



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB5064

by Rep. Jay Hoffman

SYNOPSIS AS INTRODUCED:

105 ILCS 85/10
105 ILCS 85/20

Amends the Student Online Personal Protection Act. Provides that a national assessment provider may sell or rent a student's information if the provider secures express written consent from the student or the parent or guardian of the student given in response to a clear and conspicuous notice and the information is used solely to provide access to employment, educational scholarships or financial aid, or post-secondary educational opportunities. Provides that an operator may use or disclose covered information of a student, if no information is used for advertising or to amass a profile on the student for purposes other than K through 12 school purposes, for legitimate research purposes as required or allowed by State or federal law and in furtherance of K through 12 school purposes or post-secondary educational purposes (instead of for legitimate research purposes as required or allowed by State or federal law and under the direction of a school, a school district, or the State Board of Education if the information is not used for advertising or to amass a profile on the student for purposes other than for K through 12 school purposes). Effective immediately.

LRB100 18744 AXK 33978 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning education.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Student Online Personal Protection Act is
5 amended by changing Sections 10 and 20 as follows:

6 (105 ILCS 85/10)

7 Sec. 10. Operator prohibitions. An operator shall not
8 knowingly do any of the following:

9 (1) Engage in targeted advertising on the operator's
10 site, service, or application or target advertising on any
11 other site, service, or application if the targeting of the
12 advertising is based on any information, including covered
13 information and persistent unique identifiers, that the
14 operator has acquired because of the use of that operator's
15 site, service, or application for K through 12 school
16 purposes.

17 (2) Use information, including persistent unique
18 identifiers, created or gathered by the operator's site,
19 service, or application to amass a profile about a student,
20 except in furtherance of K through 12 school purposes.
21 "Amass a profile" does not include the collection and
22 retention of account information that remains under the
23 control of the student, the student's parent or legal

1 guardian, or the school.

2 (3) Sell or rent a student's information, including
3 covered information. This subdivision (3) does not apply to
4 the purchase, merger, or other type of acquisition of an
5 operator by another entity if the operator or successor
6 entity complies with this Act regarding previously
7 acquired student information or to a national assessment
8 provider if the provider secures express written consent
9 from the student or the parent or legal guardian of the
10 student given in response to a clear and conspicuous notice
11 and the information is used solely to provide access to
12 employment, educational scholarships or financial aid, or
13 post-secondary educational opportunities.

14 (4) Except as otherwise provided in Section 20 of this
15 Act, disclose covered information, unless the disclosure
16 is made for the following purposes:

17 (A) In furtherance of the K through 12 school
18 purposes of the site, service, or application if the
19 recipient of the covered information disclosed under
20 this clause (A) does not further disclose the
21 information, unless done to allow or improve
22 operability and functionality of the operator's site,
23 service, or application.

24 (B) To ensure legal and regulatory compliance or
25 take precautions against liability.

26 (C) To respond to the judicial process.

1 (D) To protect the safety or integrity of users of
2 the site or others or the security of the site,
3 service, or application.

4 (E) For a school, educational, or employment
5 purpose requested by the student or the student's
6 parent or legal guardian, provided that the
7 information is not used or further disclosed for any
8 other purpose.

9 (F) To a third party if the operator contractually
10 prohibits the third party from using any covered
11 information for any purpose other than providing the
12 contracted service to or on behalf of the operator,
13 prohibits the third party from disclosing any covered
14 information provided by the operator with subsequent
15 third parties, and requires the third party to
16 implement and maintain reasonable security procedures
17 and practices.

18 Nothing in this Section prohibits the operator's use of
19 information for maintaining, developing, supporting,
20 improving, or diagnosing the operator's site, service, or
21 application.

22 (Source: P.A. 100-315, eff. 8-24-17.)

23 (105 ILCS 85/20)

24 Sec. 20. Permissive use or disclosure. An operator may use
25 or disclose covered information of a student under the

1 following circumstances:

2 (1) If other provisions of federal or State law require
3 the operator to disclose the information, and the operator
4 complies with the requirements of federal and State law in
5 protecting and disclosing that information.

6 (2) If no covered information is used for advertising
7 or to amass a profile on the student for purposes other
8 than K through 12 school purposes, for ~~For~~ legitimate
9 research purposes as required by State or federal law and
10 subject to the restrictions under applicable State and
11 federal law or as allowed by State or federal law in
12 furtherance of ~~and under the direction of a school, school~~
13 ~~district, or the State Board of Education if the covered~~
14 ~~information is not used for advertising or to amass a~~
15 ~~profile on the student for purposes other than for K~~
16 through 12 school purposes or post-secondary educational
17 purposes.

18 (3) To a State or local educational agency, including
19 schools and school districts, for K through 12 school
20 purposes, as permitted by State or federal law.

21 (Source: P.A. 100-315, eff. 8-24-17.)

22 Section 99. Effective date. This Act takes effect upon
23 becoming law.