objective information about  
21 disciplinary incidents or required to be disclosed to appropriate law  
22 enforcement authorities under section 160.261 or, for institutions of  
23 higher education, objective information sufficient to produce the Title  
24 IV Annual Incident Report pursuant to the Clery Act, 20 U.S.C. Section  
25 1092(f);

26 (8) Juvenile delinquency or other criminal or correctional  
27 records if necessary to meet the educational needs of the student or to  
28 ensure staff or student safety or that may be required to be provided  
29 to appropriate law enforcement authorities under section 160.261,  
30 provided that an institution of higher education may collect records  
31 sufficient to produce the Title IV Annual Incident Report pursuant to  
32 the Clery Act, 20 U.S.C. Section 1092(f), and may collect law  
33 enforcement unit records in accordance with 34 C.F.R. §99.8;

34 (9) Remediation data;

35 (10) Special education data, limited to data required by the  
36 Individuals with Disabilities Education Act or Section 504 of the  
37 Rehabilitation Act;

38 (11) Demographic data, limited to that required by the federal  
39 Elementary and Secondary Education Act, including race, economic  
40 status, disability status, and English language proficiency status;

41 (12) Student workforce information, limited to information  
42 related to work-study programs participated in for academic credit;

43 (13) Student or family Social Security numbers, only if needed  
44 by an institution of higher education to comply with state or federal  
45 law;

46 (14) Student or family income data, limited to data required by  
47 law to determine eligibility to participate in or receive financial  
48 assistance under a program; and

49 (15) Information about extracurricular activities, limited to  
50 activities that are school-sponsored or engaged in for academic credit.

51 2. A state agency or education institution shall obtain written  
52 consent from parents or eligible students as defined in subsection 2 of  
53 section 160.1500 before collecting any data points other than those

54 listed in subsection 1 of this section, including but not limited to the  
55 following:

56 (1) Medical, health information, including but not limited to  
57 height, weight, and body mass index, and mental health records, except  
58 as provided in subdivision (6) of subsection 1 of this section;

59 (2) Student or family workforce information, except as provided  
60 in subdivision (12) of subsection 1 of this section;

61 (3) Student biometric records;

62 (4) Any data collected via affective computing, including analysis  
63 of facial expressions, EEG brain wave patterns, skin conductance,  
64 galvanic skin response, heart-rate variability, pulse, blood volume,  
65 posture, and eye-tracking;

66 (5) Any data, including any data resulting from state or national  
67 assessments, that measure psychological resources, mindsets, learning  
68 strategies, effortful control, attributes, dispositions, social skills,  
69 attitudes, or intrapersonal resources;

70 (6) Any data collected through predictive modeling; and

71 (7) Information about student or family religious affiliation.

72 3. No funds, whether from federal Race to the Top grants,  
73 American Reinvestment and Recovery Act funds, or any other source,  
74 shall be used on construction, enhancement, or expansion of any data  
75 system that does not comply with the provisions of section 160.1500 to  
76 160.1545, or that is designed to track students beyond their K-12 or  
77 postsecondary education careers or compile their personal,  
78 nonacademic information beyond what is necessary for either  
79 administrative functions directly related to the student's education, or  
80 evaluation of academic programs and student progress.

81 4. No state agency or education institution shall pursue or accept  
82 any grant, whether from the federal government or any private entity,  
83 that would require collecting or reporting any types of data in violation  
84 of this section.

160.1506. 1. State agencies and education institutions shall  
2 publicly and conspicuously disclose on their websites the existence and  
3 character of any personally identifiable information from education  
4 records or teacher records maintained by the agencies or education  
5 institutions, directly or through contracts with outside  
6 parties. Education institutions shall annually notify parents, eligible

7 students, and teachers of this required website posting. State agencies  
8 shall also provide annual electronic notification of this information to  
9 the chairs of the senate education committee, house of representatives  
10 elementary and secondary education committee, and the joint  
11 committee on education. Such disclosure and electronic notifications  
12 shall include the following:

13 (1) The legal authority that authorizes the establishment and  
14 existence of the data repository;

15 (2) The principal purpose or purposes for which the information  
16 is intended to be used;

