

1 SB318
2 173186-1
3 By Senators Reed, Figures, Ross, Pittman, Allen and Waggoner
4 RFD: Education and Youth Affairs
5 First Read: 01-MAR-16

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8 SYNOPSIS: This bill would establish the Alabama
9 Student and Parent Privacy Protection Act.

10 This bill would limit the collection and
11 disclosure of information relating to public school
12 students and teachers to academic purposes.

13 This bill would provide civil penalties for
14 violations.

15
16 A BILL
17 TO BE ENTITLED
18 AN ACT

19
20 Relating to public prekindergarten, elementary, and
21 secondary education; to limit the collection and disclosure of
22 student and teacher information to specific academic purposes;
23 and to provide civil penalties for violations.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. This act shall be known and may be cited
26 as the Alabama Student and Parent Privacy Protection Act.

1 Section 2. For the purposes of this act, the
2 following terms shall have the following meanings:

3 (1) AFFECTIVE COMPUTING. Systems and devices that
4 can or attempt to recognize, interpret, process, or simulate
5 aspects of human feelings or emotions.

6 (2) BIOMETRIC RECORD. A record of one or more
7 measurable biological or behavioral characteristics that can
8 be used for automated recognition of an individual, but not
9 limited to, fingerprints; retina and iris patterns;
10 voiceprints; DNA sequence, including newborn screening
11 information; facial characteristics; and handwriting, unless
12 handwriting for cursive academic assignment.

13 (3) CLOUD-BASED COMPUTING SERVICE. A service that
14 enables on demand network access to a shared pool of
15 configurable computing resources such as networks, servers,
16 storage, applications, and services, to provide a student,
17 teacher, or staff member account-based productivity
18 applications such as email, document storage, and document
19 editing that may be rapidly provisioned and released with
20 minimal management effort, or cloud-computing service-provider
21 interaction. A cloud computing service has the characteristics
22 of on-demand self-service, broad network access, resource
23 pooling, rapid elasticity, and measured service.

24 (4) DEPARTMENT. The State Department of Education.

25 (5) EDUCATION PROGRAM. A program of instruction
26 administered by a local education agency or local education
27 institution within the state.

1 (6) ELIGIBLE STUDENT. A student who has reached the
2 age of majority under Alabama law or attends a local education
3 institution beyond the high school level to whom rights have
4 transferred.

5 (7) INTERPERSONAL RESOURCES or INTERPERSONAL SKILLS.
6 Noncognitive, emotional, and psychological characteristics and
7 attributes and skills used to manage relationships and
8 interactions between or among individuals.

9 (8) INTRAPERSONAL RESOURCES or INTRAPERSONAL SKILLS.
10 Noncognitive emotional and psychological characteristics and
11 attributes used to manage emotions and attitudes within an
12 individual.

13 (9) LOCAL EDUCATION AGENCY. A public city or county
14 board of education or other public authority legally
15 constituted within the state for either administrative control
16 or direction of, or to perform a service function for, public
17 elementary or secondary schools in a city, county, township,
18 school district, or other political subdivision of the state,
19 or for a combination of school districts or counties as are
20 recognized in the state as an administrative agency for its
21 public elementary schools or secondary schools.

22 (10) LOCAL EDUCATION INSTITUTION. Any public
23 prekindergarten, elementary, or secondary school.

24 (11) PARENT. Either the actual biological or
25 adoptive parent of the child or legal guardian of the child.

26 (12) PERSONALLY IDENTIFIABLE STUDENT INFORMATION.
27 One or more of the following:

- 1 a. The name of a student.
- 2 b. The name of the parent or other family member of
3 the student.
- 4 c. The address of a student or the parent or other
5 family member of the student.
- 6 d. A photograph, video, or audio recording that
7 contains an image of or the voice of the student.
- 8 e. Indirect identifiers including, but not limited
9 to, the date of birth, place of birth, maiden name of the
10 mother of, Social Security number, student number, biometric
11 record, telephone number, credit card account number,
12 insurance account number, financial services account number,
13 customer number, persistent online identifier, email address,
14 personal social media account address, and other electronic
15 address of the student.
- 16 f. Any aggregate or deidentified student data that
17 is capable of being deaggregated or reconstructed to the point
18 that an individual student may be identified.
- 19 g. Any student data or other information that, alone
20 or in combination, is linked or linkable to a specific student
21 that would allow a reasonable person, who does not have
22 personal knowledge of the relevant circumstances, to identify
23 a specific student with reasonable certainty.

