

**House File 213 - Introduced**

HOUSE FILE 213

BY PETTENGILL

**A BILL FOR**

1 An Act relating to student online personal information  
2 protection and providing remedies.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 714H.3, subsection 2, Code 2015, is  
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. *g.* Chapter 715D.

4 Sec. 2. NEW SECTION. 715D.1 **Definitions.**

5 As use in this chapter, unless the context otherwise  
6 requires:

7 1. "*Covered information*" means personally identifiable  
8 information or materials, in any media or format that meets any  
9 of the following:

10 *a.* Is created or provided by a student, or the student's  
11 parent or legal guardian, to an operator in the course of the  
12 student's, parent's, or legal guardian's use of the operator's  
13 internet site, service, or application for kindergarten through  
14 grade twelve school purposes.

15 *b.* Is created or provided by an employee or agent of the  
16 school district, accredited nonpublic school, or area education  
17 agency, to an operator.

18 *c.* Is gathered by an operator through the operation  
19 of an internet site, service, or application described in  
20 subsection 3 and is descriptive of a student or otherwise  
21 identifies a student, including but not limited to information  
22 in the student's educational record or e-mail, first and last  
23 name, home address, telephone number, e-mail address, other  
24 information that allows physical or online contact, discipline  
25 records, test results, special education data, juvenile  
26 dependency records, grades, evaluations, criminal records,  
27 medical records, health records, social security number,  
28 biometric information, disabilities, socioeconomic information,  
29 food purchases, political affiliations, religious information,  
30 text messages, documents, student identifiers, search activity,  
31 photos, voice recordings, or geolocation information.

32 2. "*Kindergarten through grade twelve school purposes*"  
33 means purposes that customarily take place at the direction  
34 of a school district or accredited nonpublic school offering  
35 instruction at any or all levels from kindergarten through

1 grade twelve, at the direction of an area education agency, or  
2 at the direction of a teacher employed by or under contract  
3 with a school district, accredited nonpublic school, or area  
4 education agency, and purposes which aid in the administration  
5 of school activities, including but not limited to instruction  
6 in the classroom or at home, administrative activities, and  
7 collaboration between students, school personnel, or parents,  
8 or are for the use and benefit of the school district, school,  
9 or area education agency.

10 3. "*Operator*" means the operator of an internet site, online  
11 service, online application, or mobile application with actual  
12 knowledge that the internet site, service, or application is  
13 used primarily for kindergarten through grade twelve school  
14 purposes and was designed and marketed for kindergarten through  
15 grade twelve school purposes. "*Online service*" includes cloud  
16 computing services that otherwise meet the definition of an  
17 operator.

18 Sec. 3. NEW SECTION. 715D.2 Prohibitions — duties —  
19 exceptions.

20 1. An operator, with respect to the operator's internet  
21 site, service, or application, shall not knowingly do any of  
22 the following:

23 a. Engage in targeted advertising on the operator's internet  
24 site, service, or application, or target advertising on any  
25 other internet site, service, or application when the targeting  
26 of the advertising is based upon any information, including  
27 covered information and persistent unique identifiers, that the  
28 operator has acquired because of the use of that operator's  
29 internet site, service, or application described in section  
30 715D.1, subsection 3.

31 b. Use information, including persistent unique identifiers  
32 such as unique student identifiers, created or gathered by the  
33 operator's internet site, service, or application, to amass  
34 a profile about a student enrolled in a kindergarten through  
35 grade twelve school in this state except in furtherance of

1 kindergarten through grade twelve school purposes.

2     *c.* Sell a student's information, including covered  
3 information. This prohibition does not apply to the purchase,  
4 merger, or other type of acquisition of an operator by another  
5 entity, provided that the operator or successor entity  
6 continues to be subject to the provisions of this chapter with  
7 respect to previously acquired student information.

8     *d.* Disclose covered information unless the disclosure is any  
9 of the following:

10     (1) In furtherance of the kindergarten through grade twelve  
11 school purposes of the internet site, service, or application  
12 provided that the recipient of the covered information  
13 disclosed pursuant to this subparagraph shall not further  
14 disclose the information unless done to allow or improve  
15 operability and functionality within that student's classroom  
16 or school and the recipient is legally required to comply with  
17 this paragraph "d".

18     (2) To ensure legal and regulatory compliance.

19     (3) To respond to or participate in judicial process.

20     (4) To protect the safety of the internet site users or  
21 other persons identified on the internet site or security of  
22 the internet site.

23     (5) To a service provider, provided the operator  
24 contractually prohibits the service provider from using any  
25 covered information for any purpose other than providing the  
26 contracted service to, or on behalf of, the operator; prohibits  
27 the service provider from disclosing any covered information  
28 provided by the operator to subsequent third parties; and  
29 requires the service provider to implement and maintain  
30 reasonable security procedures and practices as provided in  
31 subsection 3.

32     2. Subsection 1 shall not be construed to prohibit the  
33 operator's use of information for maintaining, developing,  
34 supporting, improving, or diagnosing the operator's internet  
35 site, service, or application.

