



Rep. Scott Drury

Filed: 4/8/2014

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LRB098 17628 RPM 58493 a

1 AMENDMENT TO HOUSE BILL 4558

2 AMENDMENT NO. _____. Amend House Bill 4558 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois School Student Records Act is
5 amended by changing Sections 2 and 6 as follows:

6 (105 ILCS 10/2) (from Ch. 122, par. 50-2)

7 Sec. 2. As used in this Act,

8 (a) "Student" means any person enrolled or previously
9 enrolled in a school.

10 (b) "School" means any public preschool, day care center,
11 kindergarten, nursery, elementary or secondary educational
12 institution, vocational school, special educational facility
13 or any other elementary or secondary educational agency or
14 institution and any person, agency or institution which
15 maintains school student records from more than one school, but
16 does not include a private or non-public school.

1 (c) "State Board" means the State Board of Education.

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

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

1 (f) "Student Temporary Record" means all information
2 contained in a school student record but not contained in the
3 student permanent record. Such information may include family
4 background information, intelligence test scores, aptitude
5 test scores, psychological and personality test results,
6 teacher evaluations, and other information of clear relevance
7 to the education of the student, all subject to regulations of
8 the State Board. The information shall include information
9 provided under Section 8.6 of the Abused and Neglected Child
10 Reporting Act. In addition, the student temporary record shall
11 include information regarding serious disciplinary infractions
12 that resulted in expulsion, suspension, or the imposition of
13 punishment or sanction. For purposes of this provision, serious
14 disciplinary infractions means: infractions involving drugs,
15 weapons, or bodily harm to another.

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

25 (h) "Eligible Student" means a student who has reached 18
26 years of age.

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

2 (105 ILCS 10/6) (from Ch. 122, par. 50-6)

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

6 (1) To a parent or student or person specifically
7 designated as a representative by a parent, as provided in
8 paragraph (a) of Section 5;

9 (2) To an employee or official of the school or school
10 district or State Board with current demonstrable
11 educational or administrative interest in the student, in
12 furtherance of such interest;

13 (3) To the official records custodian of another school
14 within Illinois or an official with similar
15 responsibilities of a school outside Illinois, in which the
16 student has enrolled, or intends to enroll, upon the
17 request of such official or student;

18 (4) Except as set forth in subparagraph (4.5) of this
19 paragraph (a), to ~~to~~ any person or entity for the purpose
20 of research, statistical reporting, ~~or~~ planning, audit, or
21 evaluation, provided that (i) such research, statistical
22 reporting, ~~or~~ planning, audit, or evaluation is
23 permissible under and undertaken in accordance with the
24 federal Family Educational Rights and Privacy Act (20
25 U.S.C. 1232g) and (ii) the parent or eligible student

1 provides prior, specific, dated, written consent
2 designating the person to whom the records may be released
3 and, at the time any such consent is requested or obtained,
4 the parent or eligible student is first advised in writing
5 of the specific purpose of the release, transfer,
6 disclosure, or dissemination and has the right to inspect
7 and copy such records in accordance with Section 5 of this
8 Act, to challenge their contents in accordance with Section
9 7 of this Act, and to limit any such consent to designated
10 records or designated portions of the information
11 contained in the records. For purposes of this subparagraph
12 (4), a separate, prior, specific, dated, written consent
13 shall be required from the parent or eligible student for
14 each release, transfer, disclosure, or dissemination of
15 school student records or information;

16 (4.5) To researchers at an accredited post-secondary
17 educational institution or an organization conducting
18 research pursuant to a specific, written agreement with the
19 school or school district or State Board and in accordance
20 with the federal Family Educational Rights and Privacy Act
21 shall comply with the following requirements:

22 (A) the nature of the research is first publicly
23 disclosed in advance of the research being conducted by
24 providing general notice regarding planned studies or
25 research to parents, guardians, or eligible students
26 prior to the beginning of each school year and by

