



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

HB0332

by Rep. Scott Drury

#### SYNOPSIS AS INTRODUCED:

|                      |                         |
|----------------------|-------------------------|
| 105 ILCS 5/22-83 new |                         |
| 105 ILCS 10/2        | from Ch. 122, par. 50-2 |
| 105 ILCS 10/6        | from Ch. 122, par. 50-6 |
| 105 ILCS 10/9        | from Ch. 122, par. 50-9 |
| 325 ILCS 17/5        |                         |

Amends the School Code to add provisions concerning student data privacy. Amends the Illinois School Student Records Act. Makes changes to the definition provisions. Sets forth provisions allowing disclosure of student records to researchers at an accredited post-secondary educational institution or an organization conducting research if specified requirements are met. Amends the Children's Privacy Protection and Parental Empowerment Act to change the definition of "child" to mean a person under the age of 18 (instead of 16).

LRB100 04231 MLM 14237 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning privacy protection.

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

4 Section 5. The School Code is amended by adding Section  
5 22-83 as follows:

6 (105 ILCS 5/22-83 new)

7 Sec. 22-83. Student data privacy.

8 (a) It is the intent of the General Assembly to help ensure  
9 that information generated by and about students in the course  
10 of and in connection with their education is safeguarded and  
11 that student privacy is honored, respected, and protected. The  
12 General Assembly finds the following:

13 (1) Information generated by and about students in the  
14 course of and in connection with their education is a vital  
15 resource for teachers and school staff in planning  
16 education programs and services, scheduling students into  
17 appropriate classes, and completing reports for  
18 educational agencies.

19 (2) Information generated by and about students in the  
20 course of and in connection with their education is  
21 critical to educators in helping students successfully  
22 graduate from high school and being ready to enter the  
23 workforce or postsecondary education.

1           (3) While information generated by and about students  
2           in the course of and in connection with their education is  
3           important for educational purposes, it is also critically  
4           important to ensure that the information is protected,  
5           safeguarded, and kept private and used only by appropriate  
6           educational authorities or their permitted designees, and  
7           then only to serve the best interests of the student.

8           To that end, this Section helps ensure that information  
9           generated by and about students in the course of and in  
10           connection with their education is protected and expectations  
11           of privacy are honored.

12           (b) In this Section:

13           "Breach" means the unauthorized acquisition of  
14           computerized data that compromises the security,  
15           confidentiality, or integrity of personally identifiable  
16           information, student data, or a school student record.

17           "Eligible student" has the meaning set forth in the  
18           Illinois School Student Records Act.

19           "Parent" has the meaning set forth in the Illinois School  
20           Student Records Act.

21           "Personally identifiable information" has the meaning set  
22           forth in the Illinois School Student Records Act.

23           "Profile" means a file or other mechanism used to collect,  
24           retain, and use student data or other information by which to  
25           identify or otherwise keep track of an individual student or  
26           group of students.

1       "Record" has the meaning set forth in the Illinois School  
2 Student Records Act.

3       "School" has the meaning set forth in the Illinois School  
4 Student Records Act.

5       "School authority" has the meaning set forth in the  
6 Illinois School Student Records Act.

7       "School purpose" means any activity that is directed by or  
8 takes place at the direction of a school authority. Advertising  
9 that is not otherwise specifically authorized in this Section  
10 is not a school purpose.

11       "School student record" has the meaning set forth in the  
12 Illinois School Student Records Act.

13       "State Board" means the State Board of Education.

14       "Student" has the meaning set forth in the Illinois School  
15 Student Records Act.

16       "Student data" means any information or records regarding a  
17 student collected by or provided to a vendor for or in  
18 connection with a school purpose, including personally  
19 identifiable information and information that is linked to  
20 personally identifiable information. "Student data" does not  
21 include aggregated information or records to the extent no  
22 student may be individually identified therefrom in any manner  
23 whatsoever or other information or records that do not include  
24 personally identifiable information or other data by which a  
25 student may be identified in any manner whatsoever. "Student  
26 data" does include aggregated information or records that are

1 capable of being de-aggregated or reconstructed to the point  
2 that any student may be individually identified therefrom.

3 "Targeted advertising" means advertising to an individual  
4 student or group of students in which the advertisements are  
5 selected based on a known or assumed trait of the student or  
6 group of students or information obtained or inferred from the  
7 student's or group of students' online behavior within a  
8 vendor's product or service or the student's or group of  
9 students' use of a vendor's products or services. This term  
10 does not include:

11 (1) information sent by a vendor to a specific  
12 individual or group of individuals to advise them of  
13 updates or improvements to products, sites, or services  
14 that are already being utilized by the individual or group  
15 of individuals, provided that the school authority or the  
16 individual or group of individuals have consented to  
17 receiving information about updates and improvements; or

18 (2) school purpose advertisements at an online  
19 location based on a student's current visit to that  
20 location without collection and retention of the student's  
21 online activities over time.

22 "Vendor" means any entity that, for a fee or free of  
23 charge:

24 (1) provides a product or service to a school authority  
25 that collects, retains, or uses student data;

26 (2) designs or markets a product or service for use by

1 a school authority that collects, retains, or uses student  
2 data; or

3 (3) knows or reasonably should know that a product or  
4 service that collects, retains, or uses student data will  
5 be used for a school purpose.

