

*As Amended by Senate Committee*

*Session of 2014*

**SENATE BILL No. 367**

By Committee on Ways and Means

2-10

1 AN ACT concerning schools; creating the student data privacy act.

2

3 *Be it enacted by the Legislature of the State of Kansas:*

4 Section 1. Sections 1 through 6, and amendments thereto, shall be  
5 known and may be cited as the student data privacy act.

6 Sec. 2. As used in sections 1 through 6, and amendments thereto:

7 (a) "Aggregate data" means data collected or reported at the group,  
8 cohort or institutional level.

9 (b) "Biometric data" means one or more measurable biological or  
10 behavioral characteristics that can be used for automated recognition of an  
11 individual, such as fingerprints, retina and iris patterns, voiceprints, DNA  
12 sequence, facial characteristics and handwriting.

13 (c) "Department" means the state department of education.

14 (d) "Directory information" means personally identifiable student  
15 data that has been designated as directory information by an educational  
16 agency in accordance with the federal family educational rights and  
17 privacy act, 20 U.S.C. § 1232g, and the disclosure of which has been  
18 consented to in writing by the student, if an adult, or such student's parent  
19 or legal guardian, if a minor.

20 (e) "Educational agency" means a school district; *or* the department  
21 ~~or a postsecondary educational institution.~~

22 ~~(f) "Postsecondary educational institution" shall have the same  
23 meaning as that term is defined in K.S.A. 74-3201b, and amendments  
24 thereto.~~

25 ~~(g)~~ "School district" means a unified school district organized and  
26 operated under the laws of this state.

27 ~~(h)~~**(g)** "Statewide longitudinal student data system" means any  
28 student data system maintained by the department, which assigns a state  
29 identification number for each student who attends an accredited public or  
30 private school in Kansas and uses the state identification number to collect  
31 student data.

32 ~~(i)~~**(h)** "Student data" means the following information contained in a  
33 student's educational record:

34 (1) State and national assessment results, including information on  
35 untested students;

36 (2) course taking and completion, credits earned and other transcript

- 1 information;
- 2 (3) course grades and grade point average;
- 3 (4) date of birth, grade level and expected date of graduation;
- 4 (5) degree, diploma, credential attainment and other school exit
- 5 information such as general education development and drop-out data;
- 6 (6) attendance and mobility;
- 7 (7) data required to calculate the federal four-year adjusted cohort
- 8 graduation rate, including sufficient exit and drop-out information;
- 9 (8) remediation;
- 10 (9) special education data;
- 11 (10) demographic data and program participation information; and
- 12 (11) any other information included in a student's educational record.
- 13 Sec. 3. (a) Any student data submitted to and maintained by a
- 14 statewide longitudinal student data system shall only be disclosed by an
- 15 educational agency in accordance with the provisions of this section.
- 16 (b) Student data may be disclosed at any time to:
- 17 (1) The authorized personnel of the department or a school district
- 18 who require such disclosures to perform their assigned duties;
- 19 (2) the authorized personnel of the state board of regents who require
- 20 such disclosures to perform their assigned duties; and
- 21 (3) the student and the parent or legal guardian of the student,
- 22 provided the student data pertains solely to such student.
- 23 (c) Student data may be disclosed to the authorized personnel of any
- 24 state agency not specified in subsection (b), provided there is a data-
- 25 sharing agreement between the educational agency and such other state
- 26 agency that provides the following:
- 27 (1) The purpose, scope and duration of the data-sharing agreement;
- 28 (2) that the recipient of the student data use such information solely
- 29 for the purposes specified in the agreement;
- 30 (3) that the recipient shall comply with data access, use and security
- 31 restrictions that are specifically described in the agreement; and
- 32 (4) that the student data shall be destroyed or returned when no
- 33 longer necessary for the purposes of the data-sharing agreement, or upon
- 34 expiration of the data-sharing agreement.
- 35 (d) (1) Except as otherwise provided in paragraph (2), student data
- 36 may be disclosed to any governmental entity not specified in subsection
- 37 (b) or (c), or to any public or private **audit and evaluation or** research
- 38 organization, provided:
- 39 (A) Only aggregate data is disclosed to such governmental entity or
- 40 **audit and evaluation or** research organization;
- 41 (B) the disclosed aggregate data contains no personally identifiable
- 42 information of any student; and
- 43 (C) the disclosure is made in compliance with the federal family

1 educational rights and privacy act, 20 U.S.C. § 1232g.

2 (2) Personally identifiable student data may be disclosed if the  
3 student, if an adult, or the parent or legal guardian of the student, if a  
4 minor, consents to such disclosure in writing.

5 (e) Notwithstanding the provisions of subsections (b), (c) and (d), an  
6 educational agency may disclose:

7 (1) Directory information of any student when such agency deems  
8 such disclosure necessary; ~~and~~

9 ***(2) any information required to be disclosed pursuant to K.S.A. 65-***  
10 ***101, 65-118 and 65-202, and amendments thereto, provided such***  
11 ***information is disclosed in accordance with any provisions of such***  
12 ***statutes regarding the confidentiality and disclosure of such***  
13 ***information; and***

14 ~~(2)(3)~~ any student data in order to comply with any lawful subpoena  
15 or court order directing such disclosure.

16 Sec. 4. No school district shall collect biometric data from a student,  
17 or use any device or mechanism to assess a student's physiological or  
18 emotional state, unless the student, if an adult, or the parent or legal  
19 guardian of the student, if a minor, consents in writing.

20 Sec. 5. The attorney general or any district attorney may enforce the  
21 provisions of sections 1 through 6, and amendments thereto, by bringing  
22 an action in a court of competent jurisdiction, and may seek injunctive  
23 relief to enjoin any educational agency, any employee or agent thereof, or  
24 any other entity in possession of student data from disclosing any student  
25 data in violation of the provisions of sections 1 through 6, and  
26 amendments thereto.

27 Sec. 6. The department shall annually publish on its website the  
28 categories of student data that are submitted to and maintained in any  
29 statewide longitudinal student data system. Publications required by this  
30 section shall be published with an easily identifiable link located on the  
31 department's website homepage.

32 Sec. 7. This act shall take effect and be in force from and after its  
33 publication in the statute book.