17 (3) The categories of individuals on whom records are  
18 maintained in the data repository;

19 (4) The categories of records maintained in the data repository;

20 (5) Each expected disclosure of the records contained in the data  
21 repository, including the categories of recipients and the purpose of  
22 such disclosure;

23 (6) The policies and practices of the state agency or education  
24 institution regarding storage, retrievability, access controls, retention,  
25 and disposal of the records;

26 (7) The title and business address of the official who is  
27 responsible for the data repository, and the name and business address  
28 of any contractor or other outside party maintaining the data  
29 repository for or on behalf of the state agency or education institution;

30 (8) The procedures whereby parents or eligible students, or  
31 teachers, can be notified at their request if the data repository contains  
32 a record pertaining to that student or teacher; and

33 (9) The procedures whereby parents or eligible students, or  
34 teachers, can be notified at their request how to gain access to any  
35 record pertaining to that student or teacher contained in the data  
36 repository, and how they can contest its content.

37 2. Upon request, parents and eligible students shall be provided  
38 a printed copy of their education records that are held in an education  
39 database, and shall have the right to correct those education records  
40 in a manner that is consistent with requirements of state and federal  
41 law.

42 3. State agencies shall use only aggregate data in published  
43 reports.

160.1509. No state or national student assessment shall be  
2 adopted or administered in this state by any school district or charter  
3 school that collects any type of psychological data, including  
4 assessment of noncognitive skills or attributes, psychological resources,  
5 mindsets, learning strategies, effortful control, attitudes, dispositions,  
6 social skills, or other interpersonal or intrapersonal resources.

160.1512. No state agency, school board, or education institution  
2 offering grades prekindergarten through twelve shall administer any  
3 student survey, assessment, analysis, evaluation, or similar instrument  
4 that solicits information about the student or the student's family  
5 concerning the following:

- 6 (1) Political affiliations or beliefs;
- 7 (2) Mental or psychological problems, psychological resources,  
8 mindsets, learning strategies, effortful control, attributes, dispositions,  
9 social skills, attitudes, or intrapersonal resources;
- 10 (3) Sexual behavior or attitudes;
- 11 (4) Illegal, antisocial, self-incriminating, or demeaning behavior;
- 12 (5) Critical appraisals of another individual with whom a student  
13 has a close family relationship;
- 14 (6) Legally recognized privileged or analogous relationships,  
15 such as those with a lawyer, physician, or clergy member;
- 16 (7) Religious practices, affiliations, or beliefs;
- 17 (8) Personal or family firearm ownership; or
- 18 (9) Income or other income-related information except that  
19 which is required by law to determine eligibility to participate in or  
20 receive financial assistance under a program.

160.1515. 1. Subject to the exceptions contained in sections  
2 160.1500 to 160.1545, access to student education records in the student  
3 database shall be restricted to the authorized representatives of the  
4 department, state agency, or education institution who require such  
5 access to perform their assigned duties. No party may be designated  
6 an authorized representative unless that party is an employee of the  
7 department, state agency, or education institution and is under the  
8 direct control of the department, state agency, or education institution.

9 2. Subject to the exceptions contained in sections 160.1500 to  
10 160.1545, no personally identifiable student or teacher data shall be  
11 disclosed without the written consent of the parents for any student

12 under age of eighteen, eligible students as defined in subsection 2 of  
13 section 160.1500, or of the affected teachers.

14 3. The department shall develop and publish criteria for the  
15 approval of research-related data requests from state agencies, political  
16 subdivisions, local governmental agencies, the general assembly,  
17 academic researchers, and the public.

18 4. Personally identifiable information from an education record  
19 of a student, or from teacher records, shall not be released to a party  
20 conducting studies for or on behalf of the state agencies or education  
21 institutions without the written consent of the parent or eligible  
22 student, or of the affected teacher, except to develop, validate, or  
23 administer assessments or administer student-aid programs. Any  
24 outside party conducting such a study shall meet all the requirements  
25 for contractors set forth in subsection 6 of this section.

