

LOST

Senators Ligon of the 3rd, Hill of the 32nd, Crane of the 28th, McKoon of the 29th and Albers of the 56th offered the following amendment:

1 *Amend the Senate Education and Youth Committee substitute to HB 897 (LC 33 5645S) by*
2 *inserting after "foundations;" on line 15 the following:*
3 to amend Title 20 of the Official Code of Georgia Annotated, relating to education, so as to
4 establish limitations and requirements regarding student data;

5 *By inserting between lines 1153 and 1154 the following:*

SECTION 42A.

7 Title 20 of the Official Code of Georgia Annotated, relating to education, is amended by
8 adding a new article to Chapter 1, relating to general provisions, to read as follows:

"ARTICLE 3

10 20-1-30.

11 (a) As used in this article, the term:

12 (1) 'Department' means the Georgia Department of Education.

13 (2) 'Education institution' means any public early care and learning program, elementary
14 or secondary school, or governing board of a charter school in this state.

15 (3) 'Local school system' means any local board of education, local school system, or
16 governing board of a charter school in this state.

17 (4) 'State agency' means the Georgia Department of Education, the State Board of
18 Education, the Office of Student Achievement, the Georgia Department of Early Care and
19 Learning, any regional educational service agency, or any other state pre-K through grade
20 12 education related agency or entity, including any education related foundation or
21 nonprofit entity established by Georgia statute or which derives its authority from
22 Georgia statutes.

23 (5) 'Written consent' means signed and dated consent in written form or by electronic
24 signature given prior to the data collection or disclosure and specifically consenting to
25 the collection or disclosure of specific data.

26 (b) As used in this article, the terms 'directory information,' 'disclosure,' 'education
27 records,' 'eligible student,' 'institution of postsecondary education,' 'parent,' 'party,'
28 'personally identifiable information,' 'record,' and 'student' shall have the same meaning as

29 those terms are defined in the regulations (34 C.F.R. Part 99.3) promulgated under the
30 Family Educational Rights and Privacy Act as of January 1, 2014.

31 20-1-31.

32 (a)(1) The State of Georgia declares that the following information shall not be collected
33 or maintained by a state agency, local school system, or education institution except by
34 written permission of the parent or eligible student:

35 (A) DNA, fingerprint, or retina or iris pattern information;

36 (B) Student or family religious affiliation, beliefs, or practices;

37 (C) Student or family political affiliation, beliefs, or practices;

38 (D) Student or family member sexual orientation or beliefs about sexual orientation;

39 or

40 (E) Student or family gun ownership or usage.

41 (2) No state agency, local school system, or education institution shall pursue or accept
42 any grant that would require the collection or reporting of any of the student information
43 contained in paragraph (1) of this subsection.

44 (b)(1) State agencies, local school systems, and education institutions shall only
45 designate parties that are under their direct control to act as their authorized
46 representatives to conduct any audit or evaluation, or any compliance or enforcement
47 activity in connection with legal requirements that relate to state or school system
48 supported educational programs, when any such audit, evaluation, or activity requires or
49 is used as the basis for disclosure of nondirectory information without the written consent
50 of eligible students or their parents.

51 (2) Nondirectory personally identifiable information that is accessed over the Internet or
52 other public network shall be protected through a secure encrypted protocol. Access
53 through a web browser shall use at a minimum Hypertext Transfer Protocol Secure, while
54 access through other means shall use the industry standard encryption technologies
55 applicable to the most sensitive component of the record.

56 (3) Any state agency, local school system, education institution, vendor, contractor, or
57 third party that maintains or has access to nondirectory personally identifiable
58 information from education records shall be responsible for protecting such personally
59 identifiable information, shall use industry standard encryption technologies that meet or
60 exceed federal or industry standards applicable to the most sensitive component of the
61 record, and shall use industry standard physical security protocols for access to hardware
62 containing the data. Unless required by law or court order, any vendor, contractor, or
63 third party to whom personally identifiable information has been disclosed may only use
64 it for noncommercial purposes explicitly authorized in a contract that restricts internal

65 access to such information to individuals with a legitimate education interest, prohibits
66 the redisclosure of such information without prior authorization or consent, requires at
67 least an annual security audit and an acceptable breach notification and breach
68 remediation plan, and articulates the financial obligations of such third party in the event
69 of an actual breach. These requirements shall also apply to any vendor, contractor,
70 service provider, or third party authorized, permitted, or in any way assisted by a state
71 agency, local school system, or education institution to directly or indirectly collect
72 nondirectory personally identifiable information from students without written consent
73 of a parent or eligible student.

74 (4) Except with written consent of a parent or eligible student, no personally identifiable
75 information shall be disclosed by a state agency, local school system, education
76 institution, or contractor of any such entity to any federal agency unless specifically
77 required by federal law or court order, provided that nothing shall prevent the disclosure
78 of personally identifiable information for the sole purpose of securing supplemental
79 funding for local school systems that include military bases.

80 (5) Subject to the provisions of subsection (b) of Code Section 20-2-141.1, for federal
81 education grants that require the disclosure of personally identifiable information, the
82 state agency, local school system, or education institution shall ensure that only the
83 elements of data specifically required for such grant be disclosed and that as a condition
84 of disclosure, such information shall not be used for any commercial or noneducational
85 purpose, unless required by court order.

86 (c) All student data shall be stored in a facility owned and controlled by a United States
87 corporation and governed by United States privacy laws.

88 (d) State agencies, local school systems, and education institutions shall disclose upon
89 request from any person a description of the specific fields of data of personally
90 identifiable information from education records maintained by such state agency, local
91 school system, or education institution, directly or through contracts with outside parties.

92 (e) The Department of Education and the Office of Student Achievement shall conduct a
93 privacy impact assessment pursuant to 44 U.S.C. Section 3501, et seq. every five years on
94 the Georgia Longitudinal Data System and any similar state data system maintaining
95 education records. The first such privacy impact assessment shall be completed by
96 December 31, 2014, and by December 31 every five years thereafter."