



Rep. Scott Drury

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1 AMENDMENT TO SENATE BILL 3092

2 AMENDMENT NO. _____. Amend Senate Bill 3092 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 school board, school district,

1 school, or State Board requires the person or entity to do
2 the following:

3 (A) Not use, share, disclose, or compile the school
4 student records or information contained therein for
5 any purpose other than that for which the information
6 is provided, which purpose shall be set forth in
7 writing by the school board, school district, school,
8 or State Board and signed by the person or entity.

9 (B) Not use, share, disclose, or compile the school
10 student records or information contained therein for
11 any commercial purpose, including, but not limited to,
12 advertising or profiling.

13 (C) Not, in any way whatsoever, allow, facilitate,
14 or aid in the marketing or advertising of a product or
15 service to a student whose school student records or
16 the information contained therein has been received by
17 the person or entity.

18 (D) Take all reasonable steps to protect the school
19 student records and information contained therein in a
20 manner that meets or exceeds reasonable and
21 appropriate commercial best practices. Where the
22 school student records or information contained
23 therein is maintained in an electronic format,
24 reasonable and appropriate commercial best practices
25 include, at a minimum, all of the following:

26 (i) Valid encryption processes for data at

1 rest in the person or entity's own data storage
2 systems that are consistent with NIST Special
3 Publication 800-111, Guide to Storage Encryption
4 Technologies for End User Devices.

5 (ii) Valid encryption processes for data in
6 motion on public networks that comply, as
7 appropriate, with NIST Special Publications
8 800-52, Guidelines for the Selection and Use of
9 Transport Layer Security (TLS) Implementations;
10 NIST Special Publication 800-77, Guide to IPsec
11 VPNs; or NIST Special Publication 800-113, Guide
12 to SSL VPNs, or others that are Federal Information
13 Processing Standards (FIPS) Publication 140-2
14 validated.

15 (E) Delete a school student record and information
16 contained therein if any of the following occurs:

17 (i) The school student record and information
18 contained therein is no longer being used for the
19 purpose directed by the school board, school
20 district, school, or State Board.

21 (ii) A parent or eligible student requests
22 deletion, unless the school student record or
23 information contained therein is being used or
24 maintained at the direction of a school board,
25 school district, or school, or the State Board and
26 is under the direct control of such school board,

1 school district, school, or State Board.

2 (iii) The school board, school district,
3 school, or State Board requests deletion.

4 (4.1) Nothing in paragraph (4) shall prohibit a person
5 or entity from sharing, disclosing, or compiling school
6 student records or the information contained therein if
7 other provisions of federal or State law require such
8 sharing, disclosure, or compilation, and the person or
9 entity complies with the requirements of federal and State
10 law in protecting that information.

11 (4.2) If a school board, school district, or school, or
12 the State Board is unable to gain compliance by a person or
13 entity with the requirements of paragraph (4), but
14 determines that releasing, transferring, disclosing, or
15 otherwise disseminating school student records or
16 information contained therein to such a person or entity is
17 essential to an educational objective, the school board,
18 school district, school, or State Board may release,
19 transfer, disclose, or otherwise disseminate such school
20 student records and the information contained therein
21 provided that all of the following occurs:

22 (A) The school board, school district, school, or
23 State Board publicly notifies parents and eligible
24 students at least 21 days in advance of the student's
25 school student records or information contained
26 therein being released, transferred, disclosed, or

1 otherwise disseminated of: (i) the planned release,
2 transfer, disclosure, or dissemination; and (ii) the
3 purpose of the planned release, transfer, disclosure,
4 or dissemination.