24 (13) PERSONAL SOCIAL MEDIA ACCOUNT. An account with
25 an electronic medium or service where users may create, share,
26 and view user-generated content including, but not limited to,
27 uploading or downloading videos or still photographs, blogs,

1 video blogs, podcasts, messages, emails, or Internet website
2 profiles or locations. The term does not include an account
3 opened at the request of a local education institution, or
4 provided by a local education institution, and intended to be
5 used solely on behalf of the local education institution.

6 (14) PREDICTIVE MODELING. The use of educational
7 data-mining methods to make predictions about future behaviors
8 or performance.

9 (15) PROCESS or PROCESSING. To use, access,
10 manipulate, scan, modify, transform, disclose, store,
11 transmit, transfer, retain, aggregate, or dispose of student
12 or teacher data.

13 (16) PSYCHOLOGICAL RESOURCES. Noncognitive,
14 emotional characteristics, attributes, and skills, including
15 mindsets, learning strategies, and effortful control, used by
16 an individual to address or manage various life situations.

17 (17) SPECIFIC CONTENT. Data or information on a
18 personal social media account that is identified with
19 sufficient particularity to demonstrate prior knowledge of the
20 details of the content and distinguish the content from other
21 data or information on the account with which the account may
22 share similar characteristics.

23 (18) STATE AGENCIES. The department, the State Board
24 of Education, or any regional education service agency, or any
25 other state education entity which operates or serves the
26 entire state.

1 (19) STUDENT DATABASE. The Alabama Statewide
2 Longitudinal Data System, as well as any other data warehouse
3 containing Alabama student information, including regional,
4 interstate, or federal data warehouse organizations under
5 contract to or with a memorandum of understanding with the
6 department, any local education institution, or local
7 education agency.

8 (20) STUDENT INFORMATION SYSTEM. A software
9 application or cloud-based computing service, or both, that
10 allows a local education institution to input, maintain,
11 manage, or retrieve student data, or personally identifiable
12 student information, including applications that track or
13 share personally identifiable student information in real
14 time.

15 (21) STUDENT INFORMATION SYSTEM PROVIDER. An entity
16 that sells, leases, provides, operates, or maintains a student
17 information system for the benefit of a local education
18 institution.

19 (22) TEACHER RECORDS. Information pertaining to
20 teachers, paraprofessionals, principals, and other
21 administrators that includes, but is not limited to, any of
22 the following:

- 23 a. Social Security number.
- 24 b. Name.
- 25 c. Address.
- 26 d. Birthdate.
- 27 e. Email address.

1 f. Telephone number.

2 g. Compensation information.

3 h. Resume information.

4 i. Performance evaluations.

5 j. Other information that, alone or in combination,
6 is linked or linkable to a specific staff member that would
7 allow a reasonable person in the local education institution
8 community, who does not have personal knowledge of the
9 relevant circumstances, to identify the staff member with
10 reasonable certainty.

11 (23) TERRY SEARCH. A onetime search for weapons or
12 items prohibited by the local education institution which
13 includes a pat down of outer clothing only and is conducted
14 only at the main entrance to the local education institution.

15 (24) TRACK. To collect and maintain records of the
16 activities of a student after he or she exits the educational
17 system including, but not limited to, his or her entrance into
18 and progression through the workforce or the military.

19 (25) WORKFORCE INFORMATION. Information related to
20 unemployment insurance, wage records, unemployment insurance
21 benefit claims, or employment and earnings data from workforce
22 data sources, such as state wage records, or the federal
23 Employment Data Exchange System.

24 (26) WRITTEN CONSENT. Consent, in writing, given
25 within six months before the data collection or data
26 disclosure consented to, specifically referencing the precise
27 type of data collection or data disclosure that is being

1 consented to, and dated and signed on the same day. The term
2 does not include general, nonspecific consent to collect or
3 disclose data.

4 Section 3. (a) Student data that may only be
5 collected at the local level by a local education institution,
6 and without the written consent of the parent of a student who
7 is enrolled in a local education institution in the state,
8 shall be limited to the following:

9 (1) Name or address, or both.

10 (2) State and national assessment results.

11 (3) Course taking and completion, and credits
12 earned.

13 (4) Course grades and grade point average.

14 (5) Date of birth, grade level, and expected
15 graduation date or graduation cohort.

16 (6) Degree, diploma, or credential attainment.

17 (7) Enrollment.

18 (8) Attendance and transfers.

