
HOUSE BILL 2133

State of Washington

63rd Legislature

2014 Regular Session

By Representatives Scott, Overstreet, Pollet, Shea, Taylor, Haler, Buys, Warnick, Sells, Manweller, Fagan, Condotta, and Freeman

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1 AN ACT Relating to maintaining privacy of student educational
2 records; adding a new section to chapter 28A.655 RCW; and creating a
3 new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** (1) The legislature affirms that students
6 have a right to privacy for their educational records. The legislature
7 finds that in an effort to standardize and nationalize K-12 education
8 the federal government has demonstrated a disregard for student privacy
9 rights, including through amendments to administrative regulations
10 under the family educational rights and privacy act that broaden access
11 to student records without the written consent of students and their
12 parents or guardians. The legislature also finds that Washington
13 state's participation in the multistate smarter balanced assessment
14 consortium that is developing common academic assessments may further
15 threaten the privacy rights of Washington state students.

16 (2) Therefore, to provide greater protection of student privacy,
17 the legislature intends to direct the joint legislative audit and
18 review committee to scrutinize the revised rules under the family
19 educational rights and privacy act and documents and agreements by the

1 office of the superintendent of public instruction, the office of
2 financial management, and school districts related to collection,
3 sharing, storage, security, dissemination, and access to personally
4 identifiable student data or student-level data to determine the extent
5 to which student privacy rights may be violated.

6 (3) If the analysis indicates any possibility of such a violation,
7 it is the legislature's intent to withdraw Washington state from
8 membership of and participation in any multistate assessment consortium
9 that disseminates or provides access to personally identifiable student
10 data or student-level data to the federal government, any for profit or
11 nonprofit nongovernmental organization, or any agency or organization
12 outside the state of Washington without the written consent of students
13 or their parents or guardians.

14 NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.655
15 RCW to read as follows:

16 (1) The joint legislative audit and review committee shall conduct
17 a detailed analysis of documents and agreements by the office of the
18 superintendent of public instruction, the office of financial
19 management, and school districts related to collection, sharing,
20 storage, security, dissemination, and access to personally identifiable
21 student data or student-level data to determine the extent to which,
22 and under what circumstances, the agreements require or permit
23 dissemination and sharing of personally identifiable student data or
24 student-level data from Washington state students without the written
25 consent of students or their parents or guardians. The analysis shall
26 include but not be limited to documents, agreements, and applications
27 related to the state fiscal stabilization fund; the federal race to the
28 top assessment program grant; the race to the top grant application
29 submitted by the state of Washington; the cooperative agreement between
30 the United States department of education and the smarter balanced
31 assessment consortium and the state of Washington (fiscal agent); the
32 evergreen state P-20 longitudinal data system federal grant; the
33 comprehensive education data and research system; the elementary and
34 secondary education act waiver application submitted by the state of
35 Washington; the longitudinal student data system established under RCW
36 28A.300.500; and the operations and activities of the education data
37 center under RCW 43.41.400.

1 (2) The joint legislative audit and review committee shall also
2 analyze the 2011 amendments to federal regulations under the family
3 educational rights and privacy act (34 C.F.R. Sec. 99) to determine the
4 extent to which the revised regulations permit the sharing of
5 personally identifiable student data or student-level data under the
6 documents, agreements, and applications in subsection (1) of this
7 section.

8 (3) The joint legislative audit and review committee shall submit
9 the analysis and findings to the education committees of the
10 legislature by September 1, 2014, to allow an opportunity for the
11 legislature to scrutinize the results and, if necessary, direct the
12 withdrawal of Washington state from membership of and participation in
13 any multistate assessment consortium that disseminates personally
14 identifiable student data or student-level data to the federal
15 government, any for profit or nonprofit nongovernmental organization,
16 or any agency or organization outside the state of Washington without
17 the written consent of students and their parents or guardians.

18 (4) If Washington state remains a member of the smarter balanced
19 assessment consortium after the 2015 legislative session or becomes a
20 member of any other multistate assessment consortium after the
21 effective date of this section, the joint legislative audit and review
22 committee shall annually review any documents and agreements by the
23 office of the superintendent of public instruction, the office of
24 financial management, and school districts related to collection,
25 sharing, storage, security, dissemination, and access to personally
26 identifiable student data or student-level data. If the joint
27 legislative audit and review committee finds that new or amended
28 documents, agreements, or applications revise the results of the
29 analysis and findings submitted under subsection (3) of this section,
30 the committee shall immediately forward the revised analysis and
31 findings to the education committees of the legislature.

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