

House File 2354 - Enrolled

House File 2354

AN ACT

RELATING TO STUDENT PERSONAL INFORMATION PROTECTION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 279.70 Student online personal information protection.

1. As used in this section, unless the context otherwise requires:

*a.* "Attendance center" means a school district building that contains classrooms used for instructional purposes for elementary, middle, or secondary school students.

*b.* "Covered information" means personally identifiable information or material, or information that is linked to personally identifiable information or material, in any media or format that is not publicly available and is any of the following:

(1) Created by or provided to an operator by a student, or the student's parent or legal guardian, in the course of the student's, parent's, or legal guardian's use of the operator's site, service, or application for kindergarten through grade twelve school purposes.

(2) Created by or provided to an operator by an employee or agent of a school district or attendance center for kindergarten through grade twelve school purposes.

(3) Gathered by an operator through the operation of its site, service, or application for kindergarten through grade twelve school purposes and personally identifies a student,

including but not limited to information in the student's educational record or electronic mail, first and last name, home address, telephone number, electronic mail address, or other information that allows physical or online contact, discipline records, test results, special education data, juvenile dependency records, grades, evaluations, criminal records, medical records, health records, social security number, biometric information, disabilities, socioeconomic information, food purchases, political affiliations, religious information, text messages, documents, student identifiers, search activity, photos, voice recordings, or geolocation information.

*c. "Interactive computer service"* means that term as defined in 47 U.S.C. §230.

*d. "Kindergarten through grade twelve school purposes"* means purposes that are directed by or that customarily take place at the direction of a kindergarten through grade twelve attendance center, school district, or a practitioner employed by a school district, in the administration of school activities, including but not limited to instruction in the classroom or at home, administrative activities, and collaboration between students, school district or attendance center personnel, or parents, or are otherwise for the use and benefit of the school district or attendance center.

*e. "Operator"* means, to the extent that it is operating in this capacity, the operator of an internet site, online service, online application, or mobile application with actual knowledge that the site, service, or application is used primarily for kindergarten through grade twelve school purposes and was designed and marketed for such purposes.

*f. "School district"* means a public school district described in chapter 274.

*g. "Targeted advertising"* means presenting advertisements to a student where the advertisement is selected based on information obtained or inferred over time from that student's online behavior, usage of applications, or covered information. *"Targeted advertising"* does not include advertising to a student at an online location based upon that student's current visit to that location, or in response to that student's request

for information or feedback, without the retention of that student's online activities or requests over time for the purpose of targeting subsequent ads.

2. a. An operator shall not knowingly do any of the following:

(1) Engage in targeted advertising on the operator's internet site, service, or application, or target advertising on any other internet site, service, or application if the targeting of the advertising is based on any information, including covered information and persistent unique identifiers, that the operator has acquired because of the use of that operator's internet site, service, or application for kindergarten through grade twelve school purposes.

(2) Use information, including persistent unique identifiers, created or gathered by the operator's internet site, service, or application, to amass a profile about a student except in furtherance of kindergarten through grade twelve school purposes. "*Amass a profile*" does not include the collection and retention of account information that remains under the control of the student, the student's parent or guardian, or kindergarten through grade twelve school.

(3) Sell or rent a student's information, including covered information. This subparagraph does not apply to the purchase, merger, or other type of acquisition of an operator by another entity, if the operator or successor entity complies with this section regarding previously acquired student information, or to national assessment providers if the provider secures the express written consent of the parent or student, given in response to clear and conspicuous notice, solely to provide access to employment, educational scholarships or financial aid, or postsecondary educational opportunities.

(4) Except as otherwise provided in subsection 4, disclose covered information unless the disclosure is made for the following purposes:

(a) In furtherance of the kindergarten through grade twelve school purpose of the internet site, service, or application, if the recipient of the covered information disclosed under this subparagraph division does not further disclose the information unless done to allow or improve operability and

functionality of the operator's internet site, service, or application.

(b) To ensure legal and regulatory compliance or protect against liability.

(c) To respond to or participate in the judicial process.

(d) To protect the safety or integrity of users of the internet site or others or the security of the internet site, service, or application.