5 (B) The school board, school district, school, or
6 State Board provides parents and eligible students
7 with (i) the opportunity to opt out of having the
8 relevant school student records or information
9 contained therein released, transferred, disclosed, or
10 otherwise disseminated; and (ii) instructions setting
11 forth how to opt out. †

12 (4.5) To researchers at an accredited post-secondary
13 educational institution or an organization conducting
14 research pursuant to a specific, written agreement with the
15 school or school district or State Board and in accordance
16 with the federal Family Educational Rights and Privacy Act,
17 provided that such researchers and organizations comply
18 with the following requirements:

19 (A) The nature of the research shall be first
20 publicly disclosed in advance of the research being
21 conducted by providing general notice regarding
22 planned studies or research to parents, guardians, or
23 eligible students prior to the beginning of each school
24 year and by posting an updated notice of additional
25 research or studies on the Internet website of the
26 school board, school district, school, or State Board

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

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

26 (i) a requirement that the post-secondary

1 educational institution or the organization
2 conducting research shall abide by all
3 requirements of this subdivision (B);

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

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

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

1 disclosed;

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

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

24 (vii) a requirement that, in compliance with
25 the rules adopted pursuant to item (vi), the
26 post-secondary educational institution or the

1 organization conducting research shall develop,
2 implement, maintain, and use appropriate
3 administrative, technical, and physical security
4 measures to preserve the confidentiality,
5 integrity, and availability of all school student
6 records.

7 (C) The post-secondary educational institution or
8 the organization conducting research shall use
9 personally identifiable information from school
10 student records only to meet the purpose or purposes of
11 the study as stated in the written data use agreement
12 described in subdivision (B) of this subparagraph
13 (4.5).

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

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

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

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

1 pursuant to Section 7. ~~+~~

2 (6) To any person as specifically required by State or
3 federal law. ~~+~~

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

1 by court. †

2 (7) Subject to regulations of the State Board, in
3 connection with an emergency, to appropriate persons if the
4 knowledge of such information is necessary to protect the
5 health or safety of the student or other persons. †

6 (8) To any person, with the prior specific dated
7 written consent of the parent designating the person to
8 whom the records may be released, provided that at the time
9 any such consent is requested or obtained, the parent shall
10 be advised in writing that he has the right to inspect and
11 copy such records in accordance with Section 5, to
12 challenge their contents in accordance with Section 7 and
13 to limit any such consent to designated records or
14 designated portions of the information contained therein.
15 †

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

22 (10) To those SHOCAP committee members who fall within
23 the meaning of "state and local officials and authorities",
24 as those terms are used within the meaning of the federal
25 Family Educational Rights and Privacy Act, for the purposes
26 of identifying serious habitual juvenile offenders and

1 matching those offenders with community resources pursuant
2 to Section 5-145 of the Juvenile Court Act of 1987, but
3 only to the extent that the release, transfer, disclosure,
4 or dissemination is consistent with the Family Educational
5 Rights and Privacy Act. †

6 (11) To the Department of Healthcare and Family
7 Services in furtherance of the requirements of Section
8 2-3.131, 3-14.29, 10-28, or 34-18.26 of the School Code or
9 Section 10 of the School Breakfast and Lunch Program Act. †

10 ~~or~~

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

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

1 parents involved where the proposed release of information is
2 pursuant to subparagraph 6 of paragraph (a) in this Section 6
3 and relates to more than 25 students.

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

11 (1) The nature and substance of the information
12 released;

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

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

18 (4) The date of the release; and

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

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

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

6 (Source: P.A. 95-331, eff. 8-21-07; 95-793, eff. 1-1-09;
7 96-107, eff. 7-30-09; 96-1000, eff. 7-2-10.)

8 Section 10. The Children's Privacy Protection and Parental
9 Empowerment Act is amended by changing Section 10 as follows:

10 (325 ILCS 17/10)

11 Sec. 10. Prohibited act.

12 (a) The sale or purchase of personal information concerning
13 an individual known to be a child without parental consent is
14 prohibited.

15 (b) This Section does not apply when the sale or purchase
16 described in subsection (a) is made under a criminal or civil
17 investigation that is otherwise lawful.

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

19 (325 ILCS 17/15 rep.)

20 Section 15. The Children's Privacy Protection and Parental
21 Empowerment Act is amended by repealing Section 15."