



State of Wisconsin  
2017 - 2018 LEGISLATURE

LRB-0445/1  
TKK:jld

## 2017 BILL

1     **AN ACT** *to create* 115.285 of the statutes; **relating to:** responsibilities of state  
2           superintendent related to privacy and security of pupil data.

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

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the Joint Legislative Council Study Committee on School Data. The bill establishes duties of the State Superintendent regarding privacy and security of pupil data. The bill requires the Superintendent to provide guidance and training to school districts and schools in implementing and administering a data privacy and security plan, in responding to incidents involving the unauthorized disclosure of pupil data, and in complying with state and federal laws governing privacy and security of pupil data, including parental complaint procedures and other provisions of the federal Family Educational Rights and Privacy Act and the Wisconsin Pupil Records Law. The bill also requires the Superintendent to take certain steps to engage with members of the public and governmental officials regarding data privacy and security issues.

3     **SECTION 1.** 115.285 of the statutes is created to read:

4     **115.285 Privacy of pupil data. (1) DEFINITION.** In this section:

**BILL****SECTION 1**

1 (a) "Parental choice program" means either or both of the programs under ss.  
2 118.60 and 119.23.

3 (b) "Pupil data" means all of the following:

4 1. Information contained in education records, as defined in 34 CFR 99.3.

5 2. Information contained in pupil records, as defined in s. 118.125 (1) (d).

6 **(2) COMPLIANCE WITH LAWS GOVERNING PRIVACY OF PUPIL DATA.** The state  
7 superintendent shall provide guidance and training to school districts and charter  
8 schools in complying with state and federal privacy or security laws, including  
9 parental complaint procedures and other provisions of the federal Family  
10 Educational Rights and Privacy Act, 20 USC 1232g, and s. 118.125. To the extent  
11 private schools participating in a parental choice program are required to comply  
12 with these state and federal privacy and security laws, the state superintendent  
13 shall provide the same guidance and training to these private schools.

COMMENT: This provision, together with subsections (3) and (4), below, would require the department to provide guidance and training in implementing and administering a data privacy and security plan, in responding to incidents involving the unauthorized disclosure of pupil data, and in complying with state and federal laws governing privacy and security of pupil data. This would include providing services to charter schools and private schools participating in the choice program. Does this reflect the committee's intent?

14 **(3) BREACH OF PRIVACY INCIDENT RESPONSE.** The state superintendent shall do  
15 all of the following:

16 (a) Establish and administer a program to respond to the unauthorized  
17 disclosure of pupil data collected by the department and ensure that incidents  
18 involving the unauthorized disclosure of pupil data are reported, investigated, and  
19 mitigated, as appropriate.

**BILL**

1 (b) Provide guidance and training to a school, school district, charter school, or  
2 private school participating in a parental choice program regarding incidents  
3 involving the unauthorized disclosure of pupil data.

4 **(4) DATA PRIVACY AND SECURITY PLAN.** (a) The state superintendent shall work  
5 in collaboration with the department of administration to develop all of the following:

6 1. A data privacy and security plan for the protection of pupil data collected by  
7 the department. The state superintendent shall administer the plan prepared under  
8 this subdivision.

9 2. A model data privacy and security plan for the protection of pupil data  
10 collected or maintained by a school, school district, charter school, or private school  
11 participating in a parental choice program. The state superintendent shall provide  
12 guidance on the implementation and administration of a data privacy and security  
13 plan to the extent that the department has expertise.

14 (b) The state superintendent shall include all of the following in each plan  
15 required under this subsection:

16 1. Guidelines for access to pupil data and to the student information system  
17 under s. 115.383 and the longitudinal data system of student information under s.  
18 115.297, including guidelines for authentication of individuals authorized to access  
19 pupil data and these pupil data systems.

20 2. Procedures for data privacy and security audits.

21 3. Procedures to be followed in the event of an unauthorized disclosure of pupil  
22 data.

