

State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 2671

03/08/2016 Authored by Lucero, Whelan and Smith

The bill was read for the first time and referred to the Committee on Education Innovation Policy

1.1 A bill for an act
1.2 relating to education; addressing access to student data; clarifying disclosure
1.3 requirements affecting personally identifiable information about a student;
1.4 managing personally identifiable information in electronic student education
1.5 records; establishing requirements for student surveys; providing for civil
1.6 penalties; amending Minnesota Statutes 2014, section 127A.70, subdivision 2;
1.7 Minnesota Statutes 2015 Supplement, section 13.32, subdivision 5; proposing
1.8 coding for new law in Minnesota Statutes, chapter 121A.

1.9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.10 Section 1. Minnesota Statutes 2015 Supplement, section 13.32, subdivision 5, is
1.11 amended to read:

1.12 Subd. 5. **Directory information; other personally identifiable information about**
1.13 **a student.** (a) Information designated as directory information pursuant to the provisions
1.14 of United States Code, title 20, section 1232g, and Code of Federal Regulations, title 34,
1.15 section 99.37, which are in effect on January 3, 2012, is public data on individuals, to the
1.16 extent required under federal law. When conducting the directory information designation
1.17 and notice process required by federal law, an educational agency or institution shall give
1.18 parents and students notice of the right to refuse to let the agency or institution designate
1.19 any or all data about the student as directory information. This notice may be given by any
1.20 means reasonably likely to inform the parents and students of the right.

1.21 (b) Notwithstanding other law to the contrary, except law governing law enforcement
1.22 activities, and in addition to section 13.04, subdivision 2, at the time a governmental entity
1.23 collects personally identifiable information as defined in Code of Federal Regulations, title
1.24 34, section 99.3, about a student, the agency or institution must obtain consent from the
1.25 eligible student, parent, or guardian before the state agency or state institution discloses

personally identifiable information about the student to a third party or to a governmental entity over which the state of Minnesota, a school district, or a school has no direct control.

(c) In addition to the civil remedies available in section 13.08, subdivision 1, a governmental entity in violation of this subdivision is subject to presumptive damages, the amount of which to be determined at the discretion of a judge in a civil court.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 2. **[121A.24] REQUIREMENTS FOR STUDENT SURVEY AND SIMILAR INSTRUMENTS.**

(a) Except for the Minnesota student survey, unless the prior written informed consent of the parent or legal guardian of a minor or dependent child is obtained through a signed and dated document, a school district shall not administer or permit to be administered to a student, and a student shall not participate in, an academic or nonacademic survey, questionnaire, assessment, analysis, evaluation, or similar instrument that solicits information concerning:

- (1) political affiliations or beliefs;
- (2) mental or psychological problems;
- (3) sexual behavior or attitudes;
- (4) illegal, antisocial, self-incriminating, or demeaning behavior;
- (5) critical appraisals of another individual;
- (6) legally recognized privileged or analogous relationships, such as those with a lawyer, physician, or minister;
- (7) religious practices, affiliations, or beliefs; or
- (8) income.

(b) In addition to meeting the requirements in section 13.04, subdivision 2, between 15 and 30 scheduled school days before the anticipated administration of a survey or similar instrument to a student, a school district shall:

- (1) notify the parent or legal guardian in writing of:
 - (i) the expected administration date of the instrument;
 - (ii) the information that will be solicited through the instrument;
 - (iii) how the results of the instrument will be utilized; and
 - (iv) the persons or entities that will have access to the results of the instrument;
- (2) provide for a hard or electronic copy of the instrument to be readily available to the parent or legal guardian; and
- (3) obtain the signed and dated written consent of the parent or legal guardian before a student is allowed to participate in a survey or similar instrument.

(c) A parent or guardian seeking to compel a school district to comply with this section has available the civil remedies under section 13.08, subdivision 4, in addition to other remedies provided by law. A school district in violation of this section is subject to presumptive damages, the amount of which to be determined at the discretion of a judge in a civil court.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 3. Minnesota Statutes 2014, section 127A.70, subdivision 2, is amended to read:

Subd. 2. **Powers and duties; report.** (a) The partnership shall develop recommendations to the governor and the legislature designed to maximize the achievement of all P-20 students while promoting the efficient use of state resources, thereby helping the state realize the maximum value for its investment. These recommendations may include, but are not limited to, strategies, policies, or other actions focused on:

(1) improving the quality of and access to education at all points from preschool through graduate education;

(2) improving preparation for, and transitions to, postsecondary education and work;

(3) ensuring educator quality by creating rigorous standards for teacher recruitment, teacher preparation, induction and mentoring of beginning teachers, and continuous professional development for career teachers; and

(4) realigning the governance and administrative structures of early education, kindergarten through grade 12, and postsecondary systems in Minnesota.

(b) Under the direction of the P-20 Education Partnership Statewide Longitudinal Education Data System Governance Committee, the Office of Higher Education and the Departments of Education and Employment and Economic Development shall improve and expand the Statewide Longitudinal Education Data System (SLEDS) to provide policymakers, education and workforce leaders, researchers, and members of the public with data, research, and reports to:

(1) expand reporting on students' educational outcomes for diverse student populations including at-risk students, children with disabilities, English learners, and gifted students, among others, and include formative and summative evaluations based on multiple measures of student progress toward career and college readiness;

(2) evaluate the effectiveness of educational and workforce programs; and

(3) evaluate the relationship between education and workforce outcomes, consistent with section 124D.49.

4.1 To the extent possible under federal and state law, research and reports should be
4.2 accessible to the public on the Internet, and disaggregated by demographic characteristics,
4.3 organization or organization characteristics, and geography.

4.4 It is the intent of the legislature that the Statewide Longitudinal Education Data
4.5 System inform public policy and decision-making. The SLEDs governance committee,
4.6 with assistance from staff of the Office of Higher Education, the Department of Education,
4.7 and the Department of Employment and Economic Development, shall respond to
4.8 legislative committee and agency requests on topics utilizing data made available through
4.9 the Statewide Longitudinal Education Data System as resources permit. Any analysis of
4.10 or report on the data must contain only summary data.

4.11 Notwithstanding other provisions in this section or other law to the contrary, except
4.12 law governing law enforcement activities, in order to prevent any unauthorized access,
4.13 disclosure, or misuse of student data, a school district, a school, and the commissioners
4.14 of education, higher education, and employment and economic development must not
4.15 allow personally identifiable information as defined in Code of Federal Regulations, title
4.16 34, section 99.3, about any P-20 student reported to or available through SLEDs to be
4.17 disclosed to a third party or to a governmental entity over which the state of Minnesota, a
4.18 school district, or a school has no direct control. A school district or school must annually
4.19 obtain the consent of eligible students and parents or guardians before disclosing directory
4.20 information about the student who is the subject of the information. In addition to the
4.21 civil remedies available in section 13.08, subdivision 1, a school district, a school, or the
4.22 commissioner of education, higher education, or employment and economic development
4.23 in violation of this provision is subject to presumptive damages, the amount of which to
4.24 be determined at the discretion of a judge in a civil court.

4.25 (c) By January 15 of each year, the partnership shall submit a report to the governor
4.26 and to the chairs and ranking minority members of the legislative committees and
4.27 divisions with jurisdiction over P-20 education policy and finance that summarizes the
4.28 partnership's progress in meeting its goals and identifies the need for any draft legislation
4.29 when necessary to further the goals of the partnership to maximize student achievement
4.30 while promoting efficient use of resources.

4.31 **EFFECTIVE DATE.** This section is effective the day following final enactment.