



Monday



stays

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

SA

Gov Cat

1 AN ACT ~~to repeal~~ 115.297 (3) (e) and 115.297 (4) (b) 1. to 5.; *to renumber and*  
2 *amend* 115.297 (4) (b) (intro.); *to amend* 115.297 (5) (a); and *to create* 115.297  
3 (4) (c) and 115.297 (7) of the statutes; **relating to:** the disclosure of personally  
4 identifiable student data.

*Analysis by the Legislative Reference Bureau*

(attached)

~~This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.~~

**The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:**

5 SECTION 1. 115.297 (3) (e) of the statutes is repealed.

6 SECTION 2. 115.297 (4) (b) (intro.) of the statutes is renumbered 115.297 (4) (b)  
7 and amended to read:

8 115.297 (4) (b) Any of the agencies may disclose personally identifiable student  
9 data to the longitudinal data system under sub. (3) (a), to another agency, or to a

1 public or private research organization, ~~to support an evaluation or study under this~~  
2 ~~section if the disclosure is in connection with a data-sharing agreement that does all~~  
3 ~~of the following: if the student, if an adult, or the student's parent or guardian, if the~~  
4 ~~student is a minor, consents in writing, or the disclosure is allowed without consent~~  
5 ~~under s. 118.125 (2) or 34 CFR 99.31 other than 34 CFR 99.31 (a) (6).~~

6 **SECTION 3.** 115.297 (4) (b) 1. to 5. of the statutes are repealed.

7 **SECTION 4.** 115.297 (4) (c) of the statutes is created to read:

8 115.297 (4) (c) An agency shall maintain a written record of all disclosures of  
9 personally identifiable student data made under this section without the consent  
10 described under par. (b).

11 **SECTION 5.** 115.297 (5) (a) of the statutes is amended to read:

12 115.297 (5) (a) Nothing in this section, and nothing in the written agreement  
13 under sub. (3) ~~or in a data-sharing agreement entered into under sub. (4)~~, may be  
14 construed to infringe upon or diminish the legal authority of any of the agencies.

15 **SECTION 6.** 115.297 (7) of the statutes is created to read:

16 115.297 (7) ENFORCEMENT. The attorney general or any district attorney may  
17 bring an action in circuit court for the enforcement of this section, including an action  
18 to restrain by temporary or permanent injunction any violation of this section.

19 (END)

## Analysis

(9) Current law directs the Department of Public Instruction, the Board of Regents of the University of Wisconsin System, the Department of Children and Families, the Department of Workforce Development, and the Technical College System Board (and the Wisconsin Association of Independent Colleges and Universities <sup>if it wishes to participate</sup>) to enter into a written agreement to establish and maintain a longitudinal data system of student data.

Any of the specified entities ~~(and the Wisconsin Association of Independent Colleges and Universities, if it wishes to participate)~~ may submit student data to the longitudinal data system, <sup>of the specified</sup> to another ~~entities~~ or to a public or private research organization to support an evaluation or study of education programs operated or

supervised by one or more of the entities  
 in order to improve student academic  
 achievement. A <sup>specified</sup> entity may disclose  
 personally identifiable student data,  
 however, only if the disclosure is in  
 connection with a data-sharing  
 agreement that:

①

1. Specifies the purpose, scope, and  
 duration of the data-sharing agreement;

②

2. Requires the recipient to use  
 personally identifiable student data only for  
 the purpose specified in item 1.

③

3. Describes the specific data  
 access, use, and security restrictions with  
 which the recipient will comply;

④

4. Requires that the personally identifiable

student data be destroyed or returned when it is no longer needed for the purpose specified in <sup>upon expiration of</sup> the data-sharing agreement, whichever occurs first; and

① 5. If the disclosure is to a public or private research organization, prohibits the ~~personal~~ identification of any person by individuals other than authorized representatives of the recipient who have legitimate interests in the information. ②

① These provisions mirror those found in the federal regulations promulgated under the authority of the federal Family Educational Rights and Privacy Act

(FERPA). See 34 C.F.R. 99.31(a)(6).

① This bill provides that any of the specified entities may disclose personally

identifiable student data to the longitudinal data system, to another specified entity, or to a public or private research organization only if the student, if an adult, or the student's parent or guardian, if the student is a minor, consents in writing, or the disclosure is allowed without such consent by one or more exceptions to the <sup>state law or federal law on</sup> confidentiality of pupil records, ~~under state law or under the FERPA~~ regulations, other than the FERPA regulation cited above.

(7)

The bill requires a specified entity to maintain a written record of

all disclosures of personally identifiable student data made to the longitudinal data system, to another entity, or to a public or private research organization without the consent described above.

(9)

Finally, the bill <sup>explicitly</sup> authorizes the ~~Attorney General~~ or any district attorney to enforce the provisions described above.

11/25/13

mtg. w/

{ Pridemore  
Liz Rusil  
Katie Bender-Ulsen

RE -3165

> define "sch. official" 118.125 (2)(d)  
to exclude those included in FERPA

(A draft to exclude CFR ref to ↑

> add public schools to /P/ re SIS

> keep 3165 /1

⇒ by early next week if possible.



WED AM



stays

AB

# 2013 BILL

SAV

regent

the student information system ↑

1 AN ACT to repeal 115.297 (3) (e) and 115.297 (4) (b) 1. to 5.; to renumber and  
 2 amend 115.297 (4) (b) (intro.); to amend 115.297 (5) (a); and to create 115.297  
 3 (4) (c) and 115.297 (7) of the statutes; relating to: the disclosure of personally  
 4 identifiable student data; and the disclosure of pupil records

A

## Analysis by the Legislative Reference Bureau

DPI

Current law directs the Department of Public Instruction, the Board of Regents of the University of Wisconsin System, the Department of Children and Families, the Department of Workforce Development, and the Technical College System Board (and the Wisconsin Association of Independent Colleges and Universities, if it wishes to participate) to enter into a written agreement to establish and maintain a longitudinal data system of student data. Any of the specified entities may submit student data to the longitudinal data system, to another of the specified entities or to a public or private research organization to support an evaluation or study of education programs operated or supervised by one or more of the entities in order to improve student academic achievement. A specified entity may disclose personally identifiable student data, however, only if the disclosure is in connection with a data-sharing agreement that:

- a — 1. Specifies the purpose, scope, and duration of the data-sharing agreement;
- b — 2. Requires the recipient to use personally identifiable student data only for the purpose specified in item 1.;
- c — 3. Describes the specific data access, use, and security restrictions with which the recipient will comply;

**BILL**

d ~~e~~ 4. Requires that the personally identifiable student data be destroyed or returned when it is no longer needed for the purpose specified or upon expiration of the data-sharing agreement, whichever occurs first; and

e ~~e~~ 5. If the disclosure is to a public or private research organization, prohibits the identification of any person by individuals other than the authorized representatives of the recipient who have legitimate interests in the information.