19 (9) Medical records limited to immunization records
20 required by state law, records needed or created by a local
21 education institution-based health professional for
22 administering prescription drugs or otherwise treating a
23 student at a local education institution, records needed or
24 created by a local education institution-based counselor when
25 a student seeks counseling while at the local education
26 institution, or records required by the Individuals with
27 Disabilities Education Act, 20 U.S.C.A. Section 1400 et seq.

1 (10) Discipline reports limited to objective
2 information about disciplinary incidents or, for institutions
3 of higher education, objective information sufficient to
4 produce the Title IV Annual Incident Report pursuant to the
5 Clery Act, 20 U.S.C.A. Section 1092(f).

6 (11) Juvenile delinquency or other criminal or
7 correctional records only if necessary to meet the educational
8 needs of the student or to ensure staff or student safety,
9 provided that an institution of higher education may collect
10 records sufficient to produce the Title IV Annual Incident
11 Report pursuant to the Clery Act, 20 U.S.C.A. Section 1092(f).

12 (12) Remediation data.

13 (13) Special education data, limited to data
14 required by the Individuals with Disabilities Education Act,
15 20 U.S.C.A. Section 1400 et seq.

16 (14) Data limited to that required by the Elementary
17 and Secondary Education Act.

18 (15) Student workforce information is limited to
19 information related to work study programs participated in for
20 academic credit.

21 (16) Student or family Social Security numbers only
22 if needed by an institution of higher education to comply with
23 state or federal law.

24 (17) Student or family income data, limited to data
25 required by law to determine eligibility to participate in or
26 receive financial assistance under a program.

1 (18) Information about extracurricular activities,
2 limited to activities that are local education
3 institution-sponsored or engaged in for academic credit.

4 (b) Unless explicitly mandated by federal statute, a
5 local education agency or local education institution shall
6 obtain informed written consent from parents or eligible
7 students before collecting any data points other than those
8 listed in subsection (a) including, but not limited to, the
9 following:

10 (1) Medical; health, including height, weight, and
11 body mass index; and mental health records, except as provided
12 in subdivision (9) of subsection (a).

13 (2) Student or family workforce information, except
14 as provided in subdivision (15) of subsection (a).

15 (c) No funds from any source shall be used on
16 construction, enhancement, maintenance, or expansion of any
17 data system that does not comply with these limitations, or
18 that is designed to track students beyond their K-12 or
19 postsecondary education careers or compile their personal,
20 nonacademic information beyond what is necessary for either
21 administrative functions directly related to the education of
22 the student, or the evaluation of academic programs and
23 student progress.

24 (d) No state agency or local education institution
25 shall pursue or accept any grant, whether from the federal
26 government or any private entity, that would require the

1 collecting or reporting of any type of data in violation of
2 this section.

3 (e) Only aggregate data may be transmitted from a
4 local education agency to state.

5 (f) Any personally identifiable student information
6 on current students discovered within the Alabama Statewide
7 Longitudinal Data System shall be destroyed.

8 Section 4. (a) State agencies and education
9 institutions shall publicly and conspicuously disclose on
10 their websites the existence and character of any form of
11 education records or teacher records maintained by the
12 agencies or education institutions, directly or through
13 contracts with outside parties. Local education institutions
14 shall annually notify parents, eligible students, and teachers
15 of this website posting. Local agencies shall also provide
16 annual electronic notification of this information to the
17 Chairs of the Senate Education and Youth Affairs Committee and
18 the House Education Policy Committee. The disclosure and
19 electronic notifications shall include all of the following:

20 (1) The legal authority that authorizes the
21 establishment and existence of the data repository.

22 (2) The principal purpose or purposes for which the
23 information is intended to be used.

24 (3) The categories of individuals on whom records
25 are maintained in the data repository.

26 (4) The categories of records maintained in the data
27 repository.

1 (5) Each expected disclosure of the records
2 contained in the data repository, including the categories of
3 recipients and the purpose of such disclosure.

4 (6) The policies and practices of the state agency
5 or local education institution regarding storage,
6 irretrievability, access controls, retention, and disposal of
7 records.

8 (7) The title and business address of the official
9 who is responsible for the data repository, and the name and
10 business address of any contractor or other outside party
11 maintaining the data repository for or on behalf of the state
12 agency or local education institution.

13 (b) State education agencies shall use only
14 aggregate data in published reports.