26 5. In conducting any audit or evaluation of an education  
27 program, or any compliance or enforcement activity in connection with  
28 legal requirements that relate to state or district supported education  
29 programs, when such audit, evaluation, or activity involves access to  
30 personally identifiable student or teacher data or information,  
31 education records and teacher records may be released only to  
32 authorized representatives of state agencies, school boards, or  
33 institutions. No party may be designated an authorized representative  
34 unless that party is an employee of the department, state agency, or  
35 education institution and is under the direct control of the department,  
36 state agency, or education institution.

37 6. State agencies, school boards, and institutions shall not  
38 disclose personally identifiable information from education records or  
39 teacher records without the written consent of parents or eligible  
40 students or of the affected teachers, to a contractor, consultant, or  
41 other party to whom the state agency, school board, or institution has  
42 outsourced institutional services or functions unless that outside party:

43 (1) Performs an institutional service or function for which the  
44 state agency, school board, or institution would otherwise use its  
45 employees;

46 (2) Is under the direct control of the state agency, school board,  
47 or institution with respect to the use and maintenance of education  
48 records or teacher records;

49           **(3) Limits internal access to education records or teacher**  
50 **records to those individuals who require access to those records for**  
51 **completion of the contract;**

52           **(4) Does not use the education records or teacher records for any**  
53 **purposes other than those explicitly authorized in the contract;**

54           **(5) Does not disclose any personally identifiable information**  
55 **from education records or teacher records to any other party:**

56           **(a) Without the written consent of the parent for any student**  
57 **under the age of eighteen, eligible student, or the affected teacher; or**

58           **(b) Unless required by statute or court order and the party**  
59 **provides a notice of the disclosure to the state agency, school board, or**  
60 **institution that provided the information no later than the time the**  
61 **information is disclosed, unless providing notice of the disclosure is**  
62 **expressly prohibited by the statute or court order;**

63           **(6) Maintains reasonable administrative, technical, and physical**  
64 **safeguards to protect the security, confidentiality, and integrity of the**  
65 **personally identifiable student or teacher data in its custody;**

66           **(7) Uses encryption technologies to protect data while in motion**  
67 **or in its custody from unauthorized disclosure using a technology or**  
68 **methodology specified by the Secretary of the United States**  
69 **Department of Health and Human Services in guidance issued under**  
70 **section 13402(H)(2) of Public Law 111-5;**

71           **(8) Has sufficient administrative and technical procedures to**  
72 **monitor continuously the security of personally identifiable student or**  
73 **teacher data in its custody;**

74           **(9) Conducts a security audit annually and provides the results**  
75 **of that audit to each state agency, school board, or institution that**  
76 **provides education records or teacher records;**

77           **(10) Provides the state agency, school board, or institution with**  
78 **a breach-remediation plan acceptable to the state agency, school board,**  
79 **or institution before initial receipt of education records or teacher**  
80 **records;**

81           **(11) Reports all suspected security breaches to the state agency,**  
82 **school board, or institution that provided education records or teacher**  
83 **records as soon as possible but not later than forty-eight hours after a**  
84 **suspected breach was known or would have been known by exercising**  
85 **reasonable diligence;**

86           **(12) Reports all actual security breaches to the state agency,**  
87 **school board, or institution that provided education records as soon as**  
88 **possible but not later than twenty-four hours after an actual breach**  
89 **was known or would have been known by exercising reasonable**  
90 **diligence;**

91           **(13) In the event of a security breach or unauthorized disclosure**  
92 **of personally identifiable information, pays all costs and liabilities**  
93 **incurred by the state agency, school board, or institution related to the**  
94 **security breach or unauthorized disclosure, including but not limited**  
95 **to the costs of responding to inquiries about the security breach or**  
96 **unauthorized disclosure, of notifying subjects of personally identifiable**  
97 **information about the breach, of mitigating the effects of the breach for**  
98 **the subjects of the personally identifiable information, and of**  
99 **investigating the cause or consequences of the security breach or**  
100 **unauthorized disclosure; and**

101           **(14) Destroys or returns to the state agency, school board, or**  
102 **institution all personally identifiable information in its custody upon**  
103 **request and at the termination of the contract.**