These provisions mirror those found in the ~~federal regulations promulgated under the authority of the federal Family Educational Rights and Privacy Act (FERPA)~~. See 34 CFR 99.31 (a) (6).

FERPA regulations

This bill provides that any of the specified entities may disclose personally identifiable student data to the longitudinal data system, to another specified entity, or to a public or private research organization only if the student, if an adult, or the student's parent or guardian, if the student is a minor, consents in writing, ~~or the disclosure is allowed without such consent by one or more exceptions to the state or federal law on confidentiality of pupil records, other than the FERPA regulation cited above.~~

The bill requires a specified entity to maintain a written record of all disclosures of personally identifiable student data made to the longitudinal data system, to another entity, or to a public or private research organization without the consent described above.

~~Finally,~~ <sup>also</sup> the bill explicitly authorizes the attorney general or any district attorney to enforce the provisions described above.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 115.297 (3) (e) of the statutes is repealed.

SECTION 2. 115.297 (4) (b) (intro.) of the statutes is renumbered 115.297 (4) (b)

and amended to read:

115.297 (4) (b) Any of the agencies may disclose personally identifiable student data to the longitudinal data system under sub. (3) (a), to another agency, or to a public or private research organization, ~~to support an evaluation or study under this section if the disclosure is in connection with a data-sharing agreement that does all of the following:~~ if the student, if an adult, or the student's parent or guardian, if the student is a minor, consents in writing, or the disclosure is allowed without consent under ~~§ 118.125 (2) or~~ 34 CFR 99.31 other than 34 CFR 99.31 (a) (6).

2-1

2  
3  
4

9

10

score semi-colon

2-10  
(1) or



A:1

4. <sup>a</sup> Current state law requires a school board to disclose <sup>a</sup> pupil's records to persons employed by the school district that the pupil attends who are required to hold a license issued by the Department of Public Instruction (DPI) law enforcement officers who are individually designated by the school board and assigned to the school district, and other school district officials who have been determined by the school board to have legitimate educational interests in the ~~file~~ records.

9. The federal regulations <sup>adopted</sup> ~~adopted~~ under the authority of the federal Family Educational Rights and Privacy Act (FERPA)

(A:2)

include a similar provision, but also provide that a contractor, consultant, volunteer, or other party to whom a school has outsourced school services or functions may be considered a school official under certain conditions. See 34 CFR 99.31(a)(1).

(4)

This bill explicitly excludes from the term "school official" in state law a contractor, consultant, volunteer, or any other person to whom a school board has outsourced school services or functions.

4.  
~~10~~ 22

(AA)

; or the disclosure is to an official of the entity <sup>who</sup> ~~whom~~ the entity has determined has legitimate educational interests in the data. The bill specifies that, unlike<sup>in</sup> the FERPA regulations, "official" excludes a contractor, consultant, volunteer, or any other person to whom the entity has outsourced entity services or functions.



(B)

State of Wisconsin  
2013 - 2014 LEGISLATURE



LRB-3165/P1  
PG:eev:jf

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

1     **AN ACT to amend** 115.28 (12) (a) 3. of the statutes; **relating to:** information  
2             collected by the department of public instruction for the student information  
3             system from charter schools and certain private schools.

***Analysis by the Legislative Reference Bureau***

(B) Current law directs ~~(the Department of Public Instruction (DPI))~~ to develop a proposal for a multiple-vendor student information system (SIS). DPI must submit the proposal to the Joint Committee on Finance (JCF) for its approval. If JCF approves the proposal, DPI must implement it and must ensure that information about pupils enrolled in charter schools and about pupils enrolled in private schools participating in a parental choice program (PCP) is collected and maintained in the SIS. Current law also provides that if the SIS is established, DPI must ensure that within five years, every school district and every charter school is using the SIS, and that every private school participating in a PCP is either using the SIS or is using a system that is interoperable with the SIS.

This bill prohibits DPI from collecting for the SIS, from <sup>public schools</sup> ~~charter schools~~ or ~~from~~ private schools participating in a PCP, any information that is not required to be submitted to DPI on the bill's effective date. → FB-SL ←

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

(2 - 1)

1 SECTION 1. 115.28 (12) (a) 3. of the statutes, as affected by 2013 Wisconsin Act  
2 20, is amended to read:

3 115.28 (12) (a) 3. If the proposal is approved under subd. 2., the state  
4 superintendent shall ensure that information about pupils enrolled in charter  
5 schools and about pupils enrolled in private schools participating in a parental choice  
6 program under s. 118.60 or 119.23, including their academic performance and  
7 demographic information, aggregated by school district, school, and teacher, is  
8 collected and maintained in the student information system. The state  
9 superintendent may not collect for the student information system, from charter  
10 schools or ~~from~~ private schools participating in a parental choice program under s.  
11 118.60 or 119.23, any information that is not required to be submitted to the  
12 department under chs. 115 to 121 on the effective date of this subdivision .... [LRB  
13 inserts datel.

public schools

(END)