1 3. An operator shall do all of the following:

2 a. Implement and maintain reasonable security procedures and  
3 practices appropriate to the nature of the covered information,  
4 and protect the covered information from unauthorized access,  
5 destruction, use, modification, or disclosure.

6 b. Delete a student's covered information if the school  
7 district, accredited nonpublic school, or area education agency  
8 requests deletion of data under the control of the school  
9 district, the school, or the area education agency.

10 c. Notwithstanding subsection 1, paragraph "d", as long  
11 as the operator does not violate subsection 1, paragraph "a",  
12 "b", or "c", an operator may disclose covered information of a  
13 student under the following circumstances:

14 (1) If other provisions of federal or state law require the  
15 operator to disclose the information and the operator complies  
16 with the requirements of federal and state law in protecting  
17 and disclosing that information.

18 (2) For legitimate research purposes as required by state or  
19 federal law and subject to the restrictions under applicable  
20 state or federal law or as allowed by state or federal law  
21 and under the direction of a school district, an accredited  
22 nonpublic school, an area education agency, or the state or  
23 federal department of education, if no covered information is  
24 used for any purpose in furtherance of advertising or to amass  
25 a profile of the student for purposes other than kindergarten  
26 through grade twelve school purposes.

27 (3) To state or local educational agencies, including  
28 school districts, accredited nonpublic schools, area education  
29 agencies, and community colleges, for kindergarten through  
30 grade twelve school purposes, as permitted by state or federal  
31 law.

32 4. This section shall not be construed to do any of the  
33 following:

34 a. Prohibit an operator from using deidentified student  
35 covered information as follows:

1 (1) Within the operator's internet site, service, or  
2 application or other internet sites, services, or applications  
3 owned by the operator to improve educational products.

4 (2) To demonstrate the effectiveness of the operator's  
5 products or services and their marketing.

6 *b.* Prohibit an operator from sharing aggregated deidentified  
7 student covered information for the development and improvement  
8 of educational internet sites, services, or applications.

9 *c.* Limit the authority of a law enforcement agency to obtain  
10 any content or information from an operator as authorized  
11 by law or pursuant to an order of a court of competent  
12 jurisdiction.

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

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

22 *f.* Restrict internet service providers from providing  
23 internet connectivity to schools or students and their  
24 families.

25 *g.* Prohibit an operator of an internet site, online service,  
26 online application, or mobile application from marketing  
27 educational products directly to parents so long as the  
28 marketing did not result from the use of covered information  
29 obtained by the operator through the provision of services  
30 regulated under this section.

31 *h.* Impose a duty upon a provider of an electronic store,  
32 gateway, or marketplace, or of another means of purchasing  
33 or downloading software or applications to review or enforce  
34 compliance with this section by such software or applications.

35 *i.* Impose a duty upon a provider of an interactive computer

1 service, as defined in 47 U.S.C. §230, to review or enforce  
2 compliance with this section by third-party content providers.

3 *j.* Impede the ability of students to download, export, or  
4 otherwise save or maintain their own student-created data or  
5 documents.

6 Sec. 4. NEW SECTION. 715D.3 Remedies.

7 1. A violation of this chapter is an unlawful practice  
8 pursuant to section 714.16 and, in addition to the remedies  
9 provided to the attorney general pursuant to section 714.16,  
10 subsection 7, the attorney general may seek and obtain an order  
11 that a party held to violate this chapter pay damages to the  
12 attorney general for the benefit of a person injured by the  
13 violation.

14 2. The rights and remedies available under this chapter are  
15 cumulative to each other and to any other rights and remedies  
16 available under the law.

17 EXPLANATION

18 The inclusion of this explanation does not constitute agreement with  
19 the explanation's substance by the members of the general assembly.

20 This bill places restrictions on operators of internet  
21 sites, online services, online applications, and mobile  
22 applications designed, marketed, and used primarily for  
23 kindergarten through grade twelve school purposes. A violation  
24 of any of the restrictions is an unlawful practice pursuant to  
25 Code section 714.16, a prohibited practice or act under Code  
26 section 714H.3, and, in addition, the attorney general may  
27 bring a civil action on behalf of an injured person.

28 PROHIBITIONS AND DISCLOSURE PROVISIONS. The bill prohibits  
29 an operator from engaging in targeted advertising that is  
30 based on or derived from information the operator acquired  
31 through the operator's internet site, service, or application;  
32 from using information created or gathered by the operator's  
33 internet site, service, or application, to amass a profile  
34 about a student enrolled in a kindergarten through grade  
35 twelve school in this state except in furtherance of school

1 purposes; and from selling a student's information, though this  
2 prohibition does not apply to the purchase, merger, or other  
3 type of acquisition of an operator by another entity, provided  
4 that the operator or successor entity continues to be subject  
5 to the restrictions relating to previously acquired student  
6 information.

