A BILL FOR AN ACT

CONCERNING EXPANDING PROTECTIONS FOR STUDENT DATA SECURITY.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at http://www.leg.state.co.us/billsummaries.)

The bill adds additional protections to existing law concerning student data privacy and transparency. A vendor is defined as an operator of a web site, on-line service, on-line application, or mobile application (site or service) with knowledge that the site or service is used primarily for public school purposes and was designed and marketed for public school purposes.

The bill prohibits vendors from:

- Engaging in targeted advertising if the targeting is based
upon any student information acquired because of the use of a vendor's site or service;

! Using information acquired through the site or service to create a profile of a student that is not in furtherance of a public school purpose;

! Selling a student's information; and

! Disclosing covered student information unless specific requirements are met.

The bill allows vendors to:

! Implement and maintain reasonable security procedures and practices;

! Delete a student's data at the request of the school or school district with control of the data;

! Disclose covered student information if required by state or federal law;

! Disclose covered student information for legitimate research purposes, provided applicable requirements of state and federal law are met;

! Disclose deidentified covered student information in order to improve the vendor's sites or services or other educational products or for marketing uses.

The bill does not:

! Limit the authority of law enforcement to access any information allowed by law or authorized by a court order;

! Apply to general audience sites and services or to internet service providers in the course of providing internet connectivity;

! Prohibit a vendor from marketing its product or services, provided the marketing did not result from the use of covered student information obtained by the vendor in violation of the bill;

! Impose duties on electronic stores, gateways, marketplaces, or other means of purchasing or downloading software or applications; or

! Impede the ability of a student to download, export, or otherwise save or maintain his or her own student-created data or documents.

The bill moves existing law related to parental written consent for obtaining and releasing data to part 3 of article 2 of title 22, C.R.S., along with other relevant law related to student data.

---

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, amend 22-2-301 as
follows:

**22-2-301. Short title.** This part 3 shall be known and may be cited as the "Data Reporting and Technology PROTECTION Act".

**SECTION 2.** In Colorado Revised Statutes, 22-2-302, amend (1) introductory portion; and add (1) (f), (2) (f), and (2) (g) as follows:

**22-2-302. Legislative declaration.** (1) The general assembly hereby finds that:

(f) ALTHOUGH THERE ARE FEDERAL STATUTES LIMITING THE USE OF STUDENT DATA COLLECTED BY SCHOOLS, THESE STATUTES PRIMARILY GOVERN THE ACTIONS OF SCHOOLS AND GOVERNMENT ENTITIES AND HAVE LESS APPLICABILITY TO THIRD-PARTY VENDORS. THE EFFECTIVE USE OF STUDENT DATA TO IMPROVE LEARNING REQUIRES A FRAMEWORK OF TRUST AROUND ITS USE.

(2) It is therefore the intent of the general assembly in enacting this part 3 to achieve the following purposes:

(f) TO ENSURE THE PRIVACY OF ALL PUBLIC SCHOOL STUDENTS BY RESTRICTING THIRD-PARTY VENDORS FROM SHARING, MINING, SELLING, OR USING PERSONALLY IDENTIFIABLE DATA COLLECTED BY SCHOOLS AND SCHOOL DISTRICTS; AND

(g) TO PROHIBIT AN OPERATOR OF AN INTERNET WEBSITE, ON-LINE SERVICE, OR MOBILE APPLICATION FROM USING, DISCLOSING, OR COMPILING PERSONAL INFORMATION OF A PUBLIC SCHOOL STUDENT FOR THE PURPOSE OF MARKETING OR ADVERTISING.

