

House File 2354 - Introduced

HOUSE FILE 2354
BY COMMITTEE ON EDUCATION

(SUCCESSOR TO HF 92)

A BILL FOR

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

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

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

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

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

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

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

21 (3) Gathered by an operator through the operation of its
22 site, service, or application for kindergarten through grade
23 twelve school purposes and personally identifies a student,
24 including but not limited to information in the student's
25 educational record or electronic mail, first and last name,
26 home address, telephone number, electronic mail address, or
27 other information that allows physical or online contact,
28 discipline records, test results, special education data,
29 juvenile dependency records, grades, evaluations, criminal
30 records, medical records, health records, social security
31 number, biometric information, disabilities, socioeconomic
32 information, food purchases, political affiliations, religious
33 information, text messages, documents, student identifiers,
34 search activity, photos, voice recordings, or geolocation
35 information.

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

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

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

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

21 *g.* "Targeted advertising" means presenting advertisements
22 to a student where the advertisement is selected based on
23 information obtained or inferred over time from that student's
24 online behavior, usage of applications, or covered information.
25 "Targeted advertising" does not include advertising to a student
26 at an online location based upon that student's current visit
27 to that location, or in response to that student's request
28 for information or feedback, without the retention of that
29 student's online activities or requests over time for the
30 purpose of targeting subsequent ads.

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

33 (1) Engage in targeted advertising on the operator's
34 internet site, service, or application, or target advertising
35 on any other internet site, service, or application if the

1 targeting of the advertising is based on any information,
2 including covered information and persistent unique
3 identifiers, that the operator has acquired because of the use
4 of that operator's internet site, service, or application for
5 kindergarten through grade twelve school purposes.

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

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

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

27 (a) In furtherance of the kindergarten through grade twelve
28 school purpose of the internet site, service, or application,
29 if the recipient of the covered information disclosed under
30 this subparagraph division does not further disclose the
31 information unless done to allow or improve operability and
32 functionality of the operator's internet site, service, or
33 application.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 d. Using recommendation engines to recommend to a student

1 either of the following:

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

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

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

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

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

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

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

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

32 e. Prohibit an operator of an internet site, online service,
33 online application, or mobile application from marketing
34 educational products directly to parents if the marketing did
35 not result from the use of covered information obtained by the

1 operator through the provision of services covered under this
2 section.

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

7 *g.* Impose a duty on a provider of an interactive computer
8 service to review or enforce compliance with this section by
9 third-party content providers.

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

13 EXPLANATION

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

16 This bill places restrictions on third parties that receive
17 student data from a school district or attendance center,
18 and on operators of internet sites, online services, online
19 applications, and mobile applications designed, marketed, and
20 used primarily for kindergarten through grade 12 (K-12) school
21 purposes.

22 PROHIBITIONS AND DISCLOSURE PROVISIONS. The bill prohibits
23 an operator from knowingly engaging in targeted advertising
24 that is based on or derived from information the operator
25 acquired through use of that operator's internet sites and
26 from using information created or gathered by the operator to
27 amass a profile about a K-12 student in this state except in
28 furtherance of school purposes. The bill also prohibits an
29 operator from knowingly selling a student's information, though
30 this prohibition does not apply to the purchase, merger, or
31 other type of acquisition of an operator by another entity,
32 provided that the operator or successor entity continues to be
33 subject to the same restrictions.

34 The operator is also prohibited from disclosing covered
35 information unless the disclosure is in furtherance of K-12

1 school purposes and the recipient of the covered information is
2 subject to similar restrictions. Disclosure is also authorized
3 in order to ensure legal and regulatory compliance, to respond
4 to or participate in judicial process, or to protect the safety
5 or security of the internet site.

6 The operator may also disclose covered information to a
7 service provider if the operator implements and maintains
8 reasonable security procedures and if the service provider is
9 contractually prohibited from using any of the information for
10 any purpose other than providing the contracted service to, or
11 on behalf of, the operator, and from disclosing any covered
12 information provided by the operator to subsequent third
13 parties.

14 However, these prohibitions do not prohibit the operator's
15 use of information for maintaining, developing, supporting,
16 improving, or diagnosing the operator's internet site, service,
17 or application.

18 The operator is required to implement and maintain
19 reasonable security procedures and protect covered information
20 from unauthorized access, destruction, use, modification, or
21 disclosure; and to delete a student's covered information if
22 the school district or attendance center requests deletion of
23 data under its control.

24 Notwithstanding the disclosure prohibitions, as long as
25 the operator does not violate the provisions prohibiting
26 targeted advertising, the use of student information to amass a
27 profile, and the sale of student information, an operator may
28 disclose covered information of a student if other provisions
29 of federal or state law require the operator to disclose the
30 information, or for legitimate research purposes as required by
31 and subject to state or federal law and under the direction of
32 the school district or attendance center; and to state or local
33 educational agencies as permitted by state or federal law.

34 The bill does not prohibit an operator from using
35 deidentified student covered information to improve educational

1 products; limit a law enforcement agency from obtaining
2 information as authorized by law or court order; limit the
3 ability of an operator to use student data for adaptive
4 learning or customized student learning purposes; apply
5 to general audience internet sites, services, and online
6 applications; restrict internet service providers from
7 providing internet connectivity to attendance centers or
8 students and their families; prohibit an operator from
9 marketing educational products directly to parents so long
10 as the marketing did not result from the use of covered
11 information; impose a duty upon a provider of an electronic
12 store, gateway, marketplace, or other means of purchasing or
13 downloading software or applications to review or enforce
14 compliance with applicable restrictions by such software or
15 applications; impose a duty upon a provider of an interactive
16 computer service to review or enforce compliance by third-party
17 content providers; or prohibit students from downloading,
18 exporting, or otherwise saving or maintaining their own
19 student-created data or documents.

20 DEFINITIONS. The bill provides definitions for "operator",
21 "covered information", "targeted advertising", and
22 "kindergarten through grade twelve school purposes".