6 (c) It shall be unlawful for any vendor in possession of  
7 student data or any subcontractor, agent, independent  
8 contractor, or other entity that receives student data from a  
9 vendor to:

10 (1) engage in targeted advertising based in whole or in  
11 part on student data;

12 (2) sell, lease, provide, or rent student data to any  
13 person, entity, or third party other than the school  
14 authority or State Board, unless there has been a purchase,  
15 merger, or other type of acquisition of the vendor by  
16 another entity, in which case the sale of previously  
17 collected student data is permitted, provided that the  
18 successor entity agrees in writing to be subject to and  
19 bound by the provisions of this Section and any agreement  
20 governed by this Section and a copy of the successor  
21 entity's agreement with the vendor that relates to this  
22 Section is provided to the school authority, redacted to  
23 prevent disclosure of confidential or proprietary  
24 information;

25 (3) exercise or claim any rights, implied or otherwise,  
26 to any student data, unless otherwise authorized by this

1       Section;

2           (4) disclose or otherwise allow any third party to have  
3 access to student data, unless such disclosure is:

4           (A) made only in furtherance of a school purpose  
5 and the recipient of the student data is legally  
6 required to comply with this Section;

7           (B) to the extent permitted by federal law, to law  
8 enforcement to protect the safety of users or others or  
9 the security or integrity of the vendor's service;

10          (C) required by court order or State or federal  
11 law;

12          (D) made in connection with research being  
13 conducted pursuant to and in compliance with  
14 subsection (a-5) of Section 6 of the Illinois School  
15 Student Records Act;

16          (E) to ensure legal or regulatory compliance; or

17          (F) to a subcontractor, agent, independent  
18 contractor or other entity, for the purposes of  
19 enabling the vendor to meet its contractual  
20 obligations to the school authority, that first  
21 acknowledges in writing that it has read and  
22 understands the requirements of this Section and  
23 agrees in writing to be bound by its provisions and the  
24 terms of any agreement entered into between the vendor  
25 and the school authority, with a copy of such written  
26 acknowledgement and agreement being provided to the

1 school authority;

2 (5) create, generate, or otherwise amass a profile  
3 about any student if the profile is based on any student  
4 data, for any purpose other than a school purpose;

5 (6) require a school authority or its employees,  
6 agents, volunteers, or students to indemnify a vendor or  
7 pay the vendor's attorney's fees or costs in connection  
8 with any dispute arising out of or otherwise connected to  
9 student data, except in the case of willful or wanton  
10 conduct by a school authority or its employee or agent, in  
11 which case indemnification by the school authority may be  
12 permitted;

13 (7) require a school authority or its employees,  
14 agents, volunteers, or students to arbitrate any dispute  
15 arising out of or otherwise connected to student data;

16 (8) enter into any agreement with a school authority  
17 that authorizes in any manner activities prohibited by this  
18 Section; and

19 (9) modify or otherwise alter the terms and conditions  
20 of any agreement with a school authority related to student  
21 data without the express consent of the school authority or  
22 its designee, which may not be the vendor.

23 (d) Any vendor who receives any student data in any manner  
24 shall:

25 (1) implement and maintain appropriate administrative,  
26 physical, and technical safeguards to secure the student



1 data from unauthorized access, destruction, use,  
2 modification, or disclosure in a manner that is at least as  
3 protective as any rules adopted by the State Board and any  
4 guidance provided by the United States Department of  
5 Education Privacy and Technical Assistance Center;

6 (2) within the most expedient time possible and without  
7 unreasonable delay, notify the school authority of any  
8 breach, regardless of whether it is the school authority's  
9 student data;

10 (3) to the extent feasible, delete the student data,  
11 school student record, or personally identifiable  
12 information of a specific student at the request of the  
13 student's school or school authority;

14 (4) designate an officer or employee as a responsible  
15 person who shall be trained in a manner so as to ensure  
16 compliance with this Section and ensure the security and  
17 confidentiality of student data and who shall work with the  
18 official records custodian of the school authority under  
19 subsection (a) of Section 4 of the Illinois School Student  
20 Records Act;

21 (5) unless otherwise required by federal or State law,  
22 within a reasonable amount of time after the completion or  
23 termination of the terms of any agreement with a school  
24 authority under which a vendor gained access to student  
25 data, not to exceed 60 days:

26 (A) delete or return to the school authority all

1           student data, unless the student data is stored on a  
2           backup tape or other backup medium, in which case the  
3           data shall be overwritten in the most expedient manner  
4           possible in the normal course of business; and

5           (B) provide a written certification that such  
6           deletion has occurred;

7           (6) if directed by the school authority, correct or  
8           delete student data that the student's parents or guardians  
9           or the eligible student would be permitted to access and  
10           correct in the student's school student records with the  
11           school authority under federal or State law;

12           (7) permit a school authority or its designee to audit  
13           and inspect, on an annual basis or after any breach, the  
14           vendor's practices with respect to any student data  
15           received by the vendor from the school authority or any  
16           student profiles, provided that this requirement shall be  
17           satisfied if the vendor provides the school authority with  
18           an independent, third-party audit acceptable to the school  
19           authority that has been conducted within the previous 12  
20           months or, in the case of a breach, within 3 months after  
21           the breach;

22           (8) permit the school authority access to any student  
23           data provided by the school authority, provided that the  
24           student data is stored with the vendor, in order for the  
25           school authority to comply with any law that may require  
26           disclosure;

1           (9) consistent with the provisions of this Section, be  
2           permitted to diagnose, evaluate, or correct problems with  
3           or otherwise modify or improve the vendor's product or  
4           service;

5           (10) be permitted to use student data that does not  
6           contain any personally identifiable information and has  
7           otherwise been stripped of or does not contain identifying  
8           information for the purpose of:

9                   (A) adaptive, personalized, or customized  
10                   learning;

11                   (B) demonstrating the effectiveness of the product  
12                   or service; or

13                   (C) developing, supporting, and improving  
14                   educational sites, services, or applications;

15           (11) agree that any dispute arising out of or otherwise  
16           connected to student data shall be litigated using Illinois  
17           law, the proper venue is in the county or federal court  
18           district in which the school district is located, and the  
19           court in the proper venue shall have jurisdiction over the  
20           vendor; and

21           (12) agree that the student data continues to be the  
22           property of and under the control of the school authority  
23           and that the vendor has a limited, nonexclusive license to  
24           the student data solely for the purpose of performing its  
25           obligations under the agreement required by subsection (e)  
26           of this Section or supporting, maintaining, diagnosing, or

1 improving the vendor's product or service.

2 (e) Any vendor who seeks to receive from a school authority  
3 or the State Board in any manner any student data is required  
4 to enter into a written agreement with the school authority  
5 before any records may be transferred, which agreement shall  
6 contain the following:

7 (1) provisions consistent with each prohibition or  
8 requirement set forth in subsections (c) and (d) of this  
9 Section;

10 (2) a listing of the categories or types of student  
11 data to be provided to the vendor;

12 (3) a statement of the product or service being  
13 provided to the school authority by the vendor;

14 (4) a statement that the vendor is acting as a school  
15 official with a legitimate educational interest, is  
16 performing an institutional service or function for which  
17 the school authority would otherwise use employees, under  
18 the direct control of the school authority with respect to  
19 the use and maintenance of student data, and is using such  
20 student data only for an authorized purpose and will not  
21 re-disclose it to third parties or affiliates, unless  
22 otherwise permitted under this Section, without permission  
23 from the school authority or pursuant to court order;

24 (5) a description of the actions the vendor will take,  
25 including a description of the training the vendor will  
26 provide to anyone who will receive or have access to

1 student data, to ensure the security and confidentiality of  
2 student data; compliance with this subdivision (5) shall  
3 not, in itself, absolve the vendor of liability in the  
4 event of an unauthorized disclosure of student data; and

5 (6) a statement that the agreement is the entire  
6 agreement between the school authority, including school  
7 authority employees and other end users, and the vendor.

8 (f) Each school authority shall adopt a policy regarding  
9 which school employees have the power to bind the school  
10 authority to the terms of any non-verbal agreements, whether  
11 electronic, click-through, click-wrap, or in writing and  
12 require an original copy of each agreement's terms and  
13 conditions to be maintained at the school authority's primary  
14 place of business. Each school authority shall prohibit  
15 individual school employees not authorized to bind the school  
16 authority to such agreements from entering into any agreement  
17 with vendors without written authorization from the school  
18 authority and require that any school entering into any  
19 agreement with a vendor is subject to the requirements of this  
20 Section and that oral agreements are prohibited. Any oral  
21 agreement is void as against public policy. If a vendor enters  
22 into an agreement with an employee or other end users who are  
23 not authorized through the school authority's policy to enter  
24 into such an agreement, then the school authority shall have  
25 the authority to unilaterally cancel the agreement. This  
26 Section shall not be construed to limit individual school

1 employees outside of the scope of their employment from  
2 entering into agreements with vendors on their own behalf and  
3 for a non-school purpose, provided that no student data is  
4 provided to the vendors.

5 (g) The State Board shall create, publish, and make  
6 publicly available all categories of data collected by the  
7 State Board that contain personally identifiable information.

8 (h) In the event of a breach resulting, in whole or in  
9 part, from the vendor's conduct, in addition to any other  
10 remedies available to the school authority under law or equity,  
11 the vendor shall reimburse the school authority in full for all  
12 reasonable costs and expenses incurred by the school authority  
13 as a result of the vendor's conduct in investigating and  
14 remediating the breach, including, but not limited to:

15 (1) providing notification to those students whose  
16 personally identifiable information was compromised, to  
17 their parents or guardians in the event a student is under  
18 the age of 18, and to regulatory agencies or other entities  
19 as required by law or contract;

20 (2) providing one year's credit monitoring to those  
21 students and eligible students whose student data was  
22 exposed in such a manner during the breach that a  
23 reasonable person would have cause to believe that it could  
24 impact his or her credit or financial security;

25 (3) legal fees, audit costs, fines, and other fees or  
26 damages imposed against the school authority as a result of

1 the security breach; and

2 (4) providing any other notifications or fulfilling  
3 any other requirements adopted by the State Board or under  
4 State or federal laws.

5 (i) The State Board shall develop, publish, and make  
6 publicly available model student data privacy policies and  
7 procedures that comply with relevant State and federal law.

8 (j) Within 180 days after the effective date of this  
9 amendatory Act of the 100th General Assembly, the State Board  
10 shall create a model notice that school authorities shall use  
11 to provide notice to parents, guardians, and eligible students  
12 about vendors. It shall be titled "Student Data Shared With  
13 Vendors" and state, in general terms, what types of student  
14 data are collected by the school authority and shared with  
15 vendors under this Section and the purposes of collecting and  
16 using the student data. Upon the creation of the notice  
17 described in this subsection (j), a school authority shall, at  
18 the beginning of each school year, provide such notice to  
19 parents, guardians, and eligible students by the same means  
20 generally used to send notices to them.