**SECTION 3.** In Colorado Revised Statutes, repeal and reenact, with amendments, 22-2-303 as follows:

**22-2-303. Definitions.** As used in this part 3, unless the context otherwise requires:
(1) "AGGREGATE DATA" MEANS DATA COLLECTED AND REPORTED
AT THE GROUP, COHORT, OR INSTITUTIONAL LEVEL.
(2) "COMMISSIONER" MEANS THE COMMISSIONER OF EDUCATION
APPOINTED PURSUANT TO SECTION 1 OF ARTICLE IX OF THE STATE
CONSTITUTION.
(3) "COVERED INFORMATION" MEANS PERSONALLY IDENTIFIABLE
INFORMATION OR MATERIALS, IN ANY MEDIA OR FORMAT THAT IS:
(a) CREATED OR PROVIDED BY A STUDENT, OR THE STUDENT'S
PARENT OR LEGAL GUARDIAN, TO A VENDOR IN THE COURSE OF THE
STUDENT'S, PARENT'S, OR LEGAL GUARDIAN'S USE OF THE VENDOR'S WEB
SITE, SERVICE, OR APPLICATION FOR PUBLIC SCHOOL PURPOSES;
(b) CREATED OR PROVIDED BY AN EMPLOYEE OR AGENT OF THE
PUBLIC SCHOOL, SCHOOL DISTRICT, LOCAL EDUCATION AGENCY, OR
DEPARTMENT TO A VENDOR; OR
(c) IS GATHERED BY A VENDOR THROUGH THE OPERATION OF A
WEB SITE, SERVICE, OR APPLICATION THAT IS USED PRIMARILY FOR PUBLIC
SCHOOL PURPOSES, WAS DESIGNED AND MARKETED FOR PUBLIC SCHOOL
PURPOSES, AND IS DESCRIPTIVE OF OR OTHERWISE IDENTIFIES A STUDENT.
THIS INCLUDES, BUT IS NOT LIMITED TO:
(I) INFORMATION IN THE STUDENT'S EDUCATIONAL RECORD OR
EMAIL;
(II) STUDENT DATA, AS DEFINED IN SUBSECTION (15) OF THIS
SECTION;
(III) FIRST AND LAST NAME, HOME ADDRESS, TELEPHONE NUMBER,
EMAIL ADDRESS, OR ANY OTHER INFORMATION THAT ALLOWS PHYSICAL OR
ON-LINE CONTACT; OR
(IV) DISCIpline OR CRIMINAL RECORDS, JUVENILE DEPENDENCY
RECORDS, MEDICAL OR HEALTH RECORDS, SOCIAL SECURITY NUMBER,
BIOMETRIC INFORMATION, DISABILITIES, SOCIOECONOMIC INFORMATION,
POLITICAL AFFILIATIONS, RELIGIOUS INFORMATION, TEXT MESSAGES,
DOCUMENTS, STUDENT IDENTIFIERS, SEARCH ACTIVITY, PHOTOS, VOICE
RECORDINGS, FOOD PURCHASES, OR GEOLOCATION INFORMATION.

(4) "DATA DICTIONARY" MEANS AN ESSENTIAL COMPONENT OF
DATA MANAGEMENT DEVELOPED AND ADOPTED BY THE STATE BOARD AND
DEPARTMENT PURSUANT TO SECTION 22-2-305 THAT DEFINES ALL OF THE
DATA ELEMENTS THE DEPARTMENT COLLECTS FROM SCHOOL DISTRICTS
AND PUBLIC SCHOOLS AND DESCRIBES THE METHODS BY WHICH THE
DEPARTMENT COLLECTS THE DATA THROUGH THE STATEWIDE DATA
SYSTEM.

(5) "DATA SYSTEM" MEANS THE COLORADO STATE DEPARTMENT
OF EDUCATION STUDENT DATA SYSTEM.

(6) "DEPARTMENT" MEANS THE DEPARTMENT OF EDUCATION
CREATED AND EXISTING PURSUANT TO SECTION 24-1-115, C.R.S.

(7) "DIRECTORY INFORMATION" HAS THE SAME MEANING AS
DEFINED IN THE FEDERAL "FAMILY EDUCATIONAL RIGHTS AND PRIVACY

(8) "EDAC" MEANS THE EDUCATION DATA ADVISORY COMMITTEE
CREATED PURSUANT TO SECTION 22-2-304.

(9) "EDUCATION RECORDS" HAS THE SAME MEANING AS DEFINED
IN THE FEDERAL "FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT OF
INCLUDES AN INDIVIDUALIZED EDUCATION PROGRAM.

(10) "PERSONALLY IDENTIFIABLE DATA" MEANS A DATASET THAT
IS LINKED TO A SPECIFIC STUDENT OR THE STUDENT'S PARENT OR LEGAL
GUARDIAN AND THAT WOULD ALLOW A REASONABLE PERSON IN THE
SCHOOL COMMUNITY WHO DOES NOT HAVE KNOWLEDGE OF THE RELEVANT
CIRCUMSTANCES TO IDENTIFY THE STUDENT, PARENT, OR LEGAL
GUARDIAN WITH REASONABLE CERTAINTY.

