

HOUSE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

April 20, 2015
Date

Committee on Education.

After consideration on the merits, the Committee recommends the following:

SB15-173 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

- 1 Amend reengrossed bill, page 3, line 25, strike "MARKETING OR
- 2 ADVERTISING." and substitute "MARKETING, ADVERTISING, OR RESEARCH
- 3 THAT IS DIRECTED AT UNDERSTANDING THE BEHAVIORS, ATTITUDES, OR
- 4 PREFERENCES OF SCHOOL-AGE CHILDREN FOR COMMERCIAL PURPOSES."

- 5 Page 4, line 2, strike "MATERIALS," and substitute "MATERIALS
- 6 REGARDING A PUBLIC SCHOOL STUDENT WHO IS A COLORADO RESIDENT,".

- 7 Page 4, line 10, strike "OPERATOR;" and substitute "OPERATOR FOR A
- 8 PUBLIC SCHOOL PURPOSE;".

- 9 Page 4, strike lines 11 through 15 and substitute:
- 10 "(III) GATHERED BY AN OPERATOR AND PERSONALLY IDENTIFIES
- 11 A STUDENT. THIS INCLUDES, BUT IS NOT LIMITED TO:".

- 12 Page 5, line 10, strike "PURPOSES." and substitute "PURPOSES, TO THE
- 13 EXTENT THAT IT IS OPERATING IN THAT CAPACITY.".

- 14 Page 5, line 12, strike "OR THE STATE BOARD." and substitute "THE STATE
- 15 BOARD, OR ON-LINE SCHOOL PROGRAMS AS DEFINED IN SECTIONS
- 16 22-30.7-102 (9) AND 22-30.7-102 (9.5)."

- 17 Page 5, line 16, after "THAT" insert "IS DIRECTED BY OR".

- 1 Page 5, line 17, strike "SCHOOL," and substitute "SCHOOL THAT SERVES
2 ANY GRADE BETWEEN KINDERGARTEN AND TWELFTH GRADE,".
- 3 Page 5, line 23, after "IS" insert "PRIMARILY".
- 4 Page 5, line 26, strike "DELIVERING" and substitute "PRESENTING".
- 5 Page 6, line 3, strike "INCLUDE" and substitute "INCLUDE:".
- 6 Page 6, strike lines 4 through 6 and substitute:
7 (I) ADAPTIVE OR INDIVIDUALIZED LEARNING; OR
8 (II) ADVERTISING PRESENTED TO AN INDIVIDUAL STUDENT AT AN
9 ON-LINE LOCATION BASED ON THE STUDENT'S CURRENT VISIT TO THE
10 ON-LINE LOCATION WITHOUT COLLECTION OR RETENTION OF THE
11 STUDENT'S ON-LINE ACTIVITIES OVER TIME, OR IN RESPONSE TO A SINGLE
12 SEARCH QUERY WITHOUT COLLECTION OR RETENTION OF THE STUDENT'S
13 ON-LINE ACTIVITIES OVER TIME.".
- 14 Page 6, line 22, strike "RECORDS OR".
- 15 Page 7, line 3, strike "INFORMATION." and substitute "INFORMATION THAT
16 IS SUBJECT TO THE PROVISIONS OF THIS PART 3.".
- 17 Page 7, strike line 13 and substitute "THIS SECTION AND DOES NOT USE THE
18 COVERED INFORMATION IN VIOLATION OF THIS PART 3;".
- 19 Page 7, line 16, after "TO" insert "ENSURE LEGAL OR REGULATORY
20 COMPLIANCE OR TO".
- 21 Page 7, line 17, after the second "TO" insert "OR PARTICIPATE IN".
- 22 Page 7, before line 18 insert:
23 (V) TO PROTECT THE SAFETY OF USERS OR OTHERS OR THE
24 SECURITY OF THE OPERATOR'S WEB SITE, SERVICE, OR APPLICATION;".
- 25 Renumber succeeding subparagraphs accordingly.
- 26 Page 8, strike line 3 and substitute "OR INSTITUTION, UNLESS THE
27 DISCLOSURE IS EXPRESSLY PERMITTED BY THIS PART 3; AND".
- 28 Page 8, after line 6 insert:

1 "(VIII) FOR A SCHOOL, EDUCATIONAL, OR EMPLOYMENT PURPOSE
2 THAT IS REQUESTED BY THE STUDENT OR THE STUDENT'S PARENT OR
3 LEGAL GUARDIAN, PROVIDED THAT THE STUDENT'S COVERED
4 INFORMATION IS NOT USED OR FURTHER DISCLOSED FOR ANY OTHER
5 PURPOSE."

6 Page 8, line 19, before "IF" insert "WITHIN A REASONABLE TIME FRAME".

7 Page 8, strike lines 25 through 27.

8 Page 9, strike lines 1 through 24 and substitute:

9 "(c) PROVIDE CLEAR AND EASY-TO-UNDERSTAND INFORMATION
10 ABOUT THE TYPES OF COVERED INFORMATION THE OPERATOR COLLECTS
11 AND ABOUT HOW THE OPERATOR USES AND SHARES THE COVERED
12 INFORMATION;

13 (d) PROVIDE PROMINENT NOTICE BEFORE MAKING MATERIAL
14 CHANGES TO ITS PRIVACY POLICIES FOR INTERNET WEB SITES, ON-LINE
15 SERVICES, ON-LINE APPLICATIONS, OR MOBILE APPLICATIONS, AS
16 DESCRIBED IN PARAGRAPH (c) OF SUBSECTION (3) OF THIS SECTION; AND

17 (e) FACILITATE ACCESS TO AND CORRECTION OF COVERED
18 INFORMATION BY A STUDENT OR HIS OR HER PARENT OR LEGAL GUARDIAN
19 EITHER DIRECTLY OR THROUGH THE RELEVANT PUBLIC SCHOOL, TEACHER,
20 SCHOOL DISTRICT, CHARTER SCHOOL, BOARD OF COOPERATIVE SERVICES,
21 OR THE CHARTER SCHOOL INSTITUTE.