2-10

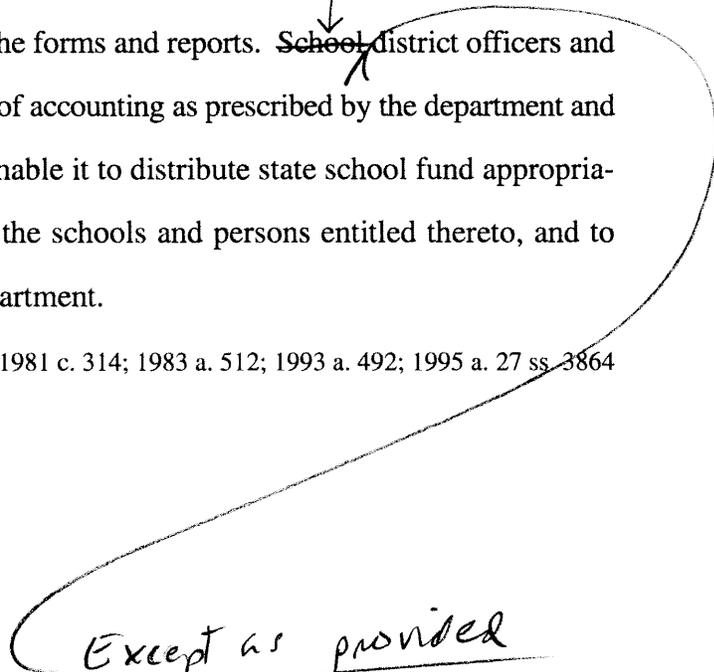
; or the disclosure is to an agency  
official ~~from~~ <sup>who</sup> the agency has  
determined has legitimate  
educational interests } in the data.  
In this paragraph,  
"agency official" excludes a  
contractor, consultant, volunteer, or  
any other person to whom the agency  
has outsourced agency services  
or functions.

X

Section #. 115.30 (1) of the statutes is amended to read:

115.30 (1) The department shall prepare for the use of school officers suitable forms for making reports, and suitable outlines as aids in conducting school meetings. With the exception of changes due to statute or rule revision, the department shall give school districts a one-year advance notice of any changes to be made to the forms and reports. ~~School~~ district officers and employees shall maintain a uniform recording of accounting as prescribed by the department and make such reports to the department as will enable it to distribute state school fund appropriations and state educational appropriations to the schools and persons entitled thereto, and to properly discharge the other duties of the department.

History: 1975 c. 224; 1977 c. 196 s. 131; 1977 c. 273; 1981 c. 314; 1983 a. 512; 1993 a. 492; 1995 a. 27 ss. 3864 to 3866, 9145 (1); 1997 a. 27.



Except as provided  
in s. 115.28(12)(a) 3. ↑  
school

X

Section #. 115.30 (2) of the statutes is amended to read:

115.30 (2) The department may require all school boards to report to it, on forms provided, the name of the school and its location, the name and address of the teachers, the number of months of school maintained during the year, the opening and closing dates, the names and ages of all pupils enrolled between the ages of 6 and 18, the names and post-office addresses and places of residence of the parents of such pupils, the number of the school district and the distance such pupils reside from the schoolhouse, the number of days each pupil was present during each month and any other information requested by it.

**History:** 1975 c. 224; 1977 c. 196 s. 131; 1977 c. 273; 1981 c. 314; 1983 a. 512; 1993 a. 492; 1995 a. 27 ss. 3864 to 3866, 9145 (1); 1997 a. 27.

*except as provided  
in s. 115.28(12)(a) 3*

✓

X

renumbered 118.125 (2) (d) 2. and

Section #. 118.125 (2) (d) of the statutes is amended to read:

118.125 (2) (d) <sup>2.</sup> Pupil records shall be made available to persons employed by the school district which the pupil attends who are required by the department under s. 115.28 (7) to hold a license, law enforcement officers who are individually designated by the school board and assigned to the school district, and other school district officials who have been determined by the school board to have legitimate educational interests, including safety interests, in the pupil records. Law enforcement officers' records obtained under s. 938.396 (1) (c) 3. shall be made available as provided in s. 118.127. A school board member or an employee of a school district may not be held personally liable for any damages caused by the nondisclosure of any information specified in this ~~paragraph~~ unless the member or employee acted with actual malice in failing to disclose the information. A school district may not be held liable for any damages caused by the nondisclosure of any information specified in this ~~paragraph~~ unless the school district or its agent acted with gross negligence or with reckless, wanton, or intentional misconduct in failing to disclose the information.

subdivision

**History:** 1973 c. 254; 1977 c. 418; 1979 c. 205; 1981 c. 20, 273; 1983 a. 189; 1985 a. 218; 1987 a. 27, 70, 206, 285, 337, 355; 1987 a. 399 s. 491r; 1987 a. 403 ss. 123, 124, 256; 1989 a. 31, 168; 1989 a. 201 s. 36; 1989 a. 336; 1991 a. 39, 189; 1993 a. 27, 172, 334, 377, 385, 399, 450, 491; 1995 a. 27 ss. 3939, 3940, 9126 (19), 9130 (4), 9145 (1); 1995 a. 77, 173, 225, 352; 1997 a. 3, 27, 205, 237, 239; 1999 a. 9, 149; 2003 a. 82, 292; 2005 a. 344, 434; 2005 a. 443 s. 265; 2007 a. 20 ss. 2712, 9121 (6) (a); 2009 a. 11, 28, 209, 302, 309; 2011 a. 32, 105, 260.

X  
① SEE. # CR, 118.125 (2)(d)1.

② 118.125 (2)(d)1. In this paragraph,  
"school district official" excludes a  
contractor, consultant, volunteer, or any  
other person to whom the school board  
has outsourced school services or  
functions.

X

Section #. 118.125 (2) (g) 2. of the statutes is amended to read:

↓ Except as provided in s. 115.28 (12) (a) 3., upon

118.125 (2) (g) 2. Upon request by the department, the school board shall provide the department with any information contained in a pupil record that relates to an audit or evaluation of a federal or state-supported program or that is required to determine compliance with requirements under chs. 115 to 121.