15 Section 5. No state assessment, including national
16 student assessment, shall be adopted or administered in this
17 state that collects any type of psychological data, including
18 assessment of noncognitive skills or attributes, psychological
19 resources, mindsets, effortful control, attitudes,
20 dispositions, social skills, or other interpersonal or
21 intrapersonal resources.

22 Section 6. No state agency, local education agency,
23 or local education institution shall administer any student
24 survey, assessment, analysis, evaluation, or similar
25 instrument that solicits information about the student or the
26 family of the student concerning any of the following:

27 (1) Political affiliations or beliefs.

1 (2) Noncognitive and nonacademic mental or
2 psychological problems, psychological resources, mindsets,
3 effortful control, attributes, dispositions, social skills,
4 attitudes, or intrapersonal resources.

5 (3) Sexual behavior or attitudes unless the student
6 is receiving medical care or physiological care from a
7 licensed medical professional.

8 (4) Illegal, antisocial, self-incriminating, or
9 demeaning behavior.

10 (5) Critical appraisals of another individual with
11 whom a student has a close family relationship.

12 (6) Legally recognized privileged or analogous
13 relationships, such as those with a lawyer, physician,
14 therapist, psychotherapist, or clergy.

15 (7) Religious practices, affiliations, or beliefs.

16 (8) Personal or family gun ownership.

17 (9) Income or other income-related information
18 except that required by law to determine eligibility to
19 participate in or receive financial assistance under a
20 program.

21 (10) Language spoken in the home of a student unless
22 required by federal law, which shall be cited when the data is
23 collected.

24 (11) Criminal records of family members.

25 (12) Student biometric records.

26 (13) Any data collected via affective computing,
27 including analysis of facial expressions, EEG brain wave

1 patterns, skin conductance, galvanic skin response, heart rate
2 variability, pulse, blood volume, posture, and eye-tracking.

3 (14) Any data, including any data resulting from
4 state or national assessments, that measure psychological
5 resources, mindsets, effortful control, attributes,
6 dispositions, social skills, attitudes, or intrapersonal
7 resources.

8 (15) Any data collected through predictive modeling.

9 Section 7. (a) Subject to the exceptions contained
10 in this act, access to student education records in a student
11 information system shall be restricted to the authorized
12 representatives of the local education agency or local
13 education institution who requires access to perform their
14 assigned duties. No individual may be designated as an
15 authorized representative unless he or she is on the staff or
16 under the direct control of the designating state agency,
17 local education agency, or local education institution.

18 (b) Subject to the exceptions contained in this act,
19 no personally identifiable student information or teacher
20 records shall be disclosed without the written consent of the
21 parent or eligible student.

22 (c) (1) The department may develop and publish
23 criteria for the approval of research-related data requests
24 from state and local governmental agencies, the Legislature,
25 and academic researchers, and may allow release in accordance
26 with that criteria. Only aggregate data may be provided for
27 such requests.

1 (2) The data request and process shall be
2 administered in a full and equal manner to all academic
3 researchers and the public.

4 (3) Personally identifiable student information from
5 an education record of a student, or from teacher records, may
6 not be released to a party conducting studies for or on behalf
7 of local education agencies or local education institutions
8 without the written consent of the parent or eligible student,
9 except to do either of the following:

10 a. Administer assessments.

11 b. Administer student aid programs, provided that
12 the outside party conducting the study meets all the
13 requirements for contractors set forth in subsection (e).

14 (d) In conducting any audit or evaluation of an
15 education program, the Department of Examiners of Public
16 Accounts, or any compliance or enforcement agency in
17 connection with legal requirements that relate to
18 state-supported or local education agency-supported education
19 programs, when the audit, evaluation, or activity involves
20 access to personally identifiable student information or
21 teacher records, education records and teacher records may be
22 released only to authorized representatives of state education
23 agencies, local education agencies, or local education
24 institutions. No individual may be designated as an authorized
25 representative unless he or she is on the staff or under the
26 direct control of the designating state agency, local
27 education agency, or local education institution.

1 (e) (1) Local education agencies and local education
2 institutions may not disclose personally identifiable student
3 information from education records or teacher records, without
4 the written consent of the parent or eligible student, to a
5 contractor, consultant, or other party to whom the local
6 education agency or local education institution has outsourced
7 institutional services or functions unless that outside party:

8 a. Performs an institutional service or function for
9 which the local education agency or local education
10 institution would otherwise use its employees.

11 b. Is under the direct control of the local
12 education agency or local education institution, or on the
13 staff with respect to the use and maintenance of education
14 records or teacher records including, but not limited to, a
15 student information system provider.

