

SB0599



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB0599

Introduced 1/24/2017, by Sen. Michael Connelly

SYNOPSIS AS INTRODUCED:

New Act

Creates the Higher Education Student Online Personal Information Protection Act. Provides that the operator of an Internet website, online service, online application, or mobile application used primarily for higher education purposes and designed and marketed for higher education purposes shall not knowingly (1) engage in targeted advertising on the operator's site, service, or application or target advertising on any other site, service, or application when the targeting of the advertising is based upon any information that the operator has acquired because of the use of that operator's site, service, or application; (2) use information created or gathered by the operator's site, service, or application to amass a profile about a student, except in furtherance of higher education purposes; (3) sell a student's information; or (4) disclose covered information, as defined in the Act, without a student's consent. Sets forth exceptions and other provisions concerning the construction and application of the Act. Effective January 1, 2018.

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FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning education.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Higher
5 Education Student Online Personal Information Protection Act.

6 Section 5. Definitions. In this Act:

7 "Covered information" means personally identifiable
8 information or materials, in any media or format, that meets
9 any of the following:

10 (1) Is created or provided by a student to an operator
11 in the course of the student's use of the operator's site,
12 service, or application for higher education purposes.

13 (2) Is created or provided by an employee or agent of a
14 school to an operator.

15 (3) Is gathered by an operator through the operation of
16 a site, service, or application described in the definition
17 of "operator" under this Section and is descriptive of a
18 student or otherwise identifies a student, including
19 without limitation information in the student's
20 educational record or e-mail, first and last name, home
21 address, telephone number, e-mail address, or other
22 information that allows physical or online contact,
23 discipline records, test results, grades, evaluations,

1 criminal records, medical records, health records, social
2 security number, biometric information, disabilities,
3 socioeconomic information, food purchases, political
4 affiliations, religious information, text messages,
5 documents, student identifiers, search activity, photos,
6 voice recordings, or geolocation information.

7 "Higher education purposes" means purposes that
8 customarily take place at the direction of a higher education
9 school or instructor or aid in the administration of school
10 activities, including without limitation instruction in the
11 classroom or at home, administrative activities, and
12 collaboration between students or school personnel, or are for
13 the use and benefit of a school.

14 "Online service" includes cloud computing services, which
15 must comply with this Act if they otherwise meet the definition
16 of an operator.

17 "Operator" means the operator of an Internet website,
18 online service, online application, or mobile application with
19 actual knowledge that the site, service, or application is used
20 primarily for higher education purposes and was designed and
21 marketed for higher education purposes.

22 "School" means a public university or public community
23 college located in this State.

24 Section 10. Prohibited activities and duties of operators.

25 (a) An operator shall not knowingly engage in any of the

1 following activities with respect to its site, service, or
2 application without a student's consent:

3 (1) Engage in targeted advertising on the operator's
4 site, service, or application or target advertising on any
5 other site, service, or application when the targeting of
6 the advertising is based upon any information, including
7 covered information and persistent unique identifiers,
8 that the operator has acquired because of the use of that
9 operator's site, service, or application described in the
10 definition of "operator" under Section 5 of this Act.

11 (2) Use information, including persistent unique
12 identifiers, created or gathered by the operator's site,
13 service, or application, to amass a profile about a
14 student, except in furtherance of higher education
15 purposes.

16 (3) Sell a student's information, including covered
17 information. The prohibition under this subdivision (3)
18 does not apply to the purchase, merger, or other type of
19 acquisition of an operator by another entity, provided that
20 the operator or successor entity continues to be subject to
21 the provisions of this Act with respect to previously
22 acquired student information.