21 (k) In addition to any other penalties, any agreement  
22 governed by this Section that fails to comply with the  
23 requirements of this Section shall be rendered void if, upon  
24 notice and a reasonable opportunity to cure, the noncompliant  
25 party fails to cure any defect. Written notice of noncompliance  
26 may be provided by either party to the agreement. Any vendor

1 subject to an agreement voided under this subsection (k) is  
2 required, within 60 days, to delete or return to the school  
3 authority all student data and information contained in student  
4 profiles and, in the event of deletion, provide a written  
5 certification that such deletion has occurred. Any vendor that  
6 fails to cure any defect in the agreement is not be entitled to  
7 any further payment required under the agreement and shall  
8 return to the school authority all payments made from the date  
9 of notification of non-compliance by the school authority.

10 (1) Nothing in this Section shall be construed to:

11 (1) restrict adaptive, personalized, or customized  
12 learning, subject to the requirements of this Section;

13 (2) prohibit a vendor from complying with its  
14 obligations under federal or State law;

15 (3) impose a duty on a provider of an interactive  
16 computer service, as defined in Chapter 5 of Title 47 of  
17 the United States Code, to review or enforce compliance  
18 with this Section by third-party content providers,  
19 provided that this subdivision (3) has no impact on the  
20 obligations of vendors;

21 (4) impose a duty on a provider of an electronic store,  
22 a gateway, a marketplace, or any other means of purchasing  
23 or downloading software or applications to review or  
24 enforce compliance with this Section, unless the provider  
25 described in this subdivision (4) is also a vendor subject  
26 to the provisions of this Section or has a financial



1 interest in or control over a vendor subject to the  
2 provisions of this Section;

3 (5) impede the ability of students to download,  
4 transfer, or otherwise save or maintain their own student  
5 data, provided that nothing in this subdivision (5) shall  
6 allow a vendor to circumvent or engage in conduct  
7 prohibited by this Section;

8 (6) limit Internet service providers from providing  
9 Internet connectivity to school authorities, students, and  
10 students' parents or guardians, provided that the  
11 provision of such Internet connectivity does not violate  
12 any of the provisions of this Section; and

13 (7) apply to an entity acting entirely outside of its  
14 vendor capacity.

15 Section 10. The Illinois School Student Records Act is  
16 amended by changing Sections 2, 6, and 9 as follows:

17 (105 ILCS 10/2) (from Ch. 122, par. 50-2)

18 Sec. 2. As used in this Act:7

19 "Biometric information" has the meaning set forth in  
20 subsection (a) of Section 10-20.40 of the School Code.

21 "Eligible student" means a student who has reached 18 years  
22 of age or is attending a post-secondary educational  
23 institution.

24 "Parent" means a person who is the natural parent of a

1 student or other person who has the primary responsibility for  
2 the care and upbringing of a student. All rights and privileges  
3 accorded to a parent under this Act shall become exclusively  
4 those of the student upon his or her 18th birthday or upon  
5 attendance at a post-secondary educational institution. Such  
6 rights and privileges may also be exercised by the student at  
7 any time with respect to the student's permanent school record.

8 "Personally identifiable information" means any data  
9 concerning a student by which a student may be individually or  
10 personally identified and includes, but is not limited to:

11 (1) the student's name;

12 (2) the name of the student's parent or other family  
13 members;

14 (3) the address of the student or the student's family;

15 (4) a personal identifier, such as the student's social  
16 security number, student number, or biometric information;

17 (5) other indirect identifiers, such as the student's  
18 date of birth, place of birth, or mother's maiden name;

19 (6) other information that, alone or in combination, is  
20 linked or linkable to a specific student and that would  
21 allow a reasonable person in the school community who does  
22 not have personal knowledge of the relevant circumstances  
23 to identify the student with reasonable certainty; or

24 (7) information requested by a person whom a school  
25 reasonably believes knows the identity of the student to  
26 whom the school student record relates.

1       "Record" means any information maintained in any way,  
2       including, but not limited to, electronically-generated data,  
3       handwriting, print, computer media, video or audio tape, film,  
4       microfilm, and microfiche.

5       "Research entity" means an accredited post-secondary  
6       educational institution or an organization conducting research  
7       for or on behalf of a school authority or the State Board.

8       "Research study" means the gathering of data, information,  
9       and facts by a research entity for the advancement of  
10       knowledge.

11       "School" means any preschool, day care center,  
12       kindergarten, nursery, elementary or secondary educational  
13       institution, vocational school, special education facility, or  
14       other elementary or secondary educational agency or  
15       institution that receives public funds, as well as any person,  
16       agency, or institution that maintains school student records  
17       from more than one school, but does not include a private or  
18       non-public school.

19       "School authority" means any school board, school  
20       district, board of directors, or other governing body of a  
21       school established under the School Code or through any other  
22       means.

23       "School student record" means any writing or other recorded  
24       information concerning a student by which a student may be  
25       individually or personally identified that is maintained by a  
26       school or at its direction or by an employee of a school,

1 regardless of how or where the information is stored. Writings  
2 or other recorded information maintained by an employee of a  
3 school or other person at the direction of a school for his or  
4 her exclusive use shall not be deemed school student records  
5 under this Act; provided that all such writings and other  
6 recorded information are destroyed not later than the student's  
7 graduation or permanent withdrawal from the school and provided  
8 further that no such records or recorded information may be  
9 released or disclosed to any person except a person designated  
10 by the school as a substitute, unless they are first  
11 incorporated in a school student record and made subject to all  
12 of the provisions of this Act. "School student record" does not  
13 include information maintained by law enforcement  
14 professionals working in the school.

