



Rep. Scott Drury

Filed: 4/7/2015

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LRB099 04631 SXM 33685 a

1 AMENDMENT TO HOUSE BILL 811

2 AMENDMENT NO. _____. Amend House Bill 811 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 (i) "School Board" means any school board, board of
2 directors, or any other governing body established under the
3 School Code.

4 (j) "Personally identifiable information" means:

5 (1) the student's name;

6 (2) the name of the student's parent or guardian or
7 other family members;

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

9 (4) a personal identifier, such as the student's social
10 security number, student number, or biometric record;

11 (5) other indirect identifiers, such as the student's
12 date of birth, place of birth, and mother's maiden name;

13 (6) other information that, alone or in combination, is
14 linked or linkable to a specific student and that would
15 allow a reasonable person in the school community, who does
16 not have personal knowledge of the relevant circumstances,
17 to identify the student with reasonable certainty; or

18 (7) information requested by a person who an
19 educational agency or institution reasonably believes
20 knows the identity of the student to whom the education
21 record relates.

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

23 (105 ILCS 10/6) (from Ch. 122, par. 50-6)

24 Sec. 6. (a) No school student records or information
25 contained therein may be released, transferred, disclosed or

1 otherwise disseminated, except as follows:

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

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

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

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

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

1 (6) to ~~to~~ any person as specifically required by State
2 or federal law;

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

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

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

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

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

1 Act of 1987, but only to the extent that the release,
2 transfer, disclosure, or dissemination is consistent with
3 the Family Educational Rights and Privacy Act;

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

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

16 (a-5) Pursuant to subparagraph (4) of paragraph (a) of this
17 Section, a school board or the State Board may provide school
18 student data to researchers at an accredited post-secondary
19 educational institution or an organization conducting research
20 if any such research is conducted in accordance with the
21 federal Family Educational Rights and Privacy Act and does not
22 take place until the following requirements are complied with:

23 (1) Prior to the beginning of each school year, the
24 school board shall provide notice to parents, guardians, or
25 eligible students regarding planned studies. For those
26 school boards that maintain an Internet website, the school

1 board shall post on its Internet website a current list of
2 all research studies using data obtained from the school
3 board without obtaining consent from parents, guardians,
4 or eligible students currently being conducted or
5 scheduled to be conducted. In April and December of each
6 year, the school board shall update the Internet website to
7 include new research studies that are approved or
8 conducted. For those school boards that do not maintain an
9 Internet website, each school board shall provide parents,
10 guardians, and eligible students with a current list of all
11 research studies being conducted or scheduled to be
12 conducted in the same notice described above and shall
13 provide supplemental notices in April and December as new
14 research studies are approved or conducted.

15 (A) The school board shall send the notice
16 described in this subparagraph (1) by the same means
17 generally used to send notices to parents, guardians,
18 or eligible students.

19 (B) The notice described in this subparagraph (1)
20 shall describe generally the purposes of conducting
21 educational research, contain a short description of
22 all current and scheduled research studies, and set
23 forth the address of the Internet website containing a
24 current list of all research studies being conducted
25 and scheduled to be conducted, which web address shall
26 also be set forth in the school board's student

1 handbook. The notice shall also advise parents,
2 guardians, and eligible students that the State Board
3 conducts research studies and shall provide the
4 Internet website address for that part of the State
5 Board's website that contains a list of the current and
6 scheduled studies to be conducted.

7 (C) For those school boards that maintain an
8 Internet website, the webpage that contains the list of
9 all current and scheduled research studies shall also
10 set forth, in general terms, the nature of each listed
11 research study, the categories of students whose data
12 will be used in each listed research study, and the
13 names of all organizations involved in each listed
14 research study. For those school boards that do not
15 maintain an Internet website, the school boards shall
16 provide the information described in this subdivision
17 (C) in the notice described in this subparagraph (1).

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

25 (A) The accredited post-secondary educational
26 institution or the organization conducting research

1 shall abide by all requirements of this subparagraph
2 (2).

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

11 (C) The accredited post-secondary educational
12 institution or the organization conducting research
13 shall use school student records only to meet the
14 purpose or purposes of the study as set forth in
15 subdivision (B) of this subparagraph (2).

16 (D) The accredited post-secondary educational
17 institution or the organization conducting research
18 may only use data by which a student may be
19 individually or personally identified for 2 reasons:
20 (i) to link data files or (ii) to identify eligible
21 students for research studies for which written
22 parental, guardian, or eligible student consent will
23 be obtained for participation and the person or persons
24 to whom such information will be disclosed is set forth
25 in the data use agreement.