**History:** 1973 c. 254; 1977 c. 418; 1979 c. 205; 1981 c. 20, 273; 1983 a. 189; 1985 a. 218; 1987 a. 27, 70, 206, 285, 337, 355; 1987 a. 399 s. 491r; 1987 a. 403 ss. 123, 124, 256; 1989 a. 31, 168; 1989 a. 201 s. 36; 1989 a. 336; 1991 a. 39, 189; 1993 a. 27, 172, 334, 377, 385, 399, 450, 491; 1995 a. 27 ss. 3939, 3940, 9126 (19), 9130 (4), 9145 (1); 1995 a. 77, 173, 225, 352; 1997 a. 3, 27, 205, 237, 239; 1999 a. 9, 149; 2003 a. 82, 292; 2005 a. 344, 434; 2005 a. 443 s. 265; 2007 a. 20 ss. 2712, 9121 (6) (a); 2009 a. 11, 28, 209, 302, 309; 2011 a. 32, 105, 260.

X

Section #. 120.18 (1) (s) of the statutes is amended to read:

Except as provided in s. 115.28(12)(a) 3. such

120.18 (1) (s) ~~Such~~ other facts and statistics in relation to the public, private or tribal schools, in the school district as the department requires.

History: 1975 c. 189, 224; 1989 a. 31; 1993 a. 16; 1995 a. 27 s. 9145 (1); 1997 a. 27, 87; 2001 a. 16; 2003 a. 33; 2005 a. 252; 2009 a. 302; 2011 a. 10.

(End)

TC's w/ Liz (Pidemore's etc)

12/9, 12/10, 12/11, 12/13

1. A 115-297 so <sup>discuss to</sup> pub. & priv. record

only if consent conditions parental consent

2. DPI <sup>must</sup> post inventory of types of indiv. data collected & reason

3. DPI can't disclose p-i. pupil data to fed govt

4. parents can see all of pupil's records

needed Friday



State of Wisconsin  
2013 - 2014 LEGISLATURE

Fe 17/13  
12/13



LRB-3165/2  
PG:cjs:jf

3

2013 BILL

stays

SA ✓

regen

1 AN ACT *to repeal* 115.297 (3) (e) and 115.297 (4) (b) 1. to 5.; *to renumber and*  
2 *amend* 115.297 (4) (b) (intro.) and 118.125 (2) (d); *to amend* 115.28 (12) (a) 3.,  
3 115.297 (5) (a), 115.30 (1), 115.30 (2), 118.125 (2) (g) 2. and 120.18 (1) (s); and  
4 *to create* 115.297 (4) (c), 115.297 (7) and 118.125 (2) (d) 1. of the statutes;  
5 **relating to:** the student information system, the disclosure of personally  
6 identifiable student data, and the disclosure of pupil records.

***Analysis by the Legislative Reference Bureau***

1. Current state law requires a school board to disclose a pupil's records to persons employed by the school district that the pupil attends who are required to hold a license issued by the Department of Public Instruction (DPI), law enforcement officers who are individually designated by the school board and assigned to the school district, and other school district officials who have been determined by the school board to have legitimate educational interests in the records.

The federal regulations adopted under the authority of the federal Family Educational Rights and Privacy Act (FERPA) include a similar provision, but also provide that a contractor, consultant, volunteer, or other party to whom a school has outsourced school services or functions may be considered a school official under certain conditions. See 34 CFR 99.31 (a) (1).

This bill explicitly excludes from the term "school district official" in state law a contractor, consultant, volunteer, or any other person to whom a school board has outsourced school services or functions.

(A) →

**BILL**

③  
② Current law directs DPI, the Board of Regents of the University of Wisconsin System, the Department of Children and Families, the Department of Workforce Development, and the Technical College System Board (and the Wisconsin Association of Independent Colleges and Universities, if it wishes to participate) to enter into a written agreement to establish and maintain a longitudinal data system of student data. Any of the specified entities may submit student data to the longitudinal data system, to another of the specified entities or to a public or private research organization to support an evaluation or study of education programs operated or supervised by one or more of the entities in order to improve student academic achievement. A specified entity may disclose personally identifiable student data, however, only if the disclosure is in connection with a data-sharing agreement that:

- a. Specifies the purpose, scope, and duration of the data-sharing agreement;
- b. Requires the recipient to use personally identifiable student data only for the purpose specified in item a.;
- c. Describes the specific data access, use, and security restrictions with which the recipient will comply;
- d. Requires that the personally identifiable student data be destroyed or returned when it is no longer needed for the purpose specified or upon expiration of the data-sharing agreement, whichever occurs first; and
- e. If the disclosure is to a public or private research organization, prohibits the identification of any person by individuals other than the authorized representatives of the recipient who have legitimate interests in the information.

These provisions mirror those found in the FERPA regulations. See 34 CFR 99.31 (a) (6).

~~This bill provides that any of the specified entities may disclose personally identifiable student data to the longitudinal data system, to another specified entity, or to a public or private research organization only if the student, if an adult, or the student's parent or guardian, if the student is a minor, consents in writing; the disclosure is allowed without such consent by one or more exceptions to the federal law on confidentiality of pupil records, other than the FERPA regulation cited above; or the disclosure is to an official of the entity who the entity has determined has legitimate educational interests in the data. The bill specifies that, unlike in the FERPA regulations, "official" excludes a contractor, consultant, volunteer, or any other person to whom the entity has outsourced entity services or functions.~~

B) → The bill requires a specified entity to maintain a written record of all disclosures of personally identifiable student data made to the longitudinal data system, to another entity, or to a public or private research organization ~~without the consent~~ described above.

The bill also explicitly authorizes the attorney general or any district attorney to enforce the provisions described above.

④  
③ Current law directs DPI to develop a proposal for a multiple-vendor student information system (SIS). DPI must submit the proposal to the Joint Committee on Finance (JCF) for its approval. If JCF approves the proposal, DPI must implement it and must ensure that information about pupils enrolled in charter schools and

**BILL**

about pupils enrolled in private schools participating in a parental choice program (PCP) is collected and maintained in the SIS. Current law also provides that if the SIS is established, DPI must ensure that within five years, every school district and every charter school is using the SIS, and that every private school participating in a PCP is either using the SIS or is using a system that is interoperable with the SIS.