23 (4) Disclose covered information, unless the
24 disclosure is made:

25 (A) in furtherance of the higher education
26 purposes of the site, service, or application,

1 provided that the recipient of the covered information
2 disclosed pursuant to this subdivision (4) (i) shall
3 not further disclose the information unless done to
4 allow or improve operability and functionality within
5 that student's classroom or school and (ii) is legally
6 required to comply with subsection (c) of this Section;

7 (B) to ensure legal and regulatory compliance;

8 (C) to respond to or participate in the judicial
9 process;

10 (D) to protect the safety of users or others or the
11 security of the site; or

12 (E) to a service provider, provided that the
13 operator contractually (i) prohibits the service
14 provider from using any covered information for any
15 purpose other than providing the contracted service to
16 or on behalf of the operator, (ii) prohibits the
17 service provider from disclosing any covered
18 information provided by the operator with subsequent
19 third parties, and (iii) requires the service provider
20 to implement and maintain reasonable security
21 procedures and practices as provided in subsection (c)
22 of this Section.

23 (b) Nothing in subsection (a) of this Section shall be
24 construed to prohibit the operator's use of information for
25 maintaining, developing, supporting, improving, or diagnosing
26 the operator's site, service, or application.

1 (c) An operator shall do both of the following:

2 (1) Implement and maintain reasonable security
3 procedures and practices appropriate to the nature of the
4 covered information and protect that information from
5 unauthorized access, destruction, use, modification, or
6 disclosure.

7 (2) Delete a student's covered information if the
8 school requests deletion of data under the control of the
9 school.

10 (d) Notwithstanding subdivision (4) of subsection (a) of
11 this Section, an operator may disclose covered information of a
12 student, as long as subdivisions (1), (2), and (3) of
13 subsection (a) of this Section are not violated, under the
14 following circumstances:

15 (1) If other provisions of federal or State law require
16 the operator to disclose the information and the operator
17 complies with the requirements of federal and State law in
18 protecting and disclosing that information.

19 (2) For legitimate research purposes (i) as required by
20 State or federal law and subject to the restrictions under
21 applicable State and federal law or (ii) as allowed by
22 State or federal law and under the direction of a school or
23 the Board of Higher Education if no covered information is
24 used in furtherance of advertising or to amass a profile on
25 the student for purposes other than higher education
26 purposes.

1 (3) To a State agency or school, for higher education
2 purposes, as permitted by State or federal law.

3 (e) Nothing in this Section prohibits an operator from
4 using de-identified student covered information as follows:

5 (1) Within the operator's site, service, or
6 application or other sites, services, or applications
7 owned by the operator to improve educational products.

8 (2) To demonstrate the effectiveness of the operator's
9 products or services, including in their marketing.

10 (f) Nothing in this Section prohibits an operator from
11 sharing aggregated de-identified student covered information
12 for the development and improvement of educational sites,
13 services, or applications.

14 Section 15. Construction and application of Act.

15 (a) This Act shall not be construed to limit the authority
16 of a law enforcement agency to obtain any content or
17 information from an operator as authorized by law or pursuant
18 to an order of a court of competent jurisdiction.

19 (b) This Act does not limit the ability of an operator to
20 use student data, including covered information, for adaptive
21 learning or customized student learning purposes.

22 (c) This Act does not apply to general audience Internet
23 websites, general audience online services, general audience
24 online applications, or general audience mobile applications,
25 even if login credentials created for an operator's site,

1 service, or application may be used to access those general
2 audience sites, services, or applications.

3 (d) This Act does not limit Internet service providers from
4 providing Internet connectivity to schools or students.

5 (e) This Act shall not be construed to prohibit an operator
6 of an Internet website, online service, online application, or
7 mobile application from marketing educational products
8 directly to students so long as the marketing did not result
9 from the use of covered information obtained by the operator
10 through the provision of services covered under this Act.

11 (f) This Act does not impose a duty upon a provider of an
12 electronic store, a gateway, a marketplace, or other means of
13 purchasing or downloading software or applications to review or
14 enforce compliance of this Act on those applications or
15 software.

16 (g) This Act does not impose a duty upon a provider of an
17 interactive computer service, as defined in Section 230 of
18 Title 47 of the United States Code, to review or enforce
19 compliance with this Act by third-party content providers.

20 (h) This Act does not impede the ability of students to
21 download, export, or otherwise save or maintain their own
22 student-created data or documents.

23 Section 97. Severability. The provisions of this Act are
24 severable under Section 1.31 of the Statute on Statutes.

25 Section 99. Effective date. This Act takes effect January

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1 1, 2018.