(11) "PUBLIC SCHOOL" MEANS A PUBLIC SCHOOL AS PROVIDED IN
SECTION 22-1-101, INCLUDING A CHARTER SCHOOL AUTHORIZED BY A
SCHOOL DISTRICT PURSUANT TO PART 1 OF ARTICLE 30.5 OF THIS TITLE OR
AN INSTITUTE CHARTER SCHOOL AUTHORIZED BY THE STATE CHARTER
SCHOOL INSTITUTE PURSUANT TO PART 5 OF ARTICLE 30.5 OF THIS TITLE.

(12) "PUBLIC SCHOOL PURPOSE" MEANS ANY PURPOSE THAT
CUSTOMARILY TAKES PLACE AT THE DIRECTION OF THE PUBLIC SCHOOL,
TEACHER, OR SCHOOL DISTRICT OR AID IN THE ADMINISTRATION OF
SCHOOL ACTIVITIES, INCLUDING, BUT NOT LIMITED TO, INSTRUCTION IN
THE CLASSROOM OR AT HOME, ADMINISTRATIVE ACTIVITIES, AND
COLLABORATION BETWEEN STUDENTS, SCHOOL PERSONNEL, OR PARENTS,
OR ANY OTHER PURPOSE THAT IS FOR THE USE AND BENEFIT OF A PUBLIC
SCHOOL.

(13) "STATE-ASSIGNED STATEWIDE STUDENT IDENTIFIER" MEANS
THE UNIQUE STUDENT IDENTIFIER ASSIGNED BY THE DEPARTMENT TO EACH
STUDENT THAT MUST NEITHER BE NOR INCLUDE THE SOCIAL SECURITY
NUMBER OF A STUDENT IN WHOLE OR IN SEQUENTIAL PART.

(14) "STATE BOARD" MEANS THE STATE BOARD OF EDUCATION
CREATED AND EXISTING PURSUANT TO SECTION 1 OF ARTICLE IX OF THE
STATE CONSTITUTION.

(15) (a) "STUDENT DATA" MEANS DATA THAT IS COLLECTED AND
STORED BY THE DEPARTMENT AT THE INDIVIDUAL STUDENT LEVEL AND
INCLUDED IN A STUDENT'S EDUCATIONAL RECORD.
(b) "STUDENT DATA" INCLUDES:

(I) STATE-ADMINISTERED ASSESSMENT RESULTS, INCLUDING PARTICIPATION INFORMATION;

(II) COURSES TAKEN AND COMPLETED, CREDITS EARNED, AND OTHER TRANSCRIPT INFORMATION;

(III) COURSE GRADES AND GRADE POINT AVERAGE;

(IV) GRADE LEVEL AND EXPECTED GRADUATION YEAR;

(V) DEGREE, DIPLOMA, CREDENTIAL ATTAINMENT, OR OTHER SCHOOL EXIT INFORMATION;

(VI) ATTENDANCE AND MOBILITY INFORMATION BETWEEN AND WITHIN COLORADO SCHOOL DISTRICTS;

(VII) SPECIAL EDUCATION DATA AND SPECIAL EDUCATION DISCIPLINE REPORTS LIMITED TO OBJECTIVE INFORMATION THAT IS SUFFICIENT TO PRODUCE THE FEDERAL TITLE IV ANNUAL INCIDENT REPORT;

(VIII) DATE OF BIRTH, FULL NAME, GENDER, RACE, AND ETHNICITY; AND

(IX) PROGRAM PARTICIPATION INFORMATION REQUIRED BY STATE OR FEDERAL LAW.

(16) "TARGETED ADVERTISING" MEANS DELIVERING ADVERTISEMENTS TO A STUDENT WHERE THE ADVERTISEMENT IS SELECTED BASED ON INFORMATION OBTAINED OR INFERRED FROM THAT STUDENT'S ONLINE VIEWING BEHAVIOR, USAGE OF APPLICATIONS, OR COVERED INFORMATION. "TARGETED ADVERTISING" DOES NOT INCLUDE USE OF SEARCH ENGINES OR RECOMMENDATION ENGINES, CONTEXTUAL ADVERTISING, RUN OF NETWORK ADVERTISING, OR ADAPTIVE OR INDIVIDUALIZED LEARNING.
(17) "VENDOR" MEANS ANY OPERATOR OF AN INTERNET WEB SITE; AN ON-LINE SERVICE, INCLUDING CLOUD COMPUTING SERVICES; AN ON-LINE APPLICATION; OR A MOBILE APPLICATION WITH ACTUAL KNOWLEDGE THAT THE SITE, SERVICE, OR APPLICATION IS USED PRIMARILY FOR PUBLIC SCHOOL PURPOSES AND WAS DESIGNED AND MARKETED FOR PUBLIC SCHOOL PURPOSES. "VENDOR" DOES NOT INCLUDE A SCHOOL, A SCHOOL DISTRICT, THE DEPARTMENT, OR THE STATE BOARD.