This bill prohibits DPI from collecting for the SIS, from public schools, charter schools, or private schools participating in a PCP, any information that is not required to be submitted to DPI on the bill's effective date.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

Ⓢ →

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           SECTION 1. 115.28 (12) (a) 3. of the statutes, as affected by 2013 Wisconsin Act  
2           20, is amended to read:

3           115.28 (12) (a) 3. If the proposal is approved under subd. 2., the state  
4           superintendent shall ensure that information about pupils enrolled in charter  
5           schools and about pupils enrolled in private schools participating in a parental choice  
6           program under s. 118.60 or 119.23, including their academic performance and  
7           demographic information, aggregated by school district, school, and teacher, is  
8           collected and maintained in the student information system. The state  
9           superintendent may not collect for the student information system, from public  
10           schools, charter schools, or private schools participating in a parental choice program  
11           under s. 118.60 or 119.23, any information that is not required to be submitted to the  
12           department under chs. 115 to 121 on the effective date of this subdivision ... [LRB  
13           inserts date].

3-13 →

~~SECTION 2. 115.297 (3) (e) of the statutes is repealed.~~  
~~SECTION 3. 115.297 (4) (b) (intro.) of the statutes is renumbered 115.297 (4) (b) and amended to read:~~

✓

✓

✓

**BILL**

**SECTION 3**

1 115.297 (4) (b) Any of the agencies may disclose personally identifiable student  
 2 data to the longitudinal data system under sub. (3) (a), to another agency, or to a  
 3 public or private research organization, to support an evaluation or study under this  
 4 section if the disclosure is in connection with a data-sharing agreement that does all  
 5 of the following: if the student, if an adult, or the student's parent or guardian, if the  
 6 student is a minor, consents in writing; the disclosure is allowed without consent  
 7 under 34 CFR 99.31 other than 34 CFR 99.31 (a) (1) or (6); or the disclosure is to an  
 8 agency official who the agency has determined has legitimate educational interests  
 9 in the data. In this paragraph, "agency official" excludes a contractor, consultant,  
 10 volunteer, or any other person to whom the agency has outsourced agency services  
 11 or functions.

12 **SECTION 4.** 115.297 (4) (b) 1. to 5. of the statutes <sup>15</sup>are repealed.

13 **SECTION 5.** 115.297 (4) <sup>(d)</sup> of the statutes is created to read:

14 115.297 (4) <sup>(d)</sup> An agency shall maintain a written record of all disclosures of  
 15 personally identifiable student data made under this section ~~without the consent~~  
 16 ~~described under par. (b).~~

17 **SECTION 6.** 115.297 (5) (a) of the statutes is amended to read:

18 115.297 (5) (a) Nothing in this section, and nothing in the written agreement  
 19 under sub. (3) or in a data-sharing agreement entered into under sub. (4), may be  
 20 construed to infringe upon or diminish the legal authority of any of the agencies.

21 **SECTION 7.** 115.297 (7) of the statutes is created to read:

22 115.297 (7) ENFORCEMENT. The attorney general or any district attorney may  
 23 bring an action in circuit court for the enforcement of this section, including an action  
 24 to restrain by temporary or permanent injunction any violation of this section.

25 **SECTION 8.** 115.30 (1) of the statutes is amended to read:

**BILL**

1           115.30 (1) The department shall prepare for the use of school officers suitable  
2 forms for making reports, and suitable outlines as aids in conducting school  
3 meetings. With the exception of changes due to statute or rule revision, the  
4 department shall give school districts a one-year advance notice of any changes to  
5 be made to the forms and reports. ~~School~~ Except as provided in s. 115.28 (12) (a) 3.,  
6 school district officers and employees shall maintain a uniform recording of  
7 accounting as prescribed by the department and make such reports to the  
8 department as will enable it to distribute state school fund appropriations and state  
9 educational appropriations to the schools and persons entitled thereto, and to  
10 properly discharge the other duties of the department.

11           **SECTION 9.** 115.30 (2) of the statutes is amended to read:

12           115.30 (2) The department may require all school boards to report to it, on  
13 forms provided, the name of the school and its location, the name and address of the  
14 teachers, the number of months of school maintained during the year, the opening  
15 and closing dates, the names and ages of all pupils enrolled between the ages of 6 and  
16 18, the names and post-office addresses and places of residence of the parents of such  
17 pupils, the number of the school district and the distance such pupils reside from the  
18 schoolhouse, the number of days each pupil was present during each month, and any  
19 other information requested by it, except as provided in s. 115.28 (12) (a) 3.

20           **SECTION 10.** 118.125 (2) (d) of the statutes is renumbered 118.125 (2) (d) 2. and  
21 amended to read:

22           118.125 (2) (d) 2. Pupil records shall be made available to persons employed by  
23 the school district which the pupil attends who are required by the department under  
24 s. 115.28 (7) to hold a license, law enforcement officers who are individually  
25 designated by the school board and assigned to the school district, and other school

5-19 →

**BILL****SECTION 10**

1 district officials who have been determined by the school board to have legitimate  
2 educational interests, including safety interests, in the pupil records. Law  
3 enforcement officers' records obtained under s. 938.396 (1) (c) 3. shall be made  
4 available as provided in s. 118.127. A school board member or an employee of a school  
5 district may not be held personally liable for any damages caused by the  
6 nondisclosure of any information specified in this ~~paragraph~~ subdivision unless the  
7 member or employee acted with actual malice in failing to disclose the information.  
8 A school district may not be held liable for any damages caused by the nondisclosure  
9 of any information specified in this ~~paragraph~~ subdivision unless the school district  
10 or its agent acted with gross negligence or with reckless, wanton, or intentional  
11 misconduct in failing to disclose the information.

12 **SECTION 11.** 118.125 (2) (d) 1. of the statutes is created to read:

13 118.125 (2) (d) 1. In this paragraph, "school district official" excludes a  
14 contractor, consultant, volunteer, or any other person to whom the school board has  
15 outsourced school services or functions.

16 **SECTION 12.** 118.125 (2) (g) 2. of the statutes is amended to read:

17 118.125 (2) (g) 2. ~~Upon~~ Except as provided in s. 115.28 (12) (a) 3., upon request  
18 by the department, the school board shall provide the department with any  
19 information contained in a pupil record that relates to an audit or evaluation of a  
20 federal or state-supported program or that is required to determine compliance with  
21 requirements under chs. 115 to 121.