26 (E) The accredited post-secondary educational

1 institution or the organization conducting research
2 shall destroy all data that individually or personally
3 identifies a student when the information is no longer
4 needed, but in no event later than 36 months after the
5 research study has been completed.

6 (F) The accredited post-secondary educational
7 institution or the organization conducting research
8 shall certify in writing that it has the capacity to
9 and shall restrict access to school student records to
10 the person or persons set forth in subdivision (B) of
11 this subparagraph (2).

12 (G) The accredited post-secondary educational
13 institution or the organization conducting research
14 shall certify in writing that it shall maintain the
15 security of all data received pursuant to this
16 paragraph (a-5) in compliance with rules adopted by the
17 State Board, which rules shall be consistent and
18 regularly updated to comply with commonly accepted
19 data-security practices, including, but not limited
20 to, those set forth by the United States Department of
21 Education Privacy Technical Assistance Center.

22 (H) In compliance with the rules adopted pursuant
23 to subdivision (G) of this subparagraph (2) and any
24 other rules that may be necessary and adopted by the
25 State Board, the accredited post-secondary educational
26 institution or the organization conducting research

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

5 (3) Accredited post-secondary educational institutions
6 and organizations conducting research may only use data by
7 which a student may be personally or individually
8 identified for 2 reasons: (i) to link data files or (ii) to
9 identify eligible students for research studies for which
10 written parental, guardian, or eligible student consent
11 will be obtained for participation and the person or
12 persons to whom such information will be disclosed is set
13 forth in the data use agreement.

14 (4) The accredited post-secondary institution or the
15 organization conducting research agrees that it shall use
16 personally identifiable information from school student
17 records only to meet the purpose or purposes of the
18 research study or studies as stated in the data use
19 agreement described in subparagraph (2) of this paragraph
20 (a-5).

21 (5) Any information by which a student may be
22 individually or personally identified shall be released,
23 transferred, disclosed, or otherwise disseminated only as
24 contemplated by the written data use agreement described in
25 subparagraph (2) of this paragraph (a-5).

26 (6) All school student records shall have personally

1 identifiable information removed prior to analysis by the
2 accredited post-secondary educational institution or the
3 organization conducting research.

4 (7) The accredited post-secondary institution or
5 organization conducting research shall implement and
6 adhere to policies and procedures that restrict access to
7 data that has personally identifiable information.

8 (A) The accredited post-secondary institution or
9 organization conducting research shall designate an
10 individual to act as the custodian of the data with
11 personally identifiable information who is responsible
12 for restricting access to that data and provide the
13 name of that individual to the entity with the legal
14 authority to permit the use of the data.

15 (B) Any personally identifiable information used
16 to link data sets shall be securely stored in a
17 location separate and apart from the location of the
18 de-identified school student records, in a secure data
19 file.

20 Nothing in this paragraph (a-5) shall prohibit the State
21 Board or any school board from providing personally
22 identifiable information about individual students to an
23 accredited post-secondary educational institution or an
24 organization conducting research pursuant to a specific,
25 written agreement with a school board or State Board and in
26 accordance with the federal Family Educational Rights and

1 Privacy Act if necessary for the school board or State Board to
2 comply with State or federal statutory mandates.

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

15 (c) A record of any release of information pursuant to this
16 Section must be made and kept as a part of the school student
17 record and subject to the access granted by Section 5. Such
18 record of release shall be maintained for the life of the
19 school student records and shall be available only to the
20 parent and the official records custodian. Each record of
21 release shall also include:

22 (1) the ~~The~~ nature and substance of the information
23 released;

24 (2) the ~~The~~ name and signature of the official records
25 custodian releasing such information;

26 (3) the ~~The~~ name of the person requesting such

1 information, the capacity in which such a request has been
2 made, and the purpose of such request;

3 (4) the ~~The~~ date of the release; and

4 (5) a ~~A~~ copy of any consent to such release.

5 (d) Except for the student and his parents, no person to
6 whom information is released pursuant to this Section and no
7 person specifically designated as a representative by a parent
8 may permit any other person to have access to such information
9 without a prior consent of the parent obtained in accordance
10 with the requirements of subparagraph (8) of paragraph (a) of
11 this Section.

12 (e) Nothing contained in this Act shall prohibit the
13 publication of student directories which list student names,
14 addresses and other identifying information and similar
15 publications which comply with regulations issued by the State
16 Board.

17 (Source: P.A. 95-331, eff. 8-21-07; 95-793, eff. 1-1-09;
18 96-107, eff. 7-30-09; 96-1000, eff. 7-2-10; revised
19 11-26-14.)".