SECTION 4. In Colorado Revised Statutes, 22-2-305, amend (2) (a) introductory portion as follows:

22-2-305. Data dictionary - legislative declaration - creation - contents - report. (2) (a) The department, IN CONJUNCTION WITH THE STATE BOARD PURSUANT TO SECTION 22-2-309 (3) (a), shall develop and distribute to the school districts and public schools a data dictionary to define the data the department will collect and the methods and protocols by which school districts and public schools will submit the data. At a minimum, the data dictionary shall MUST include the following items:

SECTION 5. In Colorado Revised Statutes, 22-2-309, amend (3) (e), (3) (f) introductory portion, (3) (g), (4), and (5) (c) introductory portion; and repeal (2) as follows:

22-2-309. Student data accessibility, transparency, and accountability - duties of department and board - short title - rules. (2) As used in this section, unless the context otherwise requires:

(a) "Aggregate data" means data collected and reported at the group, cohort, or institutional level;

(b) "Data system" means the Colorado state department of education student data system;

(c) "Personally identifiable data" means a dataset that is linked to
a specific student or the student's parent or legal guardian and that would
allow a reasonable person in the school community, who does not have
knowledge of the relevant circumstances, to identify the student, parent;
or legal guardian with reasonable certainty.

(d) "State-assigned statewide student identifier" means the unique
student identifier assigned by the department to each student that must
neither be nor include the social security number of a student in whole or
in sequential part.

(e) (I) "Student data" means data that is collected and stored by
the department at the individual student level and included in a student's
educational record:

(II) "Student data" includes:

(A) State-administered assessment results, including participation
information;
(B) Courses taken and completed, credits earned, and other
transcript information;
(C) Course grades and grade point average;
(D) Grade level and expected graduation year;
(E) Degree, diploma, credential attainment, or other school exit
information;
(F) Attendance and mobility information between and within
Colorado school districts;
(G) Special education data and special education discipline reports
limited to objective information that is sufficient to produce the federal
Title IV annual incident report;
(H) Date of birth, full name, gender, race, and ethnicity; and
(I) Program participation information required by state or federal
(3) The state board shall:

(e) Ensure routine and ongoing compliance by the department with SECTION 22-2-309.5 AND WITH the federal "Family Educational Rights and Privacy Act of 1974", 20 U.S.C. sec. 1232g, other relevant privacy laws and policies, and the privacy and security policies and procedures developed under the authority of this section, including the performance of compliance audits;

(f) Ensure that agreements involving the disclosure of student data for research conducted on behalf of the department to develop, validate, or administer predictive tests; administer student aid programs; or improve instruction COMPLY WITH THE REQUIREMENTS OF SECTIONS 22-2-309.5 AND 22-2-310 AND must:

(g) Develop requirements that any department contracts that affect databases, assessments, or instructional supports that include student or personally identifiable data and are outsourced to private vendors include express provisions that safeguard privacy and security, including specifying that personally identifiable data may only be used for the purpose specified in the contract and prohibiting further disclosure of that data or its use for commercial purposes, and include penalties for noncompliance THE VENDOR SHALL COMPLY WITH ALL PROVISIONS OF SECTION 22-2-309.5; and

(4) The department shall develop a process to consider and review all outside requests for state data, other than aggregate student information already publicly available, by individuals not employed by the state who wish to conduct research using student or school system data already collected by the department. ANY SUCH USE OF DATA MUST
OCCUR IN COMPLIANCE WITH SECTIONS 22-2-309.5 AND 22-2-310.

(5) (c) Unless otherwise approved by the state board, the department shall not transfer student or personally identifiable data to a federal, state, or local agency or other entity outside of the state, except under the following circumstances, PROVIDED THE PROVISIONS OF SECTION 22-2-309.5 ARE OTHERWISE MET:

SECTION 6. In Colorado Revised Statutes, add 22-2-309.5 as follows:

22-2-309.5. Student personal information protections - complaint resolution. (1) A VENDOR SHALL NOT KNOWINGLY ENGAGE IN ANY OF THE FOLLOWING ACTIVITIES WITH RESPECT TO ITS WEB SITE, SERVICE, OR APPLICATION:

(a) (I) ENGAGE IN TARGETED ADVERTISING ON THE VENDOR'S WEB SITE, SERVICE, OR APPLICATION; OR

(II) TARGET ADVERTISING ON ANY OTHER WEB SITE, SERVICE, OR APPLICATION WHEN THE TARGETING OF THE ADVERTISING IS BASED UPON ANY INFORMATION, INCLUDING COVERED INFORMATION AND PERSISTENT UNIQUE IDENTIFIERS, THAT THE VENDOR HAS ACQUIRED BECAUSE OF THE USE OF THAT VENDOR'S WEB SITE, SERVICE, OR APPLICATION;

(b) USE INFORMATION, INCLUDING PERSISTENT UNIQUE IDENTIFIERS, CREATED OR GATHERED BY THE VENDOR'S WEB SITE, SERVICE, OR APPLICATION, TO AMASS A PROFILE ABOUT A PUBLIC SCHOOL STUDENT, EXCEPT IN FURTHERANCE OF A PUBLIC SCHOOL PURPOSE. AMASSING A PROFILE DOES NOT INCLUDE COLLECTION AND RETENTION OF ACCOUNT RECORDS OR INFORMATION THAT REMAINS UNDER THE CONTROL OF THE STUDENT, PARENT, SCHOOL, OR SCHOOL DISTRICT.

(c) SELL A STUDENT'S INFORMATION, INCLUDING COVERED
INFORMATION. THIS PROHIBITION DOES NOT APPLY TO THE PURCHASE,
MERGER, OR OTHER TYPE OF ACQUISITION OF A VENDOR BY ANOTHER
ENTITY, PROVIDED THAT THE VENDOR OR SUCCESSOR ENTITY CONTINUES
to comply with the provisions of this section concerning
previously acquired student information.

(d) DISCLOSE COVERED INFORMATION UNLESS THE DISCLOSURE IS
MADE:

(I) IN FURTHERANCE OF THE PUBLIC PURPOSE OF THE WEB SITE,
SERVICE, OR APPLICATION, PROVIDED THE RECIPIENT OF THE COVERED
INFORMATION DISCLOSED PURSUANT TO THIS PARAGRAPH (d):

(A) DOES NOT FURTHER DISCLOSE THE COVERED INFORMATION
UNLESS DONE TO ALLOW OR IMPROVE OPERABILITY AND FUNCTIONALITY
WITHIN THAT STUDENT'S CLASSROOM OR SCHOOL; AND

(B) IS LEGALLY REQUIRED TO COMPLY WITH SUBSECTION (3) OF
THIS SECTION;

(II) TO ENSURE LEGAL AND REGULATORY COMPLIANCE;

(III) TO RESPOND TO OR PARTICIPATE IN A JUDICIAL PROCESS;

(IV) TO PROTECT THE SAFETY OF USERS OR OTHERS OR THE
SECURITY OF THE WEB SITE, SERVICE, OR APPLICATION; OR

(V) TO A SERVICE PROVIDER, PROVIDED THAT THE VENDOR
CONTRACTUALLY:

(A) PROHIBITS THE SERVICE PROVIDER FROM USING ANY COVERED
INFORMATION FOR ANY PURPOSE OTHER THAN PROVIDING THE
CONTRACTED SERVICE TO, OR ON BEHALF OF, THE VENDOR;

(B) PROHIBITS THE SERVICE PROVIDER FROM DISCLOSING ANY
COVERED INFORMATION PROVIDED BY THE VENDOR WITH SUBSEQUENT
THIRD PARTIES; AND
(C) Requires the service provider to implement and maintain reasonable security procedures and practices as provided for in subsection (3) of this section.

(2) Nothing in subsection (1) of this section shall be construed to prohibit the vendor's use of information for maintaining, developing, supporting, improving, or diagnosing the vendor's web site, service, or application.

(3) A vendor shall:

(a) Implement and maintain reasonable security procedures and practices that, at a minimum, meet the requirements developed by the department and state board pursuant to section 22-2-309 and that are appropriate to the nature of the covered information and protect that information from unauthorized access, destruction, use, modification, or disclosure;

(b) Delete a student's covered information if the school or school district requests such deletion of any data under the control of the school or school district.