22 **SECTION 13.** 120.18 (1) (s) of the statutes is amended to read:



A: 1

9) 2. Current state law requires a school board <sup>upon request</sup> to provide a copy of a pupil's progress records to an adult pupil or the parent or guardian of a minor pupil. Progress records are ~~the~~ ~~the~~ records that include the pupil's grades, the courses he or she has taken, the pupil's attendance record, the pupil's immunization and lead screening records, and the pupil's extracurricular activities.

11) This bill requires a school board <sup>upon request</sup> to provide a copy of all of a pupil's records ~~Other than the pupil's behavior records, which must be provided in the presence of a person qualified to explain~~

A.2

~~(and interest the records)~~ to an  
adult pupil or the parent or guardian  
of a minor pupil.

(B)

(A) This bill provides that a specified entity may provide personally identifiable student data to a public or private research organization only if <sup>the</sup> conditions described above are met and the student, if an adult, or the student's parent or guardian, if the student is a minor, consents in writing. (C)

(C)

(9) 5. The bill directs DPI to  
annually post on its Internet site the  
categories of individual pupil data that  
it collects and the reason for  
collecting each category of data. (1)

(9) 6. The bill prohibits DPI from  
providing ~~any~~ individual pupil data to any  
agency of the federal government. (1)

✓

3-13

61

X X

(A) SEC. # CR. 115.28 (61)

(A) 115.28 (61) <sup>(B)</sup> PUPIL DATA <sup>(C)</sup> Annually,

post on ~~the~~ Internet site ~~at~~ ~~www.dhs.wisconsin.gov~~

the department's

the <sup>categories</sup> ~~types~~ of individual pupil data that

the department collects and the reason

for collecting each category of data. The

department may not provide individual

pupil data to an agency of the federal

government.

4-11:1

as affected by 2013 Wisconsin Act 205

Section #. 115.297 (4) (a) of the statutes is amended to read:

^

↓ par. and (c)

115.297 (4) (a) Except as provided in ~~par.~~ (b), any of the agencies may submit student or work force data to the longitudinal data system under sub. (3) (a), to another agency, or to a public or private research organization, to support an evaluation or study under this section.

History: 2009 a. 59; 2013 a. 20.

4-11:2

✓

+

Section #. 115.297 (4) (b) (intro.) of the statutes is amended to read:

115.297 (4) (b) (intro.) Any of the agencies may disclose personally identifiable student data to the longitudinal data system under sub. (3) (a) <sup>strike comma</sup> to another agency, <sup>or</sup> ~~or to a public or private research organization,~~ to support an evaluation or study under this section if the disclosure is in connection with a data-sharing agreement that does all of the following:

History: 2009 a. 59; 2013 a. 20.

4-12-1

9 SER. # CR, 115.297 4 C  
115.297 (4)(c)

9 115.297 (4)(c) Any of the agencies may  
disclose personally identifiable student data  
to the longitudinal data system under

to a public or private research organization  
to support an evaluation or study under

this section if all of the following conditions are met:  
1. The disclosure is in connection with a data-sharing agreement that satisfies the conditions under par.(b).

3. The student, if an adult, or the student's parent or guardian, if the student is a minor, consents in writing to the disclosure.

Move this Subdivision to next page, so that it follows subd. 2.

9 2. The data-sharing agreement under subd. 1. prohibits the personal identification of any person by individuals other than

4-12-22

authorized representatives of the  
recipient who have legitimate interests  
in the information.

~~Subd. 3~~  
Subd. 3  
moved from  
previous  
page goes  
here

5-19

✓

Section #. 118.125 (2) (a) of the statutes is amended to read:

pupil

118.125 (2) (a) A pupil, or the parent or guardian of a minor pupil, shall, upon request, be shown and provided with a copy of the pupil's ~~progress~~ records. other than the pupil's behavioral records

**History:** 1973 c. 254; 1977 c. 418; 1979 c. 205; 1981 c. 20, 273; 1983 a. 189; 1985 a. 218; 1987 a. 27, 70, 206, 285, 337, 355; 1987 a. 399 s. 491r; 1987 a. 403 ss. 123, 124, 256; 1989 a. 31, 168; 1989 a. 201 s. 36; 1989 a. 336; 1991 a. 39, 189; 1993 a. 27, 172, 334, 377, 385, 399, 450, 491; 1995 a. 27 ss. 3939, 3940, 9126 (19), 9130 (4), 9145 (1); 1995 a. 77, 173, 225, 352; 1997 a. 3, 27, 205, 237, 239; 1999 a. 9, 149; 2003 a. 82, 292; 2005 a. 344, 434; 2005 a. 443 s. 265; 2007 a. 20 ss. 2712, 9121 (6) (a); 2009 a. 11, 28, 209, 302, 309; 2011 a. 32, 105, 260.

## Grant, Peter

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**From:** Pusch, Liz  
**Sent:** Wednesday, December 18, 2013 9:31 AM  
**To:** Grant, Peter  
**Subject:** update on bill draft

Hi Peter,  
We would like to update point #5 with the following:

1. Create, publish and make publicly available a data inventory and dictionary or index of data elements with definitions of individual student data fields currently in the student data system including:
  - a. any individual student data required to be reported by state and federal education mandates, *under state or federal law*
  - b. any individual student data which has been proposed for inclusion in the student data system with a statement regarding the purpose or reason for the proposed collection, and

*or proposed*

*bill*

c. any individual student data that the State Department of Education collects or maintains with no current purpose or reason;

\*I'm not sure how the words "student data system" will affect this as the states longitudinal data system isn't functioning yet. Does this need to be left out?