15 "State Board" means the State Board of Education.

16 "Student" means any person enrolled or previously enrolled  
17 in a school.

18 "Student permanent record" means the minimum personal  
19 information necessary to a school in the education of a student  
20 and contained in a school student record. Such information may  
21 include the student's name, birth date, address, grades and  
22 grade level, parents' names and addresses, and attendance  
23 records and such other entries as the State Board may require  
24 or authorize.

25 "Student temporary record" means all information contained  
26 in a school student record but not contained in the student

1 permanent record. Such information may include family  
2 background information, intelligence test scores, aptitude  
3 test scores, psychological and personality test results,  
4 teacher evaluations, and other information of clear relevance  
5 to the education of the student, all subject to rules of the  
6 State Board. The information shall include information  
7 provided under Section 8.6 of the Abused and Neglected Child  
8 Reporting Act and information regarding serious disciplinary  
9 infractions that resulted in expulsion, suspension, or the  
10 imposition of a punishment or sanction. For purposes of this  
11 definition, "serious disciplinary infractions" means  
12 infractions involving drugs, weapons, or bodily harm to  
13 another.

14 ~~(a) "Student" means any person enrolled or previously~~  
15 ~~enrolled in a school.~~

16 ~~(b) "School" means any public preschool, day care center,~~  
17 ~~kindergarten, nursery, elementary or secondary educational~~  
18 ~~institution, vocational school, special educational facility~~  
19 ~~or any other elementary or secondary educational agency or~~  
20 ~~institution and any person, agency or institution which~~  
21 ~~maintains school student records from more than one school, but~~  
22 ~~does not include a private or non-public school.~~

23 ~~(c) "State Board" means the State Board of Education.~~

24 ~~(d) "School Student Record" means any writing or other~~  
25 ~~recorded information concerning a student and by which a~~  
26 ~~student may be individually identified, maintained by a school~~

1 ~~er at its direction or by an employee of a school, regardless~~  
2 ~~of how or where the information is stored. The following shall~~  
3 ~~not be deemed school student records under this Act: writings~~  
4 ~~or other recorded information maintained by an employee of a~~  
5 ~~school or other person at the direction of a school for his or~~  
6 ~~her exclusive use; provided that all such writings and other~~  
7 ~~recorded information are destroyed not later than the student's~~  
8 ~~graduation or permanent withdrawal from the school; and~~  
9 ~~provided further that no such records or recorded information~~  
10 ~~may be released or disclosed to any person except a person~~  
11 ~~designated by the school as a substitute unless they are first~~  
12 ~~incorporated in a school student record and made subject to all~~  
13 ~~of the provisions of this Act. School student records shall not~~  
14 ~~include information maintained by law enforcement~~  
15 ~~professionals working in the school.~~

16 ~~(e) "Student Permanent Record" means the minimum personal~~  
17 ~~information necessary to a school in the education of the~~  
18 ~~student and contained in a school student record. Such~~  
19 ~~information may include the student's name, birth date,~~  
20 ~~address, grades and grade level, parents' names and addresses,~~  
21 ~~attendance records, and such other entries as the State Board~~  
22 ~~may require or authorize.~~

23 ~~(f) "Student Temporary Record" means all information~~  
24 ~~contained in a school student record but not contained in the~~  
25 ~~student permanent record. Such information may include family~~  
26 ~~background information, intelligence test scores, aptitude~~

1 ~~test scores, psychological and personality test results,~~  
2 ~~teacher evaluations, and other information of clear relevance~~  
3 ~~to the education of the student, all subject to regulations of~~  
4 ~~the State Board. The information shall include information~~  
5 ~~provided under Section 8.6 of the Abused and Neglected Child~~  
6 ~~Reporting Act. In addition, the student temporary record shall~~  
7 ~~include information regarding serious disciplinary infractions~~  
8 ~~that resulted in expulsion, suspension, or the imposition of~~  
9 ~~punishment or sanction. For purposes of this provision, serious~~  
10 ~~disciplinary infractions means: infractions involving drugs,~~  
11 ~~weapons, or bodily harm to another.~~

12 ~~(g) "Parent" means a person who is the natural parent of~~  
13 ~~the student or other person who has the primary responsibility~~  
14 ~~for the care and upbringing of the student. All rights and~~  
15 ~~privileges accorded to a parent under this Act shall become~~  
16 ~~exclusively those of the student upon his 18th birthday,~~  
17 ~~graduation from secondary school, marriage or entry into~~  
18 ~~military service, whichever occurs first. Such rights and~~  
19 ~~privileges may also be exercised by the student at any time~~  
20 ~~with respect to the student's permanent school record.~~

21 (Source: P.A. 92-295, eff. 1-1-02.)

