

House Bill 170

By: Representatives Jones of the 53rd, Nelson of the 125th, Abrams of the 89th, Hugley of the 136th, and Scott of the 76th

A BILL TO BE ENTITLED
AN ACT

1 To amend Subpart 3 of Part 1 of Article 16 of Chapter 2 of Title 20 of the Official Code of
2 Georgia Annotated, relating to student records, so as to enact the "Student Online Personal
3 Information Protection Act"; to provide for definitions; to prohibit operators of educational
4 sites, services, and applications from engaging in certain activities regarding certain student
5 information; to provide for exceptions; to require reasonable security procedures and
6 practices; to provide for statutory construction; to provide for applicability; to provide for
7 related matters; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Subpart 3 of Part 1 of Article 16 of Chapter 2 of Title 20 of the Official Code of Georgia
11 Annotated, relating to student records, is amended by adding a new Code section to read as
12 follows:

13 "20-2-721.

14 (a) This Code section shall be known and may be referred to as the 'Student Online
15 Personal Information Protection Act.'

16 (b) As used in this Code section, the term:

17 (1) 'Covered information' means personally identifiable student information or materials,
18 in any media or format, that meets any of the following:

19 (A) Is created or provided by a student, or the student's parent or legal guardian, to an
20 operator in the course of the student's, parent's, or legal guardian's use of the operator's
21 site, service, or application for K–12 school purposes;

22 (B) Is created or provided by an employee or agent of a K–12 school, local school
23 system, local education agency, or local board of education, to an operator; or

24 (C) Is gathered by an operator through the operation of a site, service, or application
25 and is descriptive of a student or otherwise identifies a student, including, but not
26 limited to, information in the student's educational record or e-mail, first and last name,

27 home address, telephone number, e-mail address, other information that allows physical
 28 or online contact, discipline records, test results, special education data, juvenile
 29 dependency records, grades, evaluations, criminal records, medical records, health
 30 records, social security number, biometric information, disabilities, socioeconomic
 31 information, food purchases, political affiliations, religious information, text messages,
 32 documents, student identifiers, search activity, photos, voice recordings, or geolocation
 33 information.

34 (2) 'K-12 school purposes' means purposes that customarily take place at the direction
 35 of a K-12 school, teacher, or local school system or aid in the administration of school
 36 activities, including, but not limited to, instruction in the classroom or at home,
 37 administrative activities, and collaboration between students, school personnel, or
 38 parents, or are for the use and benefit of the school.

39 (3) 'Operator' means the operator of a site, service, or application with actual knowledge
 40 that the site, service, or application is used primarily for K-12 school purposes and was
 41 designed and marketed for K-12 school purposes.

42 (4) 'Site, service, or application' means an Internet website; online service, including
 43 cloud computing services; online application; or mobile application used primarily for
 44 K-12 school purposes.

45 (c) An operator shall not knowingly engage in any of the following activities with respect
 46 to its site, service, or application:

47 (1) Engage in targeted advertising on the operator's site, service, or application or on any
 48 other site, service, or application when the targeting of the advertising is based upon any
 49 information, including covered information, that the operator has acquired because of the
 50 use of that operator's site, service, or application;

51 (2) Use covered information created or gathered by the operator's site, service, or
 52 application, to amass a profile about a K-12 student except in furtherance of K-12 school
 53 purposes;

54 (3) Sell a student's information, including covered information. This paragraph shall not
 55 apply to the purchase, merger, or other type of acquisition of an operator by another
 56 entity, provided that the operator or successor entity continues to be subject to the
 57 provisions of this Code section with respect to previously acquired student information;
 58 or

59 (4) Disclose covered information unless the disclosure is made:

60 (A) In furtherance of the K-12 purpose of the site, service, or application, provided
 61 that the recipient of the covered information that was disclosed:

62 (i) Shall not further disclose the covered information unless done to allow or improve
 63 operability and functionality within that student's classroom or school; and

- 64 (ii) Is legally required to comply with subsection (d) of this Code section;
 65 (B) To ensure legal and regulatory compliance;
 66 (C) To respond to or participate in judicial process;
 67 (D) To protect the safety of users or others or security of the site;
 68 (E) To a service provider, provided the operator contractually (i) prohibits the service
 69 provider from using any covered information for any purpose other than providing the
 70 contracted service to, or on behalf of, the operator, (ii) prohibits the service provider
 71 from disclosing any covered information provided by the operator to any subsequent
 72 third parties, and (iii) requires the service provider to implement and maintain
 73 reasonable security procedures and practices as provided in subsection (d) of this Code
 74 section;
 75 (F) Pursuant to provisions of federal or state law that require the operator to disclose
 76 the covered information, and the operator complies with the requirements of federal and
 77 state law in protecting and disclosing that information;
 78 (G) For legitimate research purposes:
 79 (i) As required by state or federal law and subject to the restrictions under applicable
 80 state and federal law; or
 81 (ii) As allowed by state or federal law and under the direction of a school, local
 82 school system, or the Department of Education, if no covered information is used for
 83 any purpose in furtherance of advertising or to amass a profile on the student for
 84 purposes other than K–12 school purposes; or
 85 (H) To a state or local educational agency, including schools and local school systems,
 86 for K–12 school purposes, as permitted by state or federal law.
- 87 (d) An operator shall:
 88 (1) Implement and maintain reasonable security procedures and practices appropriate to
 89 the nature of the covered information, and protect that information from unauthorized
 90 access, destruction, use, modification, or disclosure; and
 91 (2) Delete a student's covered information if the school or local school system requests
 92 deletion of data under the control of the school or local school system.
- 93 (e) Nothing in this Code section shall be construed to:
 94 (1) Prohibit an operator's use of information for maintaining, developing, supporting,
 95 improving, or diagnosing the operator's site, service, or application;
 96 (2) Prohibit an operator from using deidentified student covered information as follows:
 97 (A) Within the operator's site, service, or application or other sites, services, or
 98 applications owned by the operator to improve educational products; or
 99 (B) To demonstrate the effectiveness of the operator's products or services, including
 100 in their marketing;

- 101 (3) Prohibit an operator from sharing aggregated deidentified student covered
102 information for the development and improvement of educational sites, services, or
103 applications;
- 104 (4) Limit the authority of a law enforcement agency to obtain any content or information
105 from an operator as authorized by law or pursuant to an order of a court of competent
106 jurisdiction;
- 107 (5) Limit the ability of an operator to use student data, including covered information,
108 for adaptive learning or customized student learning purposes;
- 109 (6) Limit Internet service providers from providing Internet connectivity to schools or
110 students and their families;
- 111 (7) Prohibit an operator of a site, service, or application from marketing educational
112 products directly to parents so long as the marketing did not result from the use of
113 covered information obtained by the operator through the provision of services covered
114 under this Code section;
- 115 (8) Impose a duty upon a provider of an electronic store, gateway, marketplace, or other
116 means of purchasing or downloading software or applications to review or enforce
117 compliance of this Code section on such software or applications;
- 118 (9) Impose a duty upon a provider of an interactive computer service, as defined in
119 Section 230 of Title 47 of the United States Code, to review or enforce compliance with
120 this Code section by third-party content providers; or
- 121 (10) Impede the ability of students to download, export, or otherwise save or maintain
122 their own student created data or documents.
- 123 (f) This Code section shall not apply to general audience Internet websites, general
124 audience online services, general audience online applications, or general audience mobile
125 applications, even if login credentials created for an operator's site, service, or application
126 may be used to access those general audience sites, services, or applications."

127 **SECTION 2.**

128 All laws and parts of laws in conflict with this Act are repealed.