



HOUSE BILL 632: Student Online Protection Act.

**This Bill Analysis
reflects the contents
of the bill as it was
presented in
committee.**

2016-2017 General Assembly

Committee:	Senate Education/Higher Education	Date:	May 24, 2016
Introduced by:	Rep. Saine	Prepared by:	Kara McCraw
Analysis of:	PCS to First Edition H632-CSTC-68		Committee Co-Counsel Selby Lo LAD Extern

SUMMARY: *The PCS for HB 632 would eliminate the prior contents of the bill entirely and would replace it with provisions governing the privacy protection of student information held by third-party online educational applications for K-12 students in a charter school, regional school, or school operated by a local board of education.*

BILL ANALYSIS: The PCS for HB 632 would create a new statute governing data privacy requirements for operators of third-party online educational applications for K-12 students as follows:

Definitions: Definitions for the section would include:

- Covered information. - Any personally identifiable information or material created or provided in use of the application or for K-12 school purposes, or gathered in the course of the application's operation, including, but not limited to: name, address, electronic mail address, social security numbers, grades, medical records and other identifying information.
- K-12 school purpose. – A purpose directed by or taking place at the direction of a school, teacher, or local board of education or aid in the administration of school activities, including, but not limited to: instruction in the classroom or at home, collaboration between students, school personnel, or parents, or are for the use and benefit of the school.
- Operator. – An Internet website, online service, online application, or mobile application that has actual knowledge is used for K-12 school purposes and was designed and marketed for those purposes.

Operator Prohibitions: Operators would be prohibited from:

- Engaging in targeted advertising based on any information acquired because of the use of the operator's site, service, or application.
- Using information to create a profile about a student except for a K-12 school purpose.
- Renting or selling information, except to national assessment providers that have received written consent from the parent or child who is at least 13 to provide access to certain scholarships, financial aid, or postsecondary educational opportunities.
- Disclosing covered information except for the following purposes:
 - Furtherance of the K-12 school purpose of the application if the recipient does not further disclose the information unless to allow or improve the operability and functionality of the third-party application.
 - Ensuring legal and regulatory compliance or protection against liability.
 - In response to or for participation in the judicial process.
 - Protection of the safety and integrity of users or third-party application.
 - For an educational or employment purpose requested by the student or student's parent.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

House PCS 632

Page 2

- To a subcontractor, if the operator contractually prohibits the subcontractor from using any covered information for any purpose other than providing the contracted service to or on behalf of the operator, prohibits the subcontractor from disclosing the information to third parties, and requires the subcontractor to have reasonable security procedures and practices.

Operator Requirements: Operators would be required to:

- Implement and maintain reasonable security procedures and practices appropriate to the nature of the covered information and protect the covered information from unauthorized access, destruction, use, modification, or disclosure.
- Delete a student's covered information within 45 days if the school or local board of education requests deletion of the information under the school or local board of education's control, unless the parent or student consents in writing to maintenance of the covered information.

Permissible Use or Disclosure of Information: Operators would be permitted to disclose covered information under the following circumstances:

- State or federal law requires the disclosure.
- Legitimate research purposes as required by State or federal law.
- To a school, local school administrative unit, or the State Board of Education as permitted by State or federal law.
- At the direction of a school, local school administrative unit, or the State Board of Education for K-12 school purposes permitted by State or federal law.

Permissible Operator Actions: Operators would be permitted to use covered information to:

- Improve their educational products with de-identified information.
- Demonstrate the effectiveness of the operator's products or services with de-identified information.
- Share information for development and improvement of educational sites, services, or applications with de-identified information.
- Recommend to a student additional content or services relating to an educational, other learning, or employment opportunity purpose if the recommendation is not determined by payment or consideration from a third party.
- Respond to a student's request for information or feedback to help improve learning if the information or response is not determined by payment or other consideration from a third party.

Limitations: The PCS for HB 632 would not:

- Limit the authority of a law enforcement agency as authorized by law or under a court order.
- Limit the ability of an operator to use student data for adaptive learning or customized student learning purposes.
- Apply to general audience operators, websites, services, or applications.
- Limit service providers from providing Internet connectivity to schools or students and their families.
- Prohibit an operator from marketing educational products directly to parents if the marketing did not result from the use of covered information.
- Impose a duty upon a provider of an electronic store, gateway, marketplace, or other means of purchasing or downloading software or application to review or enforce compliance.
- Impose a duty upon a provider of an interactive computer service to review or enforce compliance.
- Prohibit students from downloading, exporting, transferring, saving, or maintaining their own student data or documents.

EFFECTIVE DATE: HB 632 would become effective on October 1, 2016.