16 c. Limits internal access to education records or
17 teacher records to those individuals who require access to
18 those records for completion of the contract that in no way
19 conflicts with this act.

20 d. Does not use the education records or teacher
21 records for any purpose other than those explicitly authorized
22 in the contract, which in no way conflicts with this act.

23 e. Does not disclose any personally identifiable
24 student information from education records or teacher records
25 to any other party:

26 1. Without the written consent of the parent or
27 eligible student.

1 2. Unless required by statute or court order and the
2 party provides a notice of the disclosure to the local
3 education agency or local education institution that provided
4 the information no later than the time the information is
5 disclosed, unless providing notice of the disclosure is
6 expressly prohibited by statute or court order.

7 f. Maintains administrative, technical, and physical
8 safeguards to protect the security, confidentiality, and
9 integrity of the personally identifiable student information
10 or teacher records in its custody.

11 g. Uses encryption technologies to protect data
12 while in motion or in its custody from unauthorized disclosure
13 using a technology or methodology specified by the Secretary
14 of the United States Department of Health and Human Services
15 in guidance issued under Section 13402(H) (2) of Public Law
16 111-5.

17 h. Has sufficient administrative and technical
18 procedures to monitor continuously the security of personally
19 identifiable student information or teacher records in its
20 custody.

21 i. Conducts a security audit annually and provides
22 the results of that audit to each state agency, local
23 education agency, or local education institution that provides
24 education records or teacher records.

25 j. Provides the state agency, local education
26 agency, or local education institution with a breach
27 remediation plan which does not conflict with this act and is

1 acceptable to the state agency, local education agency, or
2 local education institution before initial receipt of
3 education records or teacher records.

4 k. Reports all suspected security breaches to the
5 state agency, local education agency, or local education
6 institution that provided education records or teacher records
7 as soon as possible, but not later than 48 hours after a
8 suspected breach was known or should have been known by
9 exercising reasonable diligence.

10 l. Reports all actual security breaches to the
11 office of the Attorney General, state agency, local education
12 agency, or local education institution that provided education
13 records as soon as possible, but not later than 24 hours after
14 an actual breach was known or should have been known by
15 exercising reasonable diligence.

16 m. In the event of a security breach or unauthorized
17 disclosure of personally identifiable student information,
18 pays all costs and liabilities incurred by the state agency,
19 local education agency, or local education institution related
20 to the security breach or unauthorized disclosure including,
21 but not limited to, the costs of responding to inquiries about
22 the security breach or unauthorized disclosure, of notifying
23 subjects of personally identifiable student information about
24 the breach, of mitigating the effects of the breach for the
25 subjects of the personally identifiable student information,
26 and of investigating the cause or consequences of the security
27 breach or unauthorized disclosure.

1 n. Returns to the state agency, local education
2 agency, or local education institution all personally
3 identifiable student information in its custody at the
4 termination of the contract.

5 (f) In the event of a security breach or
6 unauthorized disclosure of personally identifiable student
7 information or teacher records, whether by a state agency,
8 local education agency, or local education institution, or by
9 a third party given access to education records or teacher
10 records pursuant to subsection (c), (d), or (e), the state
11 agency, local education agency, or local education institution
12 shall do all of the following:

13 (1) Immediately notify the subjects of the breach or
14 disclosure.

15 (2) Report the breach or disclosure to the Family
16 Policy Compliance Office of the United States Department of
17 Education.

18 (3) Allow the office of the Attorney General and the
19 local district attorney access to investigate the causes and
20 consequences of the breach or disclosure.

21 (g) (1) Personally identifiable student information
22 from education records or teacher records may not be disclosed
23 to any party for a commercial use including, but not limited
24 to, marketing products or services, compilation of lists for
25 sale or rental, development of products or services, or
26 creation of individual, household, or group profiles.

1 (2) Any student information system provider
2 performing services for a state agency, local education
3 agency, or local education institution is prohibited from
4 using information from education records or teacher records
5 for any secondary purposes that benefit the student
6 information system provider or any third party including, but
7 not limited to, online behavioral advertising, creating or
8 correcting an individual or household profile primarily for
9 the benefit of the student information system provider, the
10 sale of the data for any commercial purpose, or any other
11 similar commercial for-profit activity. A student information
12 system provider may process or monitor student data solely to
13 provide such service to the state agency, local education
14 agency, or local education institution, and to maintain the
15 integrity of the service.

