

HB0298/594936/1

BY: Education, Health, and Environmental Affairs Committee

AMENDMENTS TO HOUSE BILL 298
(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 7, after “from” insert “knowingly”.

On page 2, in lines 11 and 13, in each instance, after “STUDENT” insert “IN THIS STATE”.

On page 3, strike in their entirety lines 11 through 13, inclusive; after line 13, insert:

“(3) “OPERATOR” MEANS A PERSON WHO IS OPERATING IN ACCORDANCE WITH A CONTRACT OR AN AGREEMENT WITH A PUBLIC SCHOOL OR LOCAL SCHOOL SYSTEM IN THE STATE TO PROVIDE AN INTERNET WEB SITE, AN ONLINE SERVICE, AN ONLINE APPLICATION, OR A MOBILE APPLICATION THAT:”;

in line 15, after the first “A” insert “PUBLIC”; in line 16, after “A” insert “PUBLIC”; in line 24, strike “CUSTOMARILY”; in line 25, after the first “A” insert “PUBLIC”; and in line 27, after “OF” insert “PUBLIC”.

On page 4, in line 5, after “STUDENTS,” insert “PUBLIC”; in line 11, after “THE” insert “PUBLIC”; after line 11, insert:

“(6