(4) Notwithstanding the provisions of paragraph (d) of subsection (1) of this section, a vendor may disclose covered information of a student under the following circumstances, as long as paragraphs (a) to (c) of subsection (1) of this section, inclusive, are not violated:

(a) If other provisions of state or federal law require the vendor to disclose the covered information, and the vendor complies with the applicable requirements of state and federal law in protecting and disclosing the information;
(b) FOR LEGITIMATE RESEARCH PURPOSES:
   (I) AS REQUIRED BY STATE OR FEDERAL LAW AND SUBJECT TO THE
       RESTRICTIONS UNDER APPLICABLE STATE AND FEDERAL LAW; OR
   (II) AS ALLOWED BY STATE OR FEDERAL LAW AND UNDER THE
       DIRECTION OF A SCHOOL, SCHOOL DISTRICT, OR THE DEPARTMENT, IF NO
       COVERED INFORMATION IS USED FOR ANY PURPOSE IN FURTHERANCE OF
       ADVERTISING OR TO AMASS A PROFILE ON A STUDENT FOR A PURPOSE
       OTHER THAN A PUBLIC SCHOOL PURPOSE;

   (c) TO A STATE OR LOCAL EDUCATION AGENCY, INCLUDING
       SCHOOLS AND SCHOOL DISTRICTS, FOR A PUBLIC SCHOOL PURPOSE, AS
       PERMITTED BY STATE OR FEDERAL LAW.

   (5) NOTHING IN THIS SECTION PROHIBITS A VENDOR FROM USING
       DEIDENTIFIED COVERED INFORMATION AS FOLLOWS:

       (a) WITHIN THE VENDOR'S WEB SITE, SERVICE, OR APPLICATION, OR
           OTHER WEB SITES, SERVICES, OR APPLICATIONS OWNED BY THE VENDOR,
           TO IMPROVE ITS EDUCATIONAL PRODUCTS;

       (b) TO DEMONSTRATE THE EFFECTIVENESS OF THE VENDOR'S
           PRODUCTS OR SERVICES, INCLUDING ITS MARKETING.

   (6) NOTHING IN THIS SECTION PROHIBITS A VENDOR FROM SHARING
       AGGREGATED AND DEIDENTIFIED COVERED INFORMATION FOR THE
       DEVELOPMENT AND IMPROVEMENT OF EDUCATIONAL WEB SITES, SERVICES,
       OR APPLICATIONS.

   (7) THIS SECTION DOES NOT:

       (a) LIMIT THE AUTHORITY OF A LAW ENFORCEMENT AGENCY TO
           OBTAIN ANY CONTENT OR INFORMATION FROM A VENDOR AS AUTHORIZED
           BY LAW OR PURSUANT TO AN ORDER OF A COURT OF COMPETENT
           JURISDICTION;
(b) Limit the ability of a vendor to use student data, including covered information, for adaptive learning or customized student learning purposes;

(c) Apply to general-audience internet web sites, on-line services, on-line applications, or mobile applications, even if log-in credentials created for a vendor’s web site, service, or application may be used to access the general-audience web site, service, application, or mobile application;

(d) Limit internet service providers from providing internet connectivity to schools or students and their families;

(e) Prohibit a vendor of an internet web site, on-line service, on-line application, or mobile application from marketing educational products directly to parents, so long as the marketing did not result from the use of covered information obtained by the vendor through the provision of services covered under this section;

(f) Impose a duty upon a provider of an electronic store, gateway, marketplace, or other means of purchasing or downloading software or applications to review or enforce compliance of this section on those applications or software;

(g) Impose a duty upon a provider of an interactive computer service, as defined in section 230 of title 47, U.S.C., to review or enforce compliance with this section by third-party content providers; and

(h) Impede the ability of a student to download, export, or otherwise save or maintain his or her student-created data or documents.
(8) If a parent or teacher believes a vendor is in violation of this section, he or she may make an initial report to the department. The department shall contact the vendor directly and provide the vendor with the opportunity to explain or rectify. If the department continues to receive complaints about the same vendor, it may bring the issue to the office of the attorney general for review and action.

SECTION 7. In Colorado Revised Statutes, add 22-2-310 as follows:

22-2-310. [Similar to 22-1-123.] Protection of student data - written consent requirements - rules. (1) Except as otherwise permitted in 20 U.S.C. sec. 1232g (b), or any other applicable federal law, a school or school district shall not release the education records of a student to any person, agency, vendor, or organization without the prior written consent of the parent or legal guardian of the student, as set forth in this section. Any release of education records pursuant to this subsection (1) must comply with section 22-2-309.5.