22 (105 ILCS 10/6) (from Ch. 122, par. 50-6)

23 Sec. 6. (a) No school student records or information  
24 contained therein may be released, transferred, disclosed or  
25 otherwise disseminated, except as follows:

1           (1) to a parent or student or person specifically  
2 designated as a representative by a parent, as provided in  
3 paragraph (a) of Section 5;

4           (2) to an employee or official of the school or school  
5 district or State Board with current demonstrable  
6 educational or administrative interest in the student, in  
7 furtherance of such interest;

8           (3) to the official records custodian of another school  
9 within Illinois or an official with similar  
10 responsibilities of a school outside Illinois, in which the  
11 student has enrolled, or intends to enroll, upon the  
12 request of such official or student;

13           (4) to any person for the purpose of research,  
14 statistical reporting, or planning, provided that such  
15 research, statistical reporting, or planning is  
16 permissible under and undertaken in accordance with the  
17 federal Family Educational Rights and Privacy Act (20  
18 U.S.C. 1232g);

19           (5) pursuant to a court order, provided that the parent  
20 shall be given prompt written notice upon receipt of such  
21 order of the terms of the order, the nature and substance  
22 of the information proposed to be released in compliance  
23 with such order and an opportunity to inspect and copy the  
24 school student records and to challenge their contents  
25 pursuant to Section 7;

26           (6) to any person as specifically required by State or



1 federal law;

2 (6.5) to juvenile authorities when necessary for the  
3 discharge of their official duties who request information  
4 prior to adjudication of the student and who certify in  
5 writing that the information will not be disclosed to any  
6 other party except as provided under law or order of court.

7 For purposes of this Section "juvenile authorities" means:

8 (i) a judge of the circuit court and members of the staff  
9 of the court designated by the judge; (ii) parties to the  
10 proceedings under the Juvenile Court Act of 1987 and their  
11 attorneys; (iii) probation officers and court appointed  
12 advocates for the juvenile authorized by the judge hearing  
13 the case; (iv) any individual, public or private agency  
14 having custody of the child pursuant to court order; (v)  
15 any individual, public or private agency providing  
16 education, medical or mental health service to the child  
17 when the requested information is needed to determine the  
18 appropriate service or treatment for the minor; (vi) any  
19 potential placement provider when such release is  
20 authorized by the court for the limited purpose of  
21 determining the appropriateness of the potential  
22 placement; (vii) law enforcement officers and prosecutors;  
23 (viii) adult and juvenile prisoner review boards; (ix)  
24 authorized military personnel; (x) individuals authorized  
25 by court;

26 (7) subject to regulations of the State Board, in

1 connection with an emergency, to appropriate persons if the  
2 knowledge of such information is necessary to protect the  
3 health or safety of the student or other persons;

4 (8) to any person, with the prior specific dated  
5 written consent of the parent designating the person to  
6 whom the records may be released, provided that at the time  
7 any such consent is requested or obtained, the parent shall  
8 be advised in writing that he has the right to inspect and  
9 copy such records in accordance with Section 5, to  
10 challenge their contents in accordance with Section 7 and  
11 to limit any such consent to designated records or  
12 designated portions of the information contained therein;

13 (9) to a governmental agency, or social service agency  
14 contracted by a governmental agency, in furtherance of an  
15 investigation of a student's school attendance pursuant to  
16 the compulsory student attendance laws of this State,  
17 provided that the records are released to the employee or  
18 agent designated by the agency;

19 (10) to those SHOCAP committee members who fall within  
20 the meaning of "state and local officials and authorities",  
21 as those terms are used within the meaning of the federal  
22 Family Educational Rights and Privacy Act, for the purposes  
23 of identifying serious habitual juvenile offenders and  
24 matching those offenders with community resources pursuant  
25 to Section 5-145 of the Juvenile Court Act of 1987, but  
26 only to the extent that the release, transfer, disclosure,

1 or dissemination is consistent with the Family Educational  
2 Rights and Privacy Act;

3 (11) to the Department of Healthcare and Family  
4 Services in furtherance of the requirements of Section  
5 2-3.131, 3-14.29, 10-28, or 34-18.26 of the School Code or  
6 Section 10 of the School Breakfast and Lunch Program Act;  
7 or

8 (12) to the State Board or another State government  
9 agency or between or among State government agencies in  
10 order to evaluate or audit federal and State programs or  
11 perform research and planning, but only to the extent that  
12 the release, transfer, disclosure, or dissemination is  
13 consistent with the federal Family Educational Rights and  
14 Privacy Act (20 U.S.C. 1232g).

15 (a-5) Pursuant to subparagraph (4) of paragraph (a) of this  
16 Section, a school authority or the State Board may provide  
17 school student records to researchers at a research entity  
18 conducting research for, or on behalf of, a school, school  
19 authority, or the State Board if any such research is conducted  
20 in accordance with the federal Family Educational Rights and  
21 Privacy Act and does not take place until the following  
22 requirements are complied with:

23 (1) For those school authorities that maintain a  
24 website, the school authority shall maintain a webpage on  
25 the website that contains a short description of all  
26 current and scheduled research studies using personally

1 identifiable information obtained from the school  
2 authority without obtaining consent from parents,  
3 including the nature of each study, the categories of  
4 students whose records will be used in each listed study,  
5 and the names of all research entities involved in each  
6 listed study. The school authority shall update the website  
7 to include any new or approved research studies at least 3  
8 months but not more than 4 months after issuing the notice  
9 described in subparagraph (3) of this paragraph (a-5) and  
10 again at least 6 months but not more than 7 months after  
11 issuing the notice described in subparagraph (3) of this  
12 paragraph (a-5).

13 (2) For those school authorities that do not maintain a  
14 website, the school authority shall provide the  
15 information described in subparagraph (1) of this  
16 paragraph (a-5) in the same notice required in subparagraph  
17 (3) of this paragraph (a-5). The school authority shall  
18 provide supplemental notices that include any new or  
19 approved research studies at least 3 months but not more  
20 than 4 months after issuing the notice described in  
21 subparagraph (3) of this paragraph (a-5) and again at least  
22 6 months but not more than 7 months after issuing the  
23 notice described in subparagraph (3) of this paragraph  
24 (a-5).