*Liz Pusch*

Office of Rep. Don Pridemore

608-267-2367

Liz.Pusch@legis.wi.gov

12/19/13

TC w/ Liz :

delete "categories"  
+ substitute

"all"



State of Wisconsin  
2013 - 2014 LEGISLATURE

TODAY



LRB-3165/3

PG:cjs:rs

stays

PP-3-4

2013 BILL

AV

Cor Cat

1 AN ACT *to repeal* 115.297 (4) (b) 5.; *to renumber and amend* 118.125 (2) (d);  
 2 *to amend* 115.28 (12) (a) 3., 115.297 (4) (a), 115.297 (4) (b) (intro.), 115.30 (1),  
 3 115.30 (2), 118.125 (2) (a), 118.125 (2) (g) 2. and 120.18 (1) (s); and *to create*  
 4 115.28 (61), 115.297 (4) (c), 115.297 (4) (d), 115.297 (7) and 118.125 (2) (d) 1. of  
 5 the statutes; **relating to:** the student information system, the disclosure of  
 6 personally identifiable student data, and the disclosure of pupil records.

***Analysis by the Legislative Reference Bureau***

1. Current state law requires a school board to disclose a pupil's records to persons employed by the school district that the pupil attends who are required to hold a license issued by the Department of Public Instruction (DPI), law enforcement officers who are individually designated by the school board and assigned to the school district, and other school district officials who have been determined by the school board to have legitimate educational interests in the records.

The federal regulations adopted under the authority of the federal Family Educational Rights and Privacy Act (FERPA) include a similar provision, but also provide that a contractor, consultant, volunteer, or other party to whom a school has outsourced school services or functions may be considered a school official under certain conditions. See 34 CFR 99.31 (a) (1).

This bill explicitly excludes from the term "school district official" in state law a contractor, consultant, volunteer, or any other person to whom a school board has outsourced school services or functions.

**BILL**

2. Current state law requires a school board, upon request, to provide a copy of a pupil's progress records to an adult pupil or the parent or guardian of a minor pupil. Progress records are records that include the pupil's grades, the courses he or she has taken, the pupil's attendance record, the pupil's immunization and lead screening records, and the pupil's extracurricular activities.

This bill requires a school board, upon request, to provide a copy of all of a pupil's records to an adult pupil or the parent or guardian of a minor pupil.

3. Current law directs DPI, the Board of Regents of the University of Wisconsin System, the Department of Children and Families, the Department of Workforce Development, and the Technical College System Board (and the Wisconsin Association of Independent Colleges and Universities, if it wishes to participate) to enter into a written agreement to establish and maintain a longitudinal data system of student data. Any of the specified entities may submit student data to the longitudinal data system, to another of the specified entities or to a public or private research organization to support an evaluation or study of education programs operated or supervised by one or more of the entities in order to improve student academic achievement. A specified entity may disclose personally identifiable student data, however, only if the disclosure is in connection with a data-sharing agreement that:

- a. Specifies the purpose, scope, and duration of the data-sharing agreement;
- b. Requires the recipient to use personally identifiable student data only for the purpose specified in item a.;
- c. Describes the specific data access, use, and security restrictions with which the recipient will comply;
- d. Requires that the personally identifiable student data be destroyed or returned when it is no longer needed for the purpose specified or upon expiration of the data-sharing agreement, whichever occurs first; and
- e. If the disclosure is to a public or private research organization, prohibits the identification of any person by individuals other than the authorized representatives of the recipient who have legitimate interests in the information.

These provisions mirror those found in the FERPA regulations. See 34 CFR 99.31 (a) (6).

This bill provides that a specified entity may provide personally identifiable student data to a public or private research organization only if the conditions described above are met and the student, if an adult, or the student's parent or guardian, if the student is a minor, consents in writing.

The bill requires a specified entity to maintain a written record of all disclosures of personally identifiable student data made to the longitudinal data system, to another entity, or to a public or private research organization.

The bill also explicitly authorizes the attorney general or any district attorney to enforce the provisions described above.

4. Current law directs DPI to develop a proposal for a multiple-vendor student information system (SIS). DPI must submit the proposal to the Joint Committee on Finance (JCF) for its approval. If JCF approves the proposal, DPI must implement it and must ensure that information about pupils enrolled in charter schools and

a comprehensive list of every distinct type

**BILL**

about pupils enrolled in private schools participating in a parental choice program (PCP) is collected and maintained in the SIS. Current law also provides that if the SIS is established, DPI must ensure that within five years, every school district and every charter school is using the SIS, and that every private school participating in a PCP is either using the SIS or is using a system that is interoperable with the SIS.

This bill prohibits DPI from collecting for the SIS, from public schools, charter schools, or private schools participating in a PCP, any information that is not required to be submitted to DPI on the bill's effective date.

5. The bill directs DPI to annually post on its Internet site ~~the categories of~~ individual pupil data that it collects and the reason for collecting ~~each category of~~ ~~data~~ (1)

6. The bill prohibits DPI from providing individual pupil data to an agency of the federal government.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 115.28 (12) (a) 3. of the statutes, as affected by 2013 Wisconsin Act  
2           20, is amended to read:

3           115.28 (12) (a) 3. If the proposal is approved under subd. 2., the state  
4           superintendent shall ensure that information about pupils enrolled in charter  
5           schools and about pupils enrolled in private schools participating in a parental choice  
6           program under s. 118.60 or 119.23, including their academic performance and  
7           demographic information, aggregated by school district, school, and teacher, is  
8           collected and maintained in the student information system. The state  
9           superintendent may not collect for the student information system, from public  
10          schools, charter schools, or private schools participating in a parental choice program  
11          under s. 118.60 or 119.23, any information that is not required to be submitted to the  
12          department under chs. 115 to 121 on the effective date of this subdivision .... [LRB  
13          inserts date].

14          **SECTION 2.** 115.28 (61) of the statutes is created to read:

**BILL**

**SECTION 2**

*a comprehensive list of every distinct type*

1           115.28 (61) PUPIL DATA. Annually, post on the department's Internet site ~~the~~<sup>e</sup>

2 ~~categories~~<sup>categories</sup> of individual pupil data that the department collects and the reason for

3 collecting ~~each category of data~~<sup>it</sup>. The department may not provide individual pupil

4 data to an agency of the federal government.

5           **SECTION 3.** 115.297 (4) (a) of the statutes, as affected by 2013 Wisconsin Act 20,

6 is amended to read:

7           115.297 (4) (a) Except as provided in ~~par.~~ pars. (b) and (c), any of the agencies

8 may submit student or work force data to the longitudinal data system under sub.