16 (3) Any student information system provider that
17 enters into an agreement to provide a student information
18 system to a state agency, local education agency, or local
19 education institution shall certify in writing to that state
20 agency, local education agency, or local education institution
21 that the student information system provider shall comply with
22 the terms and conditions set forth in subsection (e) and that
23 the state agency, local education agency, or local education
24 institution maintains ownership of all student and teacher
25 records.

1 (4) Any student or teacher records stored by a
2 student information system provider shall be stored within the
3 boundaries of the United States.

4 (h) No student data shall be used for predictive
5 modeling, for detecting behaviors, beliefs, or value systems,
6 or for predicting or forecasting student outcomes.

7 (i) There shall be no video or audio monitoring of
8 classrooms for any purpose, including for teacher evaluation,
9 without the approval of the local education agency after
10 public hearings and the written consent of the teacher, of all
11 eligible students, and of the parents of all other students in
12 the classroom.

13 (j) Personally identifiable student information from
14 education records or teacher records may not be disclosed to
15 any noneducation government agency including, but not limited
16 to, the Alabama Department of Labor, whether within or outside
17 the state, or to any person that intends to use or disclose
18 the information or data for the purpose of workforce
19 development or economic planning.

20 (k) Subject to this subsection and subsections (c),
21 (d), (e), and (m), personally identifiable student information
22 from education records or teacher records may not be disclosed
23 to any government agency or other entity outside the state,
24 except disclosure may be made in any of the following
25 circumstances:

26 (1) To a local education institution attended by a
27 student who has transferred out of state.

1 (2) To an out-of-state program in which a student
2 voluntarily participates and for which the data transfer is a
3 condition or requirement of participation.

4 (3) When a student is classified as a migrant for
5 federal reporting purposes.

6 (1)(1) No personally identifiable student
7 information from education records or teacher records may be
8 disclosed to any federal agency, including the United States
9 Department of Education or the United States Department of
10 Labor, or their representatives. Only aggregate data may be
11 provided.

12 (2) No personally identifiable student information
13 collected may be sold or distributed to third parties or to
14 other government agencies, federal or state, about any student
15 in the public school system of the state that has been
16 collected through the public school system or during the
17 participation of the student in a state public school
18 activity. No research data collected regarding individual
19 students by the state public schools may be sold to third
20 parties in return for money or supplies in those public
21 schools. Any violation of this section shall result in a
22 strict liability for the violating party or parties. Any
23 student whose data is sold that has been collected by the
24 state agency, local education agency, local education
25 institution, or employee of any of these, shall have standing
26 to sue for damages regardless of the profit made off of the
27 data.

1 (m) State agencies, local education agencies, or
2 local education institutions may not disclose personally
3 identifiable student information or teacher records to any
4 assessment consortium of which the state is a member, or
5 company with which the state contracts for development or
6 administration of any assessment, or both, unless:

7 (1) The information is transmitted in nonindividual
8 record format.

9 (2) The information is limited to information
10 directly related to the assessment, such as the grade level
11 and test scores of the student.

12 (3) No psychological information of any kind,
13 including that listed in Section 4, is included as part of the
14 test scores.

15 (n) A local education institution shall destroy and
16 remove from the student database all education records of a
17 student within five years after the graduation of the student
18 from that local education institution, provided that the local
19 education institution may retain records showing dates of
20 attendance, grades, diploma or degrees received, and contact
21 information. If a student withdraws from a local education
22 institution before graduating, the local education
23 institution, within one year after the withdrawal, shall
24 destroy and remove from the student database all education
25 records of that student, except records showing dates of
26 attendance and grades.

1 Section 8. (a) The Legislature presupposes parental
2 authority over the education of their children and personal
3 information regarding their children; therefore, all student
4 academic materials and records shall be available to parents
5 or eligible students upon request and without question.

6 (b) Parents or eligible students may access any
7 information regarding their students, or themselves, that is
8 held in any student information system, or student information
9 system provider's student database, and may request the
10 correction or removal of data within those student records.
11 Upon receiving a written request from a parent or eligible
12 student to remove data believed to be in error or held in
13 violation of this act, the local education agency or local
14 education institution shall expeditiously correct or remove
15 all information found to be in error or data collected on a
16 student or family in violation of this act. Any local
17 education institution official or local education agency that
18 refuses to provide information about the data of a student in
19 a timely manner, or ignores a written request for student
20 information from a parent or eligible student, is in violation
21 of this act.

