

House _____ Amendment NO. _____

Offered By

AMEND House Committee Substitute for Senate Bill No. 478, Page 1, Section A, Line 3, by inserting immediately after said line the following:

"161.096. 1. The state board of education shall promulgate a rule relating to student data accessibility, transparency, and accountability relating to the statewide longitudinal data system. This rule shall mandate that the department of elementary and secondary education do the following:

(1) Create and make publicly available a data inventory and index of data elements with definitions of individual student data fields in the student data system to include, but not be limited to:

(a) Any personally identifiable student data required to be reported by state and federal education laws; and

(b) Any other individual student data which has been proposed for inclusion in the student data system with a statement regarding the purpose or reason for the proposed collection;

(2) Develop policies to comply with all relevant state and federal privacy laws and policies, including but not limited to the federal Family Educational Rights and Privacy Act (FERPA) and other relevant privacy laws and policies. These policies shall include, but not be limited to the following requirements:

(a) Access to personally identifiable student data in the statewide longitudinal data system shall be restricted to:

a. The authorized staff of the department of elementary and secondary education and the contractors working on behalf of the department who require such access to perform their assigned duties as required by law;

b. District administrators, teachers, and school personnel who require such access to perform their assigned duties;

c. Students and their parents for their own data; and

d. The authorized staff of other state agencies in this state as required by law and governed by interagency data sharing agreements;

(b) The department of elementary and secondary education shall develop criteria for the approval of research and data requests from state and local agencies, researchers working on behalf of the department, and the public;

(3) Shall not, unless otherwise provided by law and authorized by policies adopted pursuant to this section, transfer personally identifiable student data;

(4) Develop a detailed data security plan that includes:

(a) Guidelines for authorizing access to the student data system and to individual student data including guidelines for authentication of authorized access;

(b) Privacy compliance standards;

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1 (c) Privacy and security audits;
 2 (d) Breach planning, notification and procedures;
 3 (e) Data retention and disposition policies; and
 4 (f) Data security policies including electronic, physical, and administrative safeguards, such
 5 as data encryption and training of employees;

6 (5) Ensure routine and ongoing compliance by the department of elementary and secondary
 7 education with FERPA, other relevant privacy laws and policies, and the privacy and security
 8 policies and procedures developed under the authority of this section, including the performance of
 9 compliance audits;

10 (6) Ensure that any contracts that govern databases, assessments, or instructional supports
 11 that include student or redacted data and are outsourced to private vendors include express
 12 provisions that safeguard privacy and security, including provisions that prohibit private vendors
 13 from selling student data or from using student data in furtherance of advertising, with penalties for
 14 noncompliance, except to a local service provider for the limited purpose authorized by the school
 15 or district whose access to student data, if any, is limited to "directory information" as that term is
 16 defined in the federal regulations implementing the federal Family Educational Rights and Privacy
 17 Act (FERPA), 20 U.S.C. Section 1232g; and

18 (7) Notify the governor, the president pro tempore of the senate, the speaker of the house of
 19 representatives, and the joint committee on education annually of the following:

20 (a) New student data proposed for inclusion in the state student data system; and
 21 (b) Changes to existing data collections required for any reason, including changes to
 22 federal reporting requirements made by the U.S. Department of Education.

23 2. Quantifiable student performance data shall only include performance on locally
 24 developed or locally approved assessments, including but not limited to formative assessments
 25 developed by classroom teachers.

26 3. The department of elementary and secondary education shall not collect nor shall school
 27 districts report the following individual student data:

28 (1) Juvenile court delinquency records;
 29 (2) Criminal records;
 30 (3) Student biometric information;
 31 (4) Student political affiliation; or
 32 (5) Student religion.

33 4. School districts shall not collect biometric information on any student without the express
 34 written consent of the student's parent or legal guardian. For purposes of this section, "biometric
 35 information" means a record of one or more measurable biological or behavioral characteristics that
 36 can be used for automated recognition of an individual, including fingerprints, retina and iris
 37 patterns, voice prints, DNA sequence, newborn screening information, facial characteristics, and
 38 handwriting.

39 [4.] 5. Any rule or portion of a rule, as that term is defined in section 536.010, that is
 40 created under the authority delegated in this section shall become effective only if it complies with
 41 and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This
 42 section and chapter 536 are nonseverable and if any of the powers vested with the general assembly
 43 pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are
 44 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or
 45 adopted after August 28, 2014, shall be invalid and void.

46 [~~5.~~] 6. Each violation of any provision of any rule promulgated pursuant to this section by
 47 an organization or entity other than a state agency, a school board, or an institution shall be
 48 punishable by a civil penalty of up to one thousand dollars. A second violation by the same

1 organization or entity involving the education records and privacy of the same student shall be
2 punishable by a civil penalty of up to five thousand dollars. Any subsequent violation by the same
3 organization or entity involving the education records and privacy of the same student shall be
4 punishable by a civil penalty of up to ten thousand dollars. Each violation involving a different
5 individual education record or a different individual student shall be considered a separate violation
6 for purposes of civil penalties.

7 [6:] 7. The attorney general shall have the authority to enforce compliance with this section
8 by investigation and subsequent commencement of a civil action, to seek civil penalties for
9 violations of this section, and to seek appropriate injunctive relief, including but not limited to a
10 prohibition on obtaining personally identifiable information for an appropriate time period. In
11 carrying out such investigation and in maintaining such civil action, the attorney general or any
12 deputy or assistant attorney general is authorized to subpoena witnesses, compel their attendance,
13 examine them under oath, and require that any books, records, documents, papers, or electronic
14 records relevant to the inquiry be turned over for inspection, examination, or audit. Subpoenas
15 issued under this subsection may be enforced pursuant to the Missouri rules of civil procedure."; and

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17 Further amend said bill by amending the title, enacting clause, and intersectional references
18 accordingly.