(2) A school or school district shall not release directory information to any person, agency, vendor, or organization without first complying with the provisions of 20 U.S.C. sec. 1232g (a) (5) (B) related to allowing a parent or legal guardian to prohibit such release without prior consent. Any release of directory information pursuant to this subsection (2) must comply with section 22-2-309.5.

(3) (a) A school district shall comply with 20 U.S.C. sec. 1232h concerning protection of pupil rights. Any release of
DIRECTORY INFORMATION PURSUANT TO THIS SUBSECTION (3) MUST COMPLY WITH SECTION 22-2-309.5.

(b) A SCHOOL OR SCHOOL DISTRICT EMPLOYEE WHO SEEKS OR REQUIRES PARTICIPATION IN A SURVEY, ASSESSMENT, ANALYSIS, OR EVALUATION IN A PUBLIC SCHOOL'S CURRICULUM OR OTHER OFFICIAL SCHOOL ACTIVITY SHALL OBTAIN THE WRITTEN CONSENT OF A STUDENT'S PARENT OR LEGAL GUARDIAN PRIOR TO GIVING THE STUDENT ANY SURVEY, ASSESSMENT, ANALYSIS, OR EVALUATION THAT WILL REVEAL INFORMATION, WHETHER THE INFORMATION IS PERSONALLY IDENTIFIABLE OR NOT, CONCERNING THE STUDENT OR THE STUDENT'S PARENT'S OR LEGAL GUARDIAN'S:

(I) POLITICAL AFFILIATIONS;

(II) MENTAL AND PSYCHOLOGICAL CONDITIONS POTENTIALLY EMBARRASSING TO THE STUDENT OR THE STUDENT'S FAMILY;

(III) SEXUAL BEHAVIOR AND ATTITUDES;

(IV) ILLEGAL, ANTI-SOCIAL, SELF-INCriminating, or DEMEANING BEHAVIOR;

(V) CRITICAL APPRAISALS OF INDIVIDUALS WITH WHOM A STUDENT HAS CLOSE FAMILY RELATIONSHIPS;

(VI) LEGALLY RECOGNIZED PRIVILEGED OR ANALOGOUS RELATIONSHIPS, SUCH AS THOSE OF LAWYERS, PHYSICIANS, AND MEMBERS OF THE CLERGY;

(VII) INCOME, EXCEPT AS REQUIRED BY LAW;

(VIII) SOCIAL SECURITY NUMBER; OR

(IX) RELIGIOUS PRACTICES, AFFILIATIONS, OR BELIEFS.

(c) THE REQUIREMENT OF WRITTEN CONSENT PURSUANT TO THIS SUBSECTION (3) APPLIES THROUGHOUT A PUBLIC SCHOOL'S CURRICULUM.
AND OTHER SCHOOL ACTIVITIES; EXCEPT THAT THE REQUIREMENT OF
WRITTEN CONSENT DOES NOT APPLY TO A STUDENT'S PARTICIPATION IN AN
ASSESSMENT ADMINISTERED PURSUANT TO SECTION 22-7-407 OR 22-7-409
OR PART 10 OF ARTICLE 7 OF THIS TITLE.

(d) (I) IF A SCHOOL OR SCHOOL DISTRICT SENDS A FORM TO A
PARENT OR LEGAL GUARDIAN REQUESTING WRITTEN CONSENT FOR THE
RELEASE OF COVERED INFORMATION OR THE INFORMATION DESCRIBED IN
PARAGRAPH (b) OF THIS SUBSECTION (3), OTHER THAN DIRECTORY
INFORMATION, THE WRITTEN CONSENT IS VALID ONLY IF THE SCHOOL
DISTRICT HAS GIVEN A PARENT OR LEGAL GUARDIAN WRITTEN NOTICE OF
THE SURVEY, ASSESSMENT, ANALYSIS, OR EVALUATION, HAS MADE A COPY
OF THE DOCUMENT AVAILABLE FOR VIEWING AT CONVENIENT LOCATIONS
AND TIMES, AND HAS GIVEN THE PARENT OR LEGAL GUARDIAN AT LEAST
TWO WEEKS, AFTER RECEIPT OF THE WRITTEN NOTICE, TO OBTAIN WRITTEN
INFORMATION CONCERNING:

(A) RECORDS OR INFORMATION THAT MAY BE EXAMINED AND
REQUESTED IN THE SURVEY, ANALYSIS, OR EVALUATION;

(B) THE MEANS BY WHICH THE RECORDS OR INFORMATION MAY BE
EXAMINED, REVIEWED, OR DISSEMINATED;

