

**House File 92 - Introduced**

HOUSE FILE 92  
BY PETTENGILL

**A BILL FOR**

1 An Act relating to student personal information protection and  
2 providing remedies.

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

1 Section 1. Section 714H.3, subsection 2, Code 2017, is  
2 amended by adding the following new paragraph:

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

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

5 As used 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  
15 through grade twelve school purposes. *“Operator”* includes  
16 any third party that receives student data, including covered  
17 information, from a school district, accredited nonpublic  
18 school, or area education agency. *“Online service”* includes  
19 cloud computing services that otherwise meet the definition of  
20 an operator.

21 Sec. 3. NEW SECTION. 715D.2 Prohibitions — duties —  
22 exceptions.

23 1. An operator, with respect to the operator’s internet  
24 site, service, or application, shall not knowingly do any of  
25 the following:

26 a. Engage in targeted advertising on the operator’s internet  
27 site, service, or application, or target advertising on any  
28 other internet site, service, or application when the targeting  
29 of the advertising is based upon any information, including  
30 covered information and persistent unique identifiers, that the  
31 operator has acquired because of the use of that operator’s  
32 internet site, service, or application described in section  
33 715D.1, subsection 3.

34 b. Use information, including persistent unique identifiers  
35 such as unique student identifiers, created or gathered by the

1 operator's internet site, service, or application, to amass  
2 a profile about a student enrolled in a kindergarten through  
3 grade twelve school in this state except in furtherance of  
4 kindergarten through grade twelve school purposes.

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

11 d. Disclose covered information unless the disclosure is any  
12 of the following:

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

21 (2) To ensure legal and regulatory compliance.

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

23 (4) To protect the safety of the internet site users or  
24 other persons identified on the internet site or security of  
25 the internet site.

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

35 2. Subsection 1 shall not be construed to prohibit the

1 operator's use of information for maintaining, developing,  
2 supporting, improving, or diagnosing the operator's internet  
3 site, service, or application.

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

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

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

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

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

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

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

35 4. This section shall not be construed to do any of the

1 following:

2 *a.* Prohibit an operator from using deidentified student  
3 covered information as follows:

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

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

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

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

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

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

25 *f.* Restrict internet service providers from providing  
26 internet connectivity to schools or students and their  
27 families.

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

34 *h.* Impose a duty upon a provider of an electronic store,  
35 gateway, or marketplace, or of another means of purchasing

1 or downloading software or applications to review or enforce  
2 compliance with this section by such software or applications.

3 *i.* Impose a duty upon a provider of an interactive computer  
4 service, as defined in 47 U.S.C. §230, to review or enforce  
5 compliance with this section by third-party content providers.

6 *j.* Impede the ability of students to download, export, or  
7 otherwise save or maintain their own student-created data or  
8 documents.

9 **Sec. 4. NEW SECTION. 715D.3 Remedies.**

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

17 2. The rights and remedies available under this chapter are  
18 cumulative to each other and to any other rights and remedies  
19 available under the law.

20 **EXPLANATION**

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

23 This bill places restrictions on third parties that  
24 receive student data from a school district, accredited  
25 nonpublic school, or area education agency; and on operators  
26 of internet sites, online services, online applications, and  
27 mobile applications designed, marketed, and used primarily  
28 for kindergarten through grade 12 (K-12) school purposes. A  
29 violation of any of the restrictions is an unlawful practice  
30 pursuant to Code section 714.16, a prohibited practice or act  
31 under Code section 714H.3, and, in addition, the attorney  
32 general may bring a civil action on behalf of an injured  
33 person.

34 **PROHIBITIONS AND DISCLOSURE PROVISIONS.** The bill prohibits  
35 an operator from engaging in targeted advertising that is

1 based on or derived from information the operator acquired  
2 through the operator's internet site, service, or application;  
3 from using information created or gathered by the operator's  
4 internet site, service, or application, to amass a profile  
5 about a student enrolled in a K-12 school in this state except  
6 in furtherance of school purposes; and from selling a student's  
7 information, though this prohibition does not apply to the  
8 purchase, merger, or other type of acquisition of an operator  
9 by another entity, provided that the operator or successor  
10 entity continues to be subject to the restrictions relating to  
11 previously acquired student information.

12 The operator is also prohibited from disclosing covered  
13 information unless the disclosure is in furtherance of the K-12  
14 school purposes and the recipient of the covered information is  
15 subject to similar restrictions. Disclosure is also authorized  
16 in order to ensure legal and regulatory compliance, to respond  
17 to or participate in judicial process, or to protect the  
18 safety of the internet site users or persons identified on the  
19 internet site or security of the internet site.

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

28 However, these prohibitions shall not be construed to  
29 prohibit the operator's use of information for maintaining,  
30 developing, supporting, improving, or diagnosing the operator's  
31 internet site, service, or application.

32 The operator is required to implement and maintain  
33 reasonable security procedures and practices appropriate to the  
34 nature of the covered information, and protect that information  
35 from unauthorized access, destruction, use, modification, or

1 disclosure; and to delete a student's covered information if  
2 the school district, accredited nonpublic school, or area  
3 education agency requests deletion of data under the control of  
4 the school district, school, or area education agency.

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

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

1 downloading software or applications to review or enforce  
2 compliance with applicable restrictions by such software  
3 or applications; to impose a duty upon a provider of an  
4 interactive computer service to review or enforce compliance  
5 by third-party content providers; or to impede the ability of  
6 students to download, export, or otherwise save or maintain  
7 their own student-created data or documents.

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

16 The bill provides that a violation of new Code chapter 715D  
17 is an unlawful practice pursuant to Code section 714.16. In  
18 addition to the remedies provided to the attorney general  
19 pursuant to Code section 714.16(7), the attorney general may  
20 seek and obtain an order that a party held to violate the  
21 chapter pay damages to the attorney general on behalf of a  
22 person injured by the violation. The rights and remedies  
23 available are cumulative to each other and to any other rights  
24 and remedies available under the law.

25 DEFINITIONS. The bill provides that "online service"  
26 includes cloud computing services. "Operator" means  
27 the operator of an internet site, online service, online  
28 application, or mobile application with actual knowledge that  
29 the internet site, service, or application is used primarily  
30 for K-12 school purposes and was designed and marketed for K-12  
31 school purposes. "Operator" includes any third party that  
32 receives student data, including "covered information", from a  
33 school district, accredited nonpublic school, or area education  
34 agency. "Covered information" means personally identifiable  
35 information or materials, in any media or format that is

1 created or provided by a student, or the student's parent or  
2 legal guardian, to an operator in the course of the student's,  
3 parent's, or legal guardian's use of the operator's site,  
4 service, or application for K-12 school purposes; is created  
5 or provided by an employee or agent of the school district,  
6 accredited nonpublic school, or area education agency, to an  
7 operator; or is gathered by an operator and is descriptive of a  
8 student or otherwise identifies a student.

9 "Kindergarten through grade twelve school purposes" means  
10 purposes that customarily take place at the direction of  
11 a school district or accredited nonpublic school offering  
12 instruction at any or all levels from K-12 or at the direction  
13 of an area education agency or a teacher employed by or under  
14 contract with a school district, accredited nonpublic school,  
15 or area education agency, and purposes which aid in the  
16 administration of school activities, including but not limited  
17 to instruction in the classroom or at home, administrative  
18 activities, and collaboration between students, school  
19 personnel, or parents, or are for the use and benefit of the  
20 school district, school, or area education agency.