22 (1) A parent or eligible student is entitled to any
23 information a local education agency or local education
24 institution maintains on the student of the parent or the
25 eligible student including, but not limited to, the curriculum
26 and any programs implemented or curriculum used by the local
27 education agency or in the local education institution.

1 (2) Any student information system data that is
2 accessible online by an employee of a local education agency,
3 local education institution, or student information system
4 provider concerning a specific student, shall be viewable at
5 all times by the parent or eligible student online or at the
6 local education institution, during normal business hours, at
7 no charge to the parent or eligible student. A copy or any
8 record in the file shall be provided free of charge to the
9 parent or eligible student, upon request.

10 (c) No student shall be required to complete any
11 questionnaire, survey, or assessment regarding personal habits
12 or attitudes or activities without prior informed parental
13 written consent. The written consent shall include a complete
14 copy of the questionnaire, survey, or assessment.

15 (d) No student may be denied services in a local
16 education institution because his or her parent has exercised
17 any right provided by this act.

18 (e) Redisclosure of personally identifiable student
19 information to a third party is forbidden without the informed
20 written consent of a parent.

21 (f) (1) No student may be arrested, seized, or
22 searched on local education institution property without
23 probable cause or proper warrant issued by a court of proper
24 jurisdiction. The personal property of a student, while on
25 local education institution property, may not be seized or
26 searched without probable cause or proper warrant. For the

1 purposes of this subsection, personal property includes all of
2 the following:

3 a. Email accounts of the student, regardless of
4 whether the email account is provided by the local education
5 institution or controlled by a private company.

6 b. Digital correspondence created by a student on
7 his or her personal laptop or other electronic device.

8 c. Any document stored on a computer or other
9 electronic device of any type owned by the student.

10 d. Cell phone or home phone records on an electronic
11 device owned by a student.

12 e. Any online account in which the student is
13 required to use a username or email and password.

14 (2) A proper warrant or probable cause shall be
15 established before any information or data from any accounts
16 used by a student, or associated with the name of the student,
17 are searched or seized. A student locker may not be searched
18 without probable cause or proper warrant. A student may not be
19 questioned or interrogated by law enforcement without the
20 presence of either his or her attorney or his or her parent.

21 (g) A student may only be searched in a local
22 education institution without a warrant or probable cause if
23 the local education institution has established a security
24 check point or installed metal detectors at the entrance to
25 the local education institution. The search shall be a
26 minimally invasive pat down limited to searching only for
27 items that may impact safety and are prohibited by the local

1 education institution. Any item obtained during a search
2 conducted pursuant to this subsection including, but not
3 limited to, items that are illegal or in violation of local
4 education institution rules, may be used as evidence in court
5 or noted in an official local education institution record
6 relating to the student, regardless of who performs the
7 search. If a student objects to a body scan for medical or
8 privacy reasons, a terry search shall be offered as an
9 alternative to a full body search or metal detector scan.

10 Section 9. (a) A local education institution may not
11 do any of the following:

12 (1) Require, request, or coerce a student or
13 prospective student to disclose a username, password, or any
14 other means of authentication, or provide access through the
15 username or password, to a personal social media account.

16 (2) Require, request, or coerce a student or
17 prospective student to access a personal social media account
18 in the presence of an employee or volunteer of the local
19 education institution including, but not limited to, a coach,
20 teacher, or local education institution administrator, in a
21 manner that enables the employee or volunteer to observe the
22 contents of the account.

23 (3) Compel a student or prospective student to add
24 anyone including, but not limited to, a coach, teacher, local
25 education institution administrator, or other employee or
26 volunteer, to his or her list of contacts associated with a
27 personal social media account or require, request, or

1 otherwise coerce a student or applicant to change the settings
2 that affect the ability of a third party to view the contents
3 of a personal social media account.

4 (4) Take any action or threaten to take any action
5 to discharge, discipline, prohibit from participating in
6 curricular or extracurricular activities, or otherwise
7 penalize a student for his or her refusal to disclose any
8 information specified in subdivision (1), for refusal to take
9 any action specified in subdivision (2), or for refusal to add
10 a coach, teacher, local education institution administrator,
11 or other employee or volunteer to his or her list of contacts
12 associated with a personal social media account, or to change
13 the settings that affect a third party's ability to view the
14 contents of a personal social media account as specified in
15 subdivision (3).

16 (5) Fail or refuse to admit any prospective student
17 as a result of the prospective student's refusal to disclose
18 any information specified in subdivision (1), for refusal to
19 take any action specified in subdivision (2), or for refusal
20 to add a coach, teacher, local education institution
21 administrator, or other employee or volunteer to his or her
22 list of contacts associated with a personal social media
23 account, or to change the settings that affect a third party's
24 ability to view the contents of a personal social media
25 account as specified in subdivision (3).

26 (b) Nothing in this act shall prevent a local
27 education institution from doing any of the following:

1 (1) Accessing information about a student or
2 prospective student that is publicly available.

3 (2) Complying with state and federal laws, rules,
4 and regulations and the rules of self-regulatory
5 organizations, where applicable.

6 (3) Prohibiting a student or prospective student
7 from using a personal social media account for local education
8 institution purposes.

9 (4) Prohibiting a student or prospective student
10 from accessing or operating a personal social media account
11 during local education institution hours or while on local
12 education institution property.

13 (c) If a local education institution inadvertently
14 receives the username, password, or other means of
15 authentication that provides access to a personal social media
16 account of an employee, applicant, student, or prospective
17 student through the use of an otherwise lawful virus scan or
18 firewall that monitors the network of the local education
19 institution or devices provided by the local education
20 institution, the local education institution is not liable for
21 having the information, but may not use the information to
22 access the personal social media account of the student or
23 prospective student or share the information with any other
24 person, and shall also delete the information immediately, or
25 as soon as is reasonably practicable.

26 Section 10. (a) A student may not be denied access
27 to any public educational service or grade advancement in the

1 public schools for failure to participate in or utilize any
2 assessments, career counseling, workshops, psychological
3 counseling session, or other activities that the parent of the
4 student deems inappropriate or offensive.

5 (b) A parent or eligible student shall notify the
6 local education institution in writing and name the program or
7 programs they choose not to participate in pursuant to
8 subsection (a).

9 (c) The parent or eligible student shall be offered
10 a reasonable academic alternative.

11 Section 11. Evidence or information obtained or
12 collected in violation of this act is not admissible in any
13 civil or criminal trial or legal proceeding, disciplinary
14 action, or administrative hearing except when used against the
15 party who violated this act.

16 Section 12. (a) Each violation of this act by an
17 organization, state agency, local education agency, or local
18 education institution shall be punishable by a civil penalty
19 of up to one thousand dollars (\$1,000). A second violation by
20 the same organization or entity involving the education
21 records and privacy of the same student shall be punishable by
22 a civil penalty of up to five thousand dollars (\$5,000). Any
23 subsequent violation by the same organization or entity
24 involving the education records and privacy of the same
25 student shall be punishable by a civil penalty of up to ten
26 thousand dollars (\$10,000). Each violation of this act
27 involving a different individual education record or a

1 different individual student shall be considered a separate
2 violation for purposes of civil penalties and reasonable
3 attorney fees and other costs of litigation.

4 (b) The Attorney General or a local district
5 attorney may enforce compliance with this act by investigation
6 and subsequent commencement of a civil action, seek civil
7 penalties for violations, and seek appropriate injunctive
8 relief including, but not limited to, a prohibition against
9 obtaining personally identifiable student information for an
10 appropriate time period. In conducting an investigation and in
11 maintaining a civil action, the Attorney General or district
12 attorney may subpoena witnesses, compel their attendance,
13 examine them under oath, and require that any books, records,
14 documents, papers, or electronic records relevant to the
15 inquiry be turned over for inspection, examination, or audit.
16 Subpoenas issued pursuant to this subsection may be enforced
17 pursuant to the Alabama Rules of Civil Procedure and state
18 law.

19 (c) This act creates a private right of action for
20 parents, eligible students, and residents of the state to
21 enforce this act and seek civil damages for any violation of
22 this act. Parents, eligible students, and residents of the
23 state may seek appropriate injunctive relief from any
24 governmental agency or branch of government including, but not
25 limited to, a prohibition on obtaining personally identifiable
26 student information for an appropriate time period. Residents
27 of the state may also seek injunctive relief against private

1 businesses for violating this act. Parents, eligible students,
2 and residents of the state may sue in their own accord for any
3 violation of this act without regard to actions taken by the
4 Attorney General or local district attorney. The same
5 penalties as provided in subsection (a) shall be available to
6 private citizens, eligible students, and parents.

7 Section 13. This act shall become effective on July
8 1, 2016, following its passage and approval by the Governor,
9 or its otherwise becoming law.