(C) THE MEANS BY WHICH THE INFORMATION IS TO BE OBTAINED;

(D) THE PURPOSES FOR WHICH THE RECORDS OR INFORMATION IS
NEEDED;

(E) THE ENTITIES OR PERSONS, REGARDLESS OF AFFILIATION, WHO
WILL HAVE ACCESS TO THE INFORMATION; AND

(F) A METHOD BY WHICH A PARENT OR LEGAL GUARDIAN OF A
STUDENT CAN GRANT OR DENY PERMISSION TO ACCESS OR EXAMINE THE
RECORDS OR INFORMATION.
(II) To be considered valid written consent, the consent form must contain notice to the parent or legal guardian regarding:

(A) the specific records to be released;

(B) the specific reasons for such release;

(C) the specific identity of any person, agency, or organization requesting such information and the intended uses of the information;

(D) the method or manner by which the records will be released; and

(E) the right to review or to receive a copy of the relevant records to be released.

(4) In implementing this section, the school or school district and employees shall ensure that their first responsibility is to students and their parents and shall allow only minimal use of students' academic time by institutions, agencies, vendors, or organizations outside the school or school district to gather information from students.

(5) (a) Consent for release of information pursuant to this section is valid only for the specific instance for which it was given.

(b) A general consent, written or otherwise, for a student to participate in any course or part of a course, in a school activity, in any special education program, or in any other school program does not constitute the written consent required pursuant to this section.

(c) The school district shall retain consent forms
(6) Nothing in this section shall be construed to prevent:

(a) A public school employee from reporting known or suspected child abuse or neglect pursuant to section 19-3-304, C.R.S.;

(b) A health professional who is acting as an agent of the school district from evaluating an individual child; and

(c) A school district from administering a suicide assessment or threat assessment.

(7) Any right accorded to a parent or legal guardian pursuant to this section transfers to the relevant student when that student attains the age of eighteen years.

(8) Each school district shall, at the beginning of each academic year, provide to the parent or legal guardian of each student in the school district written notice of the rights contained in this section.

(9) The provisions of this section apply to any public school in the state, regardless of whether the public school receives any federal funds.

(10) The state board of education shall adopt such rules as may be necessary to implement this section.

(11) If an individual licensed, certified, endorsed, or authorized by the state board is found by the state board to have knowingly and intentionally violated the provisions of this section, the department of education may suspend or revoke such individual's license, master certificate, endorsement, or authorization for a period not less than ninety days.
SECTION 8. In Colorado Revised Statutes, add 22-2-311 as follows:

22-2-311. Parental rights - education records. A school district shall comply with the provisions of 20 U.S.C. sec. 1232g (a) and 34 CFR 99 if a parent or legal guardian of a student either requests the education records of the student or requests an amendment or other change to the education records after reviewing them.

SECTION 9. In Colorado Revised Statutes, amend 22-2-106.5 as follows:

22-2-106.5. State board - duties with regard to student data - memorandum of understanding. (1) Notwithstanding the provisions of section 22-2-111 (3) (a), the state board shall enter into a memorandum of understanding on or before September 1, 2006, with the Colorado commission on higher education to adopt a policy to share student data. At a minimum, the policy shall ensure that the exchange of information is conducted in conformance with the requirements of the federal "Family Educational Rights and Privacy Act of 1974", as amended, 20 U.S.C. sec. 1232g, and all federal regulations and applicable guidelines adopted in accordance therewith. The policy shall additionally require the state board, upon request, to share student data with qualified researchers. For purposes of this section, qualified researchers shall include, but need not be limited to, institutions of higher education, school districts, and public policy research and advocacy organizations.

(2) Any release of data pursuant to subsection (1) of this section must conform to the requirements of section 22-2-309.5.

SECTION 10. In Colorado Revised Statutes, 22-2-111, add (4)
as follows:

22-2-111. Commissioner of education - office - records - confidential nature. (4) Any release of data pursuant to subsection (3) of this section must conform to the requirements of section 22-2-309.5.

SECTION 11. In Colorado Revised Statutes, 25-1-1202, amend (1) (ll) as follows:

25-1-1202. Index of statutory sections regarding medical record confidentiality and health information. (1) Statutory provisions concerning policies, procedures, and references to the release, sharing, and use of medical records and health information include the following:

(ll) Section 22-1-123 (5) Sections 22-2-309.5 and 22-2-311, C.R.S., concerning the protection of student data;

SECTION 12. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 5, 2015, if adjournment sine die is on May 6, 2015); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2016 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.