22 (7) IF THE INTERNET WEB SITE, ON-LINE SERVICE, ON-LINE
23 APPLICATION, OR MOBILE APPLICATION, AS DESCRIBED IN PARAGRAPH (c)
24 OF SUBSECTION (3) OF THIS SECTION IS OFFERED TO A PUBLIC SCHOOL,
25 TEACHER, SCHOOL DISTRICT, CHARTER SCHOOL, BOARD OF COOPERATIVE
26 SERVICES, OR THE CHARTER SCHOOL INSTITUTE, THE INFORMATION
27 REQUIRED PURSUANT TO PARAGRAPHS (a) AND (b) OF SUBSECTION (6) OF
28 THIS SECTION MAY BE PROVIDED TO THE PUBLIC SCHOOL, TEACHER,
29 SCHOOL DISTRICT, CHARTER SCHOOL, BOARD OF COOPERATIVE SERVICES,
30 OR THE CHARTER SCHOOL INSTITUTE."

31 Renumber succeeding subsections accordingly.

32 Page 10, line 3, strike "OTHER PROVISIONS" and substitute "ANOTHER
33 PROVISION" and strike "REQUIRE" and substitute "REQUIRES".

34 Page 10, line 4, strike the first "THE" and substitute "APPLICABLE".

- 1 Page 10, line 26, after "TO" insert "DEVELOP OR".
- 2 Page 11, line 3, strike "AND" and substitute "OR".
- 3 Page 11, line 4, after "SITES," insert "PRODUCTS,".
- 4 Page 11, line 6, strike "DOES NOT:" and substitute "MUST NOT BE
5 CONSTRUED TO:".
- 6 Page 11, lines 11 and 12, strike "STUDENT DATA, INCLUDING COVERED
7 INFORMATION," and substitute "COVERED INFORMATION".
- 8 Page 11, after line 13 insert:
9 "(c) PROHIBIT AN OPERATOR OF AN INTERNET WEB SITE, ON-LINE
10 SERVICE, ON-LINE APPLICATION, OR MOBILE APPLICATION FROM USING
11 RECOMMENDATION ENGINES TO RECOMMEND TO A STUDENT ADDITIONAL
12 CONTENT OR SERVICES RELATING TO AN EDUCATIONAL, OTHER LEARNING,
13 OR EMPLOYMENT OPPORTUNITY PURPOSE TO STUDENTS WITHIN THE
14 OPERATOR'S WEB SITE, ON-LINE SERVICE, OR APPLICATION IF THE
15 RECOMMENDATION IS NOT DETERMINED IN WHOLE OR IN PART BY
16 PAYMENT OR OTHER CONSIDERATION FROM A THIRD PARTY;
17 (d) PROHIBIT AN OPERATOR OF AN INTERNET WEB SITE, ON-LINE
18 SERVICE, ON-LINE APPLICATION, OR MOBILE APPLICATION FROM
19 RESPONDING TO A STUDENT'S SEARCH, QUERY, OR OTHER REQUEST FOR
20 INFORMATION OR FOR FEEDBACK WITHOUT THE INFORMATION OR
21 RESPONSE BEING DETERMINED IN WHOLE OR IN PART BY PAYMENT OR
22 OTHER CONSIDERATION FROM A THIRD PARTY;
23 (e) PROHIBIT AN OPERATOR OF AN INTERNET WEB SITE, ON-LINE
24 SERVICE, ON-LINE APPLICATION, OR MOBILE APPLICATION FROM USING OR
25 RETAINING A STUDENT'S INFORMATION TO ENSURE LEGAL OR REGULATORY
26 COMPLIANCE OR TO TAKE PRECAUTIONS AGAINST LIABILITY;
27 (f) PROHIBIT AN OPERATOR OF AN INTERNET WEB SITE, ON-LINE
28 SERVICE, ON-LINE APPLICATION, OR MOBILE APPLICATION FROM USING OR
29 DISCLOSING COVERED INFORMATION WITH THE AFFIRMATIVE CONSENT OF
30 THE SCHOOL, STUDENT, OR THE STUDENT'S PARENT OR LEGAL GUARDIAN
31 IF THE CONSENT IS GIVEN IN RESPONSE TO CLEAR AND CONSPICUOUS
32 NOTICE OF THE USE OR DISCLOSURE OF THE COVERED INFORMATION;".
- 33 Reletter succeeding paragraphs accordingly.
- 34 Page 12, line 7, strike "AND" and substitute "OR".

- 1 Page 12, line 8, strike "EXPORT," and substitute "TRANSFER,".
- 2 Page 12, line 9, strike "STUDENT-CREATED" and substitute "STUDENT".
- 3 Page 12, line 22, strike "THEREAFTER:" and substitute "THEREAFTER,
4 EACH SCHOOL DISTRICT, CHARTER SCHOOL, AND THE CHARTER".
- 5 Page 12, strike line 23.
- 6 Page 13, line 2, strike "YEAR; AND" and substitute "YEAR.".
- 7 Page 13, strike lines 3 through 7.
- 8 Page 13, line 17, strike "PURPOSES." and substitute "PURPOSES, TO THE
9 EXTENT THAT IT IS OPERATING IN THAT CAPACITY.".

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