7 The operator is also prohibited from disclosing covered  
8 information unless the disclosure is in furtherance of the  
9 kindergarten through grade twelve school purposes and the  
10 recipient of the covered information is subject to similar  
11 restrictions. Disclosure is also authorized in order to ensure  
12 legal and regulatory compliance; to respond to or participate  
13 in judicial process, or to protect the safety of the internet  
14 site users or persons identified on the internet site or  
15 security of the internet site.

16 The operator may also disclose covered information to a  
17 service provider if the operator implements and maintains  
18 reasonable security procedures and practices, and, if the  
19 service provider is contractually prohibited from using any  
20 of the information for any purpose other than providing the  
21 contracted service to, or on behalf of, the operator, and from  
22 disclosing any covered information to subsequent third parties.

23 However, these prohibitions shall not be construed to  
24 prohibit the operator's use of information for maintaining,  
25 developing, supporting, improving, or diagnosing the operator's  
26 internet site, service, or application.

27 The operator is required to implement and maintain  
28 reasonable security procedures and practices appropriate to the  
29 nature of the covered information, and protect that information  
30 from unauthorized access, destruction, use, modification, or  
31 disclosure; and to delete a student's covered information if  
32 the school district, accredited nonpublic school, or area  
33 education agency requests deletion of data under the control of  
34 the school district, school, or area education agency.

35 Notwithstanding the disclosure prohibitions, as long as the



1 operator does not violate the provisions prohibiting targeting  
2 advertising, the use of student information to amass a profile,  
3 and the sale of student information, an operator may disclose  
4 covered information of a student if other provisions of federal  
5 or state law require the operator to disclose the information,  
6 or for legitimate research purposes as required by and subject  
7 to state or federal law and under the direction of the school  
8 district, school, or area education agency; and to state or  
9 local educational agencies as permitted by state or federal  
10 law.

11 The bill shall not be construed to prohibit an operator  
12 from using deidentified student covered information to improve  
13 educational products or to demonstrate the effectiveness of  
14 the operator's products or services and their marketing; to  
15 prohibit an operator from sharing aggregated deidentified  
16 student covered information for the development and improvement  
17 of educational internet sites, services, or applications; to  
18 limit a law enforcement agency from obtaining information  
19 as authorized by law or court order; to limit the ability  
20 of an operator to use student data for adaptive learning or  
21 customized student learning purposes; to apply to general  
22 audience internet sites, general audience online services,  
23 general audience online applications, or general audience  
24 mobile applications; to restrict internet service providers  
25 from providing internet connectivity to schools or students  
26 and their families; to prohibit an operator from marketing  
27 educational products directly to parents so long as the  
28 marketing did not result from the use of covered information;  
29 to impose a duty upon a provider of an electronic store,  
30 gateway, marketplace, or other means of purchasing or  
31 downloading software or applications to review or enforce  
32 compliance with applicable restrictions by such software  
33 or applications; to impose a duty upon a provider of an  
34 interactive computer service to review or enforce compliance  
35 by third-party content providers; or to impede the ability of

1 students to download, export, or otherwise save or maintain  
2 their own student-created data or documents.

3 REMEDIES. The bill provides that a violation of new Code  
4 chapter 715D is a prohibited practice or act under Code section  
5 714H.3, providing for a private right of action for a person  
6 who suffers an ascertainable loss of money or property as the  
7 result of a prohibited practice or act, allowing the person to  
8 bring an action at law to recover actual damages and to seek  
9 court protection from further violations including temporary  
10 and permanent injunctive relief.

11 In addition to the remedies provided to the attorney general  
12 pursuant to Code section 714.16(7), the attorney general may  
13 seek and obtain an order that a party held to violate the  
14 chapter pay damages to the attorney general on behalf of a  
15 person injured by the violation. The rights and remedies  
16 available are cumulative to each other and to any other rights  
17 and remedies available under the law.

18 DEFINITIONS. The bill provides that "online service"  
19 includes cloud computing services. "Covered information"  
20 means personally identifiable information or materials, in any  
21 media or format that is created or provided by a student, or  
22 the student's parent or legal guardian, to an operator in the  
23 course of the student's, parent's, or legal guardian's use of  
24 the operator's site, service, or application for K-12 school  
25 purposes; is created or provided by an employee or agent of the  
26 school district, accredited nonpublic school, or area education  
27 agency, to an operator; or is gathered by an operator and is  
28 descriptive of a student or otherwise identifies a student.

29 "Kindergarten through grade twelve school purposes" means  
30 purposes that customarily take place at the direction of  
31 a school district or accredited nonpublic school offering  
32 instruction at any or all levels from kindergarten through  
33 grade twelve or at the direction of an area education agency or  
34 a teacher employed by or under contract with a school district,  
35 accredited nonpublic school, or area education agency, and

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1 purposes which aid in the administration of school activities,  
2 including but not limited to instruction in the classroom or  
3 at home, administrative activities, and collaboration between  
4 students, school personnel, or parents, or are for the use  
5 and benefit of the school district, school, or area education  
6 agency.