



- establishes the conditions under which a state agency may disclose personally identifiable information to an outside contractor, other state agency, federal agency, or assessment consortium;
- outlines the required actions that must be taken in the event of a security breach or unauthorized disclosure of personally identifiable information;
- prohibits the disclosure of personally identifiable information for commercial use;
- requires that education institutions remove and destroy certain data within five years of a student's graduation or withdrawal from the education institution; and
- establishes penalties for violations of the act.

### **State Revenue**

The penalty for violating the act is a fine of up to \$1,000 for a first offense, a fine of up to \$5,000 for a second offense, and a fine of up to \$10,000 for any subsequent offenses. This fiscal note assumes that individuals and organizations will comply with the law, and that fine revenue will be minimal; however, the bill may increase state revenue from fines. Less than \$5,000 from fines is anticipated in any fiscal year. Fine revenue is deposited into the General Fund.

### **TABOR Impact**

This bill increases state revenue from fines, which will increase the amount required to be refunded under TABOR.

### **State Expenditures**

***For FY 2015-16, this bill increases state expenditures by at least \$96,353 for contracted information technology (IT) services and for legal services. Costs in FY 2016-17 will be \$18,902 for legal services.*** As discussed below, this bill increases state expenditures and workload in the Colorado Department of Education, the Department of Human Services, and the Department of Law.

***Colorado Department of Education.*** The CDE will have increased costs to automate a system to remove personally identifiable data five years after a student graduates or withdraws from school and to upgrade software and hardware in all CDE units with stored data. Contracted services are also required for posting additional information on the web, implementing data sharing protocols, modifying encryption services, preparing student-level data reports, and implementing protocols for a security breach.

Development of a web site to contain the required disclosures and related public information is estimated at 120 hours of contracted IT services. The creation of student-level reporting capability is estimated at 560 hours of contracted information technology services. The CDE pays approximately \$100 per hour for these contracted services. Therefore, total IT costs for the department are estimated at \$68,000 for FY 2015-16.

***Department of Human Services (DHS).*** The bill prohibits the use of federal grants to construct, enhance, or expand any data system that does not comply with other limitations outlined in the bill. The DHS currently uses federal funding to maintain the Colorado's case management

system (TRAILS). TRAILS is the state's child welfare information system which tracks a variety of case information for children and families involved in the child welfare system. It is also used by the DHS Division of Youth Corrections. TRAILS tracks case information on children and families which includes educational data. Depending on legal interpretations of the bill, the DHS may be precluded from accepting federal money for this system, currently estimated at about \$2.2 million.

This fiscal note further assumes workload changes and information technology upgrades must occur in the DHS; however, no estimate of this increased cost is available as of the writing of this fiscal note. Estimates will be included in a revised fiscal note, to be considered by a committee at a later date.

**Department of Law (DOL).** The bill expands existing state and federal privacy laws and puts several new requirements on the CDE and other state educational agencies. Some provisions of the bill are vague and will require interpretation by the DOL in order to assist other state departments to implement the bill. The DOL will provide a total of 300 hours of legal services in FY 2015-16 and 200 hours annually thereafter. The DOL charges a blended rate of \$94.51, for a total legal services cost of \$28,353 in FY 2015-16 and \$18,902 in FY 2016-17 and thereafter.

### **School District Impact**

All schools and districts will have increased workload to implement the bill and to notify parents and other interested parties of the new data requirements. Districts must create a method to seek and obtain prior written consent before gathering and sharing certain data, which will increase workload costs for schools and districts. Similarly, school districts must provide student level data as requested by parents or legal guardians. Workload for districts increase with each authorized request.

Local education providers may have additional workload and expenses depending on the types of assessments currently in use and how much existing systems must be modified to allow a district to obtain prior written consent for certain data collection. For example, many schools and districts engage in school climate surveys. These surveys must be reviewed and modified to adhere to the bill's prohibition on the collection of personal information on attitudes or social skills.

Schools and districts will have increased expenses for legal services to properly interpret the bill and then to adjust existing policies to conform with the new requirements. Schools and districts may also have increased costs to create data storage options that are not prohibited by the bill and to renegotiate vendor contracts for cloud storage instead of server storage.

In larger districts that manage data for large student and teacher populations, the requirements in the bill are likely to require the additional staff and information technology support.

Pursuant to Section 22-32-143, C.R.S., school districts and Boards of Cooperative Educational Services (BOCES) may submit estimates of fiscal impacts within seven days of a bill's introduction. As of the date of this fiscal note, no summaries of fiscal impacts were submitted by districts or BOCES for this bill. If summaries of fiscal impacts are submitted by districts or BOCES in the future, they will be noted in subsequent revisions to the fiscal note and posted at this address: <http://www.colorado.gov/lcs>

**Effective Date**

The bill was postponed indefinitely by the House Education Committee on February 9, 2015.

**State Appropriations**

For FY 2015-16, the bill would have required the following minimum appropriation; however, additional appropriations might have been necessary to implement the bill:

- \$96,353 General Fund to the Colorado Department of Education. Of this amount, the Department of Law would have required \$28,353 in reappropriated funds, and an allocation of 0.2 FTE.

**State and Local Government Contacts**

Corrections  
Human Services

Education  
Law

Higher Education  
Office of Information Technology