(e) For a kindergarten through grade twelve school, educational, or employment purpose requested by the student or the student's parent or guardian, provided that the information is not used or further disclosed for any other purpose.

(f) To a third party, if the operator contractually prohibits the third party from using any covered information for any purpose other than providing the contracted service to or on behalf of the operator and requires the third party to protect student information to the same extent that the operator is required to do pursuant to this section, prohibits the third party from disclosing any covered information provided by the operator with subsequent third parties, and requires the third party to implement and maintain security procedures and practices consistent with current industry standards and all applicable state and federal laws, rules, and regulations.

b. Nothing in paragraph "a" shall prohibit the operator's use of information for maintaining, developing, supporting, improving, or diagnosing the operator's internet site, service, or application.

3. An operator shall do all of the following:

a. Implement and maintain security procedures and practices consistent with current industry standards and all applicable state and federal laws, rules, and regulations appropriate to the nature of the covered information designed to protect that covered information from unauthorized access, destruction, use, modification, or disclosure.

b. Delete as soon as reasonably practicable, a student's covered information if the school district or attendance center requests deletion of covered information under the control of the school district or attendance center, unless a student or

parent or guardian consents to the maintenance of the covered information.

4. An operator may use or disclose covered information of a student under all of the following circumstances:

*a.* If other provisions of federal or state law require the operator to disclose the information, and the operator complies with the requirements of federal and state law in protecting and disclosing that information.

*b.* If no covered information is used for advertising or to amass a profile on the student for purposes other than elementary, middle school, or high school purposes; for legitimate research purposes, as required by state or federal law and subject to the restrictions under applicable state and federal law; or as allowed by state or federal law and in furtherance of kindergarten through grade twelve school purposes or postsecondary educational purposes.

*c.* To a state or local educational agency, including kindergarten through grade twelve attendance centers and school districts, for kindergarten through grade twelve school purposes, as permitted by state or federal law.

5. This section does not prohibit an operator from doing any of the following:

*a.* Using covered information to improve educational products if that information is not associated with an identified student within the operator's internet site, service, or application or other internet sites, services, or applications owned by the operator.

*b.* Using covered information that is not associated with an identified student to demonstrate the effectiveness of the operator's products or services, including in the operator's marketing.

*c.* Sharing covered information that is not associated with an identified student for the development and improvement of educational internet sites, services, or applications.

*d.* Using recommendation engines to recommend to a student either of the following:

(1) Additional content relating to an educational, other learning, or employment opportunity purpose within an online site, service, or application if the recommendation

is not determined in whole or in part by payment or other consideration from a third party.

(2) Additional services relating to an educational, other learning, or employment opportunity purpose within an online site, service, or application if the recommendation is not determined in whole or in part by payment or other consideration from a third party.

*e.* Responding to a student's request for information or for feedback without the information or response being determined in whole or in part by payment or other consideration from a third party.

6. This section does not do any of the following:

*a.* Limit the authority of a law enforcement agency to obtain any content or information from an operator as authorized by law or under a court order.

*b.* Limit the ability of an operator to use student data, including covered information, for adaptive learning or customized student learning purposes.

*c.* Apply to general audience internet sites, general audience online services, general audience online applications, or general audience mobile applications, even if login credentials created for an operator's internet site, service, or application may be used to access those general audience internet sites, services, or applications.

*d.* Limit service providers from providing internet connectivity to attendance centers or students and students' families.

*e.* Prohibit an operator of an internet site, online service, online application, or mobile application from marketing educational products directly to parents if the marketing did not result from the use of covered information obtained by the operator through the provision of services covered under this section.

*f.* Impose a duty upon a provider of an electronic store, gateway, marketplace, or other means of purchasing or downloading software or applications to review or enforce compliance with this section on those applications or software.

*g.* Impose a duty on a provider of an interactive computer service to review or enforce compliance with this section by

third-party content providers.

*h.* Prohibit students from downloading, exporting, transferring, saving, or maintaining the students' own student data or documents.

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LINDA UPMEYER  
Speaker of the House

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CHARLES SCHNEIDER  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2354, Eighty-seventh General Assembly.

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CARMINE BOAL  
Chief Clerk of the House

Approved \_\_\_\_\_, 2018

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KIM REYNOLDS  
Governor