**160.1518. In the event of a security breach or unauthorized**  
2 **disclosure of personally identifiable student or teacher data, whether**  
3 **by a state agency, school board, or education institution, or by a third**  
4 **party given access to education records or teacher records pursuant to**  
5 **section 160.1515, the state agency, school board, or education**  
6 **institution shall:**

7           **(1) Immediately notify the subjects of the breach or disclosure;**

8           **(2) Report the breach or disclosure to the Family Policy**  
9 **Compliance Office of the United States Department of Education; and**

10           **(3) Investigate the causes and consequences of the breach or**  
11 **disclosure.**

**160.1521. 1. Personally identifiable information from education**  
2 **records or teacher records shall not be disclosed to any party for a**  
3 **commercial use, including but not limited to marketing products or**  
4 **services, compilation of lists for sale or rental, development of products**  
5 **or services, or creation of individual, household, or group profiles.**

6           **2. Any cloud computing service provider performing services for**  
7 **a state agency, school board, or institution is prohibited from using**  
8 **information from education records or teacher records for any**

9 secondary purposes that benefit the cloud computing service provider  
10 or any third party, including but not limited to online behavioral  
11 advertising, creating or correcting an individual or household profile  
12 primarily for the cloud computing service provider's benefit, the sale  
13 of the data for any commercial purpose, or any other similar  
14 commercial for-profit activity; provided, however, that a cloud  
15 computing service provider may process or monitor student data solely  
16 to provide such service to the state agency, school board, or institution,  
17 and to maintain the integrity of such service.

18 3. Any cloud computing service provider that enters into an  
19 agreement to provide cloud computing services to a state agency,  
20 school board, or institution shall certify in writing to that state agency,  
21 school board, or institution that:

22 (1) It shall comply with the terms and conditions set forth in  
23 subsection 6 of section 160.1515; and

24 (2) The state agency, school board, or institution maintains  
25 ownership of all student and teacher data.

26 4. Any student or teacher data stored by a cloud computing  
27 service provider shall be stored within the boundaries of the United  
28 States.

160.1524. No student data shall be used for predictive modeling  
2 for detecting behaviors, beliefs, or value systems, or predicting or  
3 forecasting student outcomes.

160.1527. There shall be no video monitoring of classrooms for  
2 any purpose, including for teacher evaluation, without the approval of  
3 the district's school board after public hearings and the written consent  
4 of the teacher, of all eligible students, and of the parents of all students  
5 in the classroom.

160.1530. Personally identifiable information from education  
2 records or teacher records shall not be disclosed to any noneducation  
3 government agency, including but not limited to the Missouri  
4 department of labor and industrial relations, whether within or outside  
5 the state, or to any party that intends to use or disclose the information  
6 or data for the purpose of workforce development or economic  
7 planning. Data linkages or sharing of data with other states without  
8 expressed permission of the individuals affected are prohibited.

160.1533. Personally identifiable information from education

2 records or teacher records may not be disclosed to any government  
3 agency or other entity outside the state, except disclosure in the  
4 following circumstances:

5 (1) To an institution attended by a student who has transferred  
6 out of state;

7 (2) To an out-of-state program in which a student voluntarily  
8 participates and for which such a data transfer is a condition or  
9 requirement of participation; or

10 (3) When a student is classified as a "migrant" for federal  
11 reporting purposes.

12 160.1536. 1. No personally identifiable information from  
2 education records or teacher records may be disclosed to any federal  
3 agency, including the United States Department of Education or the  
4 United States Department of Labor or their representatives, unless:

5 (1) Such disclosure is required by the United States Department  
6 of Education as a condition of receiving a federal education grant;

7 (2) The United States Department of Education agrees in writing  
8 to use the information from the education records or teacher records  
9 only to evaluate the program or programs funded by the grant;

10 (3) The United States Department of Education agrees in writing  
11 that the information shall not be used for any research beyond that  
12 related to evaluation of the program or programs funded by the grant,  
13 unless the parent or eligible student, or any teacher, whose information  
14 or data shall be used for such evaluation affirmatively consents in  
15 writing to that use;

16 (4) The United States Department of Education agrees in writing  
17 to destroy the information or data upon completion of the evaluation  
18 of the program or programs for which the information or data were  
19 compiled; and

20 (5) The grant or program in connection with which the  
21 information or data are required is one explicitly authorized by federal  
22 statute or by federal rule properly promulgated under the federal  
23 Administrative Procedure Act, 5 U.S.C. Section 500, et seq.