25 (3) Prior to the beginning of each school year, the  
26 school authority shall provide notice to parents,

1 guardians and eligible students regarding current and  
2 scheduled research studies using personally identifiable  
3 information obtained from the school authority without  
4 obtaining consent from parents. The notice shall be sent by  
5 the same means generally used to send notices to parent,  
6 guardians, and eligible students and shall contain the  
7 following:

8 (A) the general purposes of conducting the  
9 educational research;

10 (B) the website address containing the information  
11 described in subparagraph (1) of this paragraph (a-5),  
12 if applicable, which website address shall also be set  
13 forth in the school authority's student handbook; and

14 (C) that the State Board conducts research studies  
15 and shall provide the website address for that part of  
16 the State Board's website that contains a list of the  
17 current and scheduled research studies to be  
18 conducted.

19 (4) A written data use agreement that complies with the  
20 federal Family Educational Rights and Privacy Act and its  
21 accompanying regulations and, at a minimum, contains the  
22 following provisions is entered into by and between the  
23 party gaining access to the records of the school authority  
24 or State Board and the entity with the legal authority to  
25 permit the use of the data:

26 (A) The research entity has read, understands, and

1 will abide by all requirements of this paragraph (a-5).

2 (B) A statement of the purpose, scope, and duration  
3 of the research study or studies, as well as a  
4 description of the records to be used as part of the  
5 study and the person or persons to whom the records  
6 will be disclosed, provided that the list of persons to  
7 whom the records may be disclosed may be amended from  
8 time to time with the agreement of all parties to the  
9 data use agreement.

10 (C) The research entity shall use school student  
11 records only to meet the purpose or purposes of the  
12 study as set forth in subdivision (B) of this  
13 subparagraph (4).

14 (D) The research entity may only use records  
15 containing personally identifiable information of a  
16 student or by which a student may otherwise be  
17 individually or personally identified: (i) to link  
18 school student records of particular students to other  
19 records of the same students or (ii) to identify  
20 eligible students for research studies for which  
21 written parental, guardian, or eligible student  
22 consent will be obtained for participation and the  
23 person or persons to whom such information will be  
24 disclosed is set forth in the data use agreement.

25 (E) The research entity shall destroy all records  
26 containing personally identifiable information of a

1 student or that otherwise individually or personally  
2 identifies a student when the information is no longer  
3 needed, but in no event later than 36 months after the  
4 research study has been completed.

5 (F) The research entity shall certify in writing  
6 that it has the capacity to and shall restrict access  
7 to school student records to the person or persons set  
8 forth in subdivision (b) of this subparagraph (4).

9 (G) The research entity shall certify in writing  
10 that it shall maintain the security of all records  
11 received pursuant to this paragraph (a-5) in  
12 compliance with rules adopted by the State Board, which  
13 rules shall be consistent and regularly updated to  
14 comply with commonly accepted data-security practices,  
15 including, but not limited to, those set forth by the  
16 United States Department of Education Privacy  
17 Technical Assistance Center.

18 (H) In compliance with the rules adopted pursuant  
19 to subdivision (g) of this subparagraph (4) and any  
20 other rules that may be necessary and adopted by the  
21 State Board, the research entity shall develop,  
22 implement, maintain, and use appropriate  
23 administrative, technical, and physical security  
24 measures to preserve the confidentiality and integrity  
25 of all school student records.

26 (5) Research entities may only use records containing

1 personally identifiable information of a student or by  
2 which a student may otherwise be personally or individually  
3 identified: (i) to link school student records of  
4 particular students to other records of the same students  
5 or (ii) to identify eligible students for research studies  
6 for which written parental, guardian, or eligible student  
7 consent will be obtained for participation and the person  
8 or persons to whom such information will be disclosed is  
9 set forth in the data use agreement.

10 (6) The research entity shall use personally  
11 identifiable information from school student records only  
12 to meet the purpose or purposes of the research study or  
13 studies as stated in the data use agreement described in  
14 subparagraph (4).

15 (7) Any information by which a student may be  
16 individually or personally identified shall be released,  
17 transferred, disclosed, or otherwise disseminated only as  
18 contemplated by the written data use agreement described in  
19 subparagraph (4).

20 (8) All school student records shall have personally  
21 identifiable information removed prior to analysis by the  
22 research entity.

23 (9) The research entity shall implement and adhere to  
24 policies and procedures that restrict access to records  
25 that have personally identifiable information.

26 (A) The research entity shall designate an



1 individual to act as the custodian of the records with  
2 personally identifiable information who is responsible  
3 for restricting access to those records and provide the  
4 name of that individual to the entity with the legal  
5 authority to permit the use of the records.

6 (B) Any personally identifiable information used  
7 to link school student records of particular students  
8 to other records of the same students shall be securely  
9 stored in a location separate and apart from the  
10 location of the school student records that have had  
11 personally identifiable data removed.

12 Nothing in this subparagraph (a-5) shall prohibit the State  
13 Board or any school authority from providing personally  
14 identifiable information about individual students to a  
15 research entity pursuant to a specific, written agreement with  
16 a school authority or State Board and in accordance with the  
17 federal Family Educational Rights and Privacy Act, where  
18 necessary for the school board or State Board to comply with  
19 State or federal statutory mandates.

