



2013 ASSEMBLY BILL 618

January 10, 2014 - Introduced by Representatives PRIDEMORE, THIESFELDT, KNUDSON, STEINEKE, SCHRAA, T. LARSON, LOUDENBECK, JACQUE, KULP, CRAIG, BORN, BERNIER, TITTL, KLEEFISCH, CZAJA, KNODL, MURTHA and RIPP, cosponsored by Senators GROTHMAN and LAZICH. Referred to Committee on Education.

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.

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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

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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 a comprehensive list of every distinct type of individual pupil data that it collects and the reason for collecting it.

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.

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:

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1 115.28 **(61)** PUPIL DATA. Annually, post on the department's Internet site a
2 comprehensive list of every distinct type of individual pupil data that the department
3 collects and the reason for collecting it. The department may not provide individual
4 pupil 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).

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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:

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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.

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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)