24 2. If the United States Department of Education requires, as a  
25 condition of making a federal education grant, that the grant recipient  
26 disclose student information or teacher data under circumstances that  
27 do not comply with subdivision (1) of subsection 1 of this section, the

28 grant recipient shall obtain written consent from the parents of every  
29 student, or from eligible students, whose information shall be disclosed,  
30 or from every teacher whose data shall be disclosed.

31 3. If the United States Department of Education demands  
32 personally identifiable student information, or teacher data, without  
33 the written consent of the affected parents, eligible students, or  
34 teachers, the grant recipient shall provide written notification to those  
35 parents, eligible students, and teachers of the following:

36 (1) That the grant recipient has been required to disclose the  
37 student's information or the teacher's data to the United States  
38 Department of Education;

39 (2) That neither the grant recipient nor any other entity within  
40 the state of Missouri shall have control over use or further disclosure  
41 of that information or data; and

42 (3) The contact information, including the name, telephone  
43 number, and email address of the United States Department of  
44 Education official who demands the disclosure.

160.1539. State agencies, school boards, or institutions shall not  
2 disclose student or teacher information to any assessment consortium  
3 of which the state is a member, or company with which the state  
4 contracts for development or administration of any assessment, unless:

5 (1) The information is transmitted in nonindividual record  
6 format;

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

9 (3) No psychological information of any kind, including that  
10 listed in section 160.1503, is included as part of the test scores.

160.1542. An education institution shall destroy and remove from  
2 the student database all education records of a student within five  
3 years of the student's graduation from that institution, provided that  
4 the institution may retain records showing dates of attendance,  
5 diploma, or degree received and contact information. If a student  
6 withdraws from an education institution before graduating, the  
7 institution shall, within one year of the student's withdrawal, destroy  
8 and remove from the database all education records of that student  
9 except records showing dates of attendance.

160.1545. 1. Each violation of any provision of sections 160.1500

2 to 160.1545 by an organization or entity other than a state agency, a  
3 school board, or an institution shall be punishable by a civil penalty of  
4 up to one thousand dollars. A second violation by the same  
5 organization or entity involving the education records and privacy of  
6 the same student shall be punishable by a civil penalty of up to five  
7 thousand dollars. Any subsequent violation by the same organization  
8 or entity involving the education records and privacy of the same  
9 student shall be punishable by a civil penalty of up to ten thousand  
10 dollars. Each violation involving a different individual education  
11 record or a different individual student shall be considered a separate  
12 violation for purposes of civil penalties.

13       2. The attorney general shall have the authority to enforce  
14 compliance with this section by investigation and subsequent  
15 commencement of a civil action, to seek civil penalties for violations of  
16 sections 160.1500 to 160.1545, and to seek appropriate injunctive relief,  
17 including but not limited to a prohibition on obtaining personally  
18 identifiable information for an appropriate time period. In carrying  
19 out such investigation and in maintaining such civil action, the  
20 attorney general or any deputy or assistant attorney general is  
21 authorized to subpoena witnesses, compel their attendance, examine  
22 them under oath, and require that any books, records, documents,  
23 papers, or electronic records relevant to the inquiry be turned over for  
24 inspection, examination, or audit. Subpoenas issued under this  
25 subsection may be enforced pursuant to the Missouri rules of civil  
26 procedure.

27       3. Nothing contained in this section shall be construed as  
28 creating a private right of action against a state agency, a school board,  
29 or an institution as defined in 160.1500.

Section B. Because of the immediate need to protect Missourians from  
2 government intrusion and the immediate need to protect personal privacy in  
3 Missouri, section A of this act is deemed necessary for the immediate preservation  
4 of the public health, welfare, peace and safety, and is hereby declared to be an  
5 emergency act within the meaning of the constitution, and section A of this act  
6 shall be in full force and effect upon its passage and approval.

✓