9 (3) (a), to another agency, or to a public or private research organization, to support

10 an evaluation or study under this section.

11           **SECTION 4.** 115.297 (4) (b) (intro.) of the statutes is amended to read:

12           115.297 (4) (b) (intro.) Any of the agencies may disclose personally identifiable

13 student data to the longitudinal data system under sub. (3) (a), or to another agency,

14 ~~or to a public or private research organization,~~ to support an evaluation or study

15 under this section if the disclosure is in connection with a data-sharing agreement

16 that does all of the following:

17           **SECTION 5.** 115.297 (4) (b) 5. of the statutes is repealed.

18           **SECTION 6.** 115.297 (4) (c) of the statutes is created to read:

19           115.297 (4) (c) Any of the agencies may disclose personally identifiable student

20 data to a public or private research organization to support an evaluation or study

21 under this section if all of the following conditions are met:

- 22           1. The disclosure is in connection with a data-sharing agreement that satisfies
- 23 the conditions under par. (b).

**BILL**

1           2. The data-sharing agreement under subd. 1. prohibits the personal  
2 identification of any person by individuals other than authorized representatives of  
3 the recipient who have legitimate interests in the information.

4           3. The student, if an adult, or the student's parent or guardian, if the student  
5 is a minor, consents to the disclosure in writing.

6           **SECTION 7.** 115.297 (4) (d) of the statutes is created to read:

7           115.297 (4) (d) An agency shall maintain a written record of all disclosures of  
8 personally identifiable student data made under this section.

9           **SECTION 8.** 115.297 (7) of the statutes is created to read:

10           115.297 (7) **ENFORCEMENT.** The attorney general or any district attorney may  
11 bring an action in circuit court for the enforcement of this section, including an action  
12 to restrain by temporary or permanent injunction any violation of this section.

13           **SECTION 9.** 115.30 (1) of the statutes is amended to read:

14           115.30 (1) The department shall prepare for the use of school officers suitable  
15 forms for making reports, and suitable outlines as aids in conducting school  
16 meetings. With the exception of changes due to statute or rule revision, the  
17 department shall give school districts a one-year advance notice of any changes to  
18 be made to the forms and reports. ~~School~~ Except as provided in s. 115.28 (12) (a) 3.,  
19 school district officers and employees shall maintain a uniform recording of  
20 accounting as prescribed by the department and make such reports to the  
21 department as will enable it to distribute state school fund appropriations and state  
22 educational appropriations to the schools and persons entitled thereto, and to  
23 properly discharge the other duties of the department.

24           **SECTION 10.** 115.30 (2) of the statutes is amended to read:

**BILL****SECTION 10**

1           115.30 (2) The department may require all school boards to report to it, on  
2 forms provided, the name of the school and its location, the name and address of the  
3 teachers, the number of months of school maintained during the year, the opening  
4 and closing dates, the names and ages of all pupils enrolled between the ages of 6 and  
5 18, the names and post-office addresses and places of residence of the parents of such  
6 pupils, the number of the school district and the distance such pupils reside from the  
7 schoolhouse, the number of days each pupil was present during each month, and any  
8 other information requested by it, except as provided in s. 115.28 (12) (a) 3.

9           **SECTION 11.** 118.125 (2) (a) of the statutes is amended to read:

10           118.125 (2) (a) A pupil, or the parent or guardian of a minor pupil, shall, upon  
11 request, be shown and provided with a copy of the pupil's ~~progress~~ pupil records other  
12 than the pupil's behavioral records.

13           **SECTION 12.** 118.125 (2) (d) of the statutes is renumbered 118.125 (2) (d) 2. and  
14 amended to read:

15           118.125 (2) (d) 2. Pupil records shall be made available to persons employed by  
16 the school district which the pupil attends who are required by the department under  
17 s. 115.28 (7) to hold a license, law enforcement officers who are individually  
18 designated by the school board and assigned to the school district, and other school  
19 district officials who have been determined by the school board to have legitimate  
20 educational interests, including safety interests, in the pupil records. Law  
21 enforcement officers' records obtained under s. 938.396 (1) (c) 3. shall be made  
22 available as provided in s. 118.127. A school board member or an employee of a school  
23 district may not be held personally liable for any damages caused by the  
24 nondisclosure of any information specified in this ~~paragraph~~ subdivision unless the  
25 member or employee acted with actual malice in failing to disclose the information.

**BILL**

1 A school district may not be held liable for any damages caused by the nondisclosure  
2 of any information specified in this ~~paragraph~~ subdivision unless the school district  
3 or its agent acted with gross negligence or with reckless, wanton, or intentional  
4 misconduct in failing to disclose the information.

5 **SECTION 13.** 118.125 (2) (d) 1. of the statutes is created to read:

6 118.125 (2) (d) 1. In this paragraph, “school district official” excludes a  
7 contractor, consultant, volunteer, or any other person to whom the school board has  
8 outsourced school services or functions.

9 **SECTION 14.** 118.125 (2) (g) 2. of the statutes is amended to read:

10 118.125 (2) (g) 2. ~~Upon~~ Except as provided in s. 115.28 (12) (a) 3., upon request  
11 by the department, the school board shall provide the department with any  
12 information contained in a pupil record that relates to an audit or evaluation of a  
13 federal or state-supported program or that is required to determine compliance with  
14 requirements under chs. 115 to 121.

15 **SECTION 15.** 120.18 (1) (s) of the statutes is amended to read:

16 120.18 (1) (s) ~~Such~~ Except as provided in s. 115.28 (12) (a) 3., such other facts  
17 and statistics in relation to the public, private or tribal schools, in the school district  
18 as the department requires.

19 (END)

**Rose, Stefanie**

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**From:** Pusch, Liz  
**Sent:** Tuesday, January 07, 2014 1:35 PM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB -3165/4 Topic: Disclosure of personally identifiable student data

Please Jacket LRB -3165/4 for the ASSEMBLY.

Thanks!

*Liz Pusch*

Office of Rep. Don Pridemore

608-267-2367

[Liz.Pusch@legis.wi.gov](mailto:Liz.Pusch@legis.wi.gov)