20 (b) No information may be released pursuant to subparagraph  
21 (3) or (6) of paragraph (a) of this Section 6 unless the parent  
22 receives prior written notice of the nature and substance of  
23 the information proposed to be released, and an opportunity to  
24 inspect and copy such records in accordance with Section 5 and  
25 to challenge their contents in accordance with Section 7.  
26 Provided, however, that such notice shall be sufficient if

1 published in a local newspaper of general circulation or other  
2 publication directed generally to the parents involved where  
3 the proposed release of information is pursuant to subparagraph  
4 (6) of paragraph (a) of this Section 6 and relates to more than  
5 25 students.

6 (c) A record of any release of information pursuant to this  
7 Section must be made and kept as a part of the school student  
8 record and subject to the access granted by Section 5. Such  
9 record of release shall be maintained for the life of the  
10 school student records and shall be available only to the  
11 parent and the official records custodian. Each record of  
12 release shall also include:

13 (1) the nature and substance of the information  
14 released;

15 (2) the name and signature of the official records  
16 custodian releasing such information;

17 (3) the name of the person requesting such information,  
18 the capacity in which such a request has been made, and the  
19 purpose of such request;

20 (4) the date of the release; and

21 (5) a copy of any consent to such release.

22 (d) Except for the student and his parents, no person to  
23 whom information is released pursuant to this Section and no  
24 person specifically designated as a representative by a parent  
25 may permit any other person to have access to such information  
26 without a prior consent of the parent obtained in accordance

1 with the requirements of subparagraph (8) of paragraph (a) of  
2 this Section.

3 (e) Nothing contained in this Act shall prohibit the  
4 publication of student directories which list student names,  
5 addresses and other identifying information and similar  
6 publications which comply with regulations issued by the State  
7 Board.

8 (Source: P.A. 99-78, eff. 7-20-15.)

9 (105 ILCS 10/9) (from Ch. 122, par. 50-9)

10 Sec. 9. (a) Any person aggrieved by any violation of this  
11 Act may institute an action for injunctive relief in the  
12 Circuit Court of the County in which the violation has occurred  
13 or the Circuit Court of the County in which the school is  
14 located.

15 (b) Any person injured by a wilful or negligent violation  
16 of this Act may institute an action for damages in the Circuit  
17 Court of the County in which the violation has occurred or the  
18 Circuit Court of the County in which the school is located.

19 (c) In the case of any successful action under paragraph  
20 (a) or (b) of this Section, any person or school found to have  
21 wilfully or negligently violated any provision of this Act is  
22 liable to the plaintiff for the plaintiff's damages, the costs  
23 of the action and reasonable attorneys' fees, as determined by  
24 the Court.

25 (d) Actions for injunctive relief to secure compliance with

1 this Act may be brought by the State Board, by the State's  
2 Attorney of the County in which the alleged violation has  
3 occurred or the State's Attorney of the County in which the  
4 school is located, in each case in the Circuit Court of such  
5 County.

6 (e) Wilful failure to comply with any Section of this Act  
7 is a petty offense; except that any person who wilfully and  
8 maliciously falsifies any school student record, student  
9 permanent record or student temporary record shall be guilty of  
10 a Class A misdemeanor.

11 (f) Absent proof of malice, no cause of action or claim for  
12 relief, civil or criminal, may be maintained against any  
13 school, or employee or official of a school or person acting at  
14 the direction of a school for any statement made or judgment  
15 expressed in any entry to a school student record of a type  
16 which does not violate this Act or the regulations issued by  
17 the State Board pursuant to this Act; provided that this  
18 paragraph (f) does not limit or deny any defense available  
19 under existing law.

20 (g) In addition to any other penalties and remedies  
21 provided by this Section, any research entity that is found in  
22 any civil, criminal, or administrative proceeding authorized  
23 by this Section to have violated the requirements of paragraph  
24 (a-5) of Section 6 of this Act shall immediately cease  
25 conducting any research that utilizes school student records  
26 and shall be prohibited from conducting additional research

1 studies based on such records and information for a period of  
2 12 months after the date of the discovery of the violation.

3 (h) In addition to any other penalties and remedies  
4 provided by this Section, any school authority that is found in  
5 any civil, criminal, or administrative proceeding authorized  
6 by this Section to have violated the requirements of paragraph  
7 (a-5) of Section 6 of this Act shall be prohibited from  
8 entering into a data use agreement with any research entity for  
9 a period of 12 months after the date of the discovery of the  
10 violation, and all existing data use agreements governed by  
11 paragraph (a-5) of Section 6 of this Act shall be voided.

12 (Source: P.A. 84-712.)

13 Section 15. The Children's Privacy Protection and Parental  
14 Empowerment Act is amended by changing Section 5 as follows:

15 (325 ILCS 17/5)

16 Sec. 5. Definitions. As used in this Act:

17 "Child" means a person under the age of 18 ~~16~~. "Child" does  
18 not include a minor emancipated by operation of law.

19 "Parent" means a parent, step-parent, or legal guardian.

20 "Personal information" means any of the following:

21 (1) A person's name.

22 (2) A person's address.

23 (3) A person's telephone number.

24 (4) A person's driver's license number or State of

1 Illinois identification card as assigned by the Illinois  
2 Secretary of State or by a similar agency of another state.

3 (5) A person's social security number.

4 (6) Any other information that can be used to locate or  
5 contact a specific individual.

6 "Personal information" does not include any of the  
7 following:

8 (1) Public records as defined by Section 2 of the  
9 Freedom of Information Act.

10 (2) Court records.

11 (3) Information found in publicly available sources,  
12 including newspapers, magazines, and telephone  
13 directories.

14 (4) Any other information that is not known to concern  
15 a child.

16 (Source: P.A. 93-462, eff. 1-1-04.)