1 posting an updated notice of additional research or
2 studies on the Internet website of the school board,
3 school district, school, or State Board as additional
4 research or studies are added. If the school board,
5 school district, or school does not have an Internet
6 website that can be updated with notice of additional
7 research or studies, the school board, school
8 district, or school shall send written notification to
9 affected parents, guardians, or eligible students as
10 additional research or studies are added. Any notice
11 provided under this paragraph shall set forth, in
12 general terms, the nature of the research, the persons
13 to whom the research will apply, and the topics
14 thereof. The notice requirements in this paragraph do
15 not apply to eligible students or parents or guardians
16 of students who have graduated or left the school,
17 school district, or State as of the effective date of
18 this amendatory Act of the 98th General Assembly.

19 (B) The post-secondary educational institution or
20 an organization conducting research and the school,
21 school district, or State Board shall enter into a data
22 use agreement which shall be signed by the party
23 gaining access to the data and the school board, school
24 district, or school and that complies with the federal
25 Family Educational Rights and Privacy Act and its
26 accompanying regulations and, at a minimum, sets forth

1 the following:

2 (i) the post-secondary educational institution
3 or the organization conducting research shall
4 abide by all requirements of this subdivision (B);

5 (ii) the purpose, scope, subjects, and
6 duration of the study or studies, the information
7 to be disclosed, and the person or persons to whom
8 the information shall be disclosed; the person or
9 persons to whom the information shall be disclosed
10 may be updated to include additional persons;

11 (iii) the persons disclosed in item (ii) shall
12 use school student records only to meet the purpose
13 or purposes of the study as set forth pursuant to
14 item (ii) and only after written or other recorded
15 information concerning a student and by which a
16 student may be individually identified has been
17 removed from such records;

18 (iv) the post-secondary educational
19 institution or the organization conducting
20 research shall only use written or other recorded
21 information concerning a student and by which a
22 student may be individually or personally
23 identified to link data files and, in such
24 instances, the post-secondary educational
25 institution or the organization conducting
26 research shall designate in writing the person or

1 persons to whom such information will be
2 disclosed;

3 (v) the post-secondary educational institution
4 or the organization conducting research shall
5 destroy all written or other recorded information
6 that individually or personally identifies a
7 student when the information is no longer needed,
8 but in no event later than 36 months after the
9 study has been completed;

10 (vi) the post-secondary educational
11 institution or the organization conducting
12 research shall certify in writing that it has the
13 capacity to and shall restrict access to school
14 student records and shall maintain the security of
15 all written and electronic information received
16 pursuant to this Section in compliance with rules
17 that shall be adopted by the State Board, which
18 shall be consistent with and regularly updated to
19 comply with commonly accepted data-security
20 practices, including, but not limited to, those
21 set forth by the United States Department of
22 Education Privacy Technical Assistance Center;

23 (vii) in compliance with the rules adopted
24 pursuant to item (vi), the post-secondary
25 educational institution or the organization
26 conducting research shall develop, implement,

1 maintain, and use appropriate administrative,
2 technical, and physical security measures to
3 preserve the confidentiality, integrity, and
4 availability of all school student records.

5 (C) The post-secondary educational institution or
6 the organization conducting research only uses
7 personally identifiable information from school
8 student records to meet the purpose or purposes of the
9 study as stated in the written data use agreement
10 described in subdivision (B) of this subparagraph
11 (4.5).

12 For purposes of this subparagraph (4.5), any
13 information by which a student may be individually or
14 personally identified shall only be released, transferred,
15 disclosed, or otherwise disseminated as contemplated by
16 the data use agreement between the parties set forth in
17 subdivision (B) of this subparagraph (4.5). The school
18 student records shall be redacted prior to analysis by the
19 post-secondary educational institution or the organization
20 conducting research. Any personally identifiable
21 information used to link data sets shall be stored in a
22 secure data file or location outside of the secure data
23 storage where redacted information from the school student
24 records is stored. The post-secondary educational
25 institution or the organization conducting research shall
26 implement and adhere to policies and procedures that

1 restrict access to information by which a student may be
2 individually or personally identified. The post-secondary
3 educational institution or the organization conducting
4 research shall designate an individual to act as the
5 custodian of the personally identifiable information who
6 is responsible for restricting access to that information.

7 Nothing in this subparagraph (4.5) shall prohibit the
8 State Board or any school or school district from providing
9 personally identifiable information about individual
10 students to an accredited post-secondary educational
11 institution or an organization conducting research
12 pursuant to a specific, written agreement with the school
13 or school district or State Board and in accordance with
14 the federal Family Educational Rights and Privacy Act,
15 where necessary for the State Board, school, or school
16 district to comply with State or federal statutory
17 mandates.

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

25 (6) To any person as specifically required by State or
26 federal law;

1 (6.5) To juvenile authorities when necessary for the
2 discharge of their official duties who request information
3 prior to adjudication of the student and who certify in
4 writing that the information will not be disclosed to any
5 other party except as provided under law or order of court.
6 For purposes of this Section "juvenile authorities" means:
7 (i) a judge of the circuit court and members of the staff
8 of the court designated by the judge; (ii) parties to the
9 proceedings under the Juvenile Court Act of 1987 and their
10 attorneys; (iii) probation officers and court appointed
11 advocates for the juvenile authorized by the judge hearing
12 the case; (iv) any individual, public or private agency
13 having custody of the child pursuant to court order; (v)
14 any individual, public or private agency providing
15 education, medical or mental health service to the child
16 when the requested information is needed to determine the
17 appropriate service or treatment for the minor; (vi) any
18 potential placement provider when such release is
19 authorized by the court for the limited purpose of
20 determining the appropriateness of the potential
21 placement; (vii) law enforcement officers and prosecutors;
22 (viii) adult and juvenile prisoner review boards; (ix)
23 authorized military personnel; (x) individuals authorized
24 by court;

25 (7) Subject to regulations of the State Board, in
26 connection with an emergency, to appropriate persons if the

1 knowledge of such information is necessary to protect the
2 health or safety of the student or other persons;

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

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

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

1 Rights and Privacy Act;

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

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

14 (b) No information may be released pursuant to
15 subparagraphs (3) or (6) of paragraph (a) of this Section 6
16 unless the parent receives prior written notice of the nature
17 and substance of the information proposed to be released, and
18 an opportunity to inspect and copy such records in accordance
19 with Section 5 and to challenge their contents in accordance
20 with Section 7. Provided, however, that such notice shall be
21 sufficient if published in a local newspaper of general
22 circulation or other publication directed generally to the
23 parents involved where the proposed release of information is
24 pursuant to subparagraph 6 of paragraph (a) in this Section 6
25 and relates to more than 25 students.

26 (c) A record of any release of information pursuant to this

1 Section must be made and kept as a part of the school student
2 record and subject to the access granted by Section 5. Such
3 record of release shall be maintained for the life of the
4 school student records and shall be available only to the
5 parent and the official records custodian. Each record of
6 release shall also include:

7 (1) The nature and substance of the information
8 released;

9 (2) The name and signature of the official records
10 custodian releasing such information;

11 (3) The name of the person requesting such information,
12 the capacity in which such a request has been made, and the
13 purpose of such request;

14 (4) The date of the release; and

15 (5) A copy of any consent to such release.

16 (d) Except for the student and his parents, no person to
17 whom information is released pursuant to this Section and no
18 person specifically designated as a representative by a parent
19 may permit any other person to have access to such information
20 without a prior consent of the parent obtained in accordance
21 with the requirements of subparagraph (8) of paragraph (a) of
22 this Section.

23 (e) Nothing contained in this Act shall prohibit the
24 publication of student directories which list student names,
25 addresses and other identifying information and similar
26 publications which comply with regulations issued by the State

1 Board.

2 (Source: P.A. 95-331, eff. 8-21-07; 95-793, eff. 1-1-09;

3 96-107, eff. 7-30-09; 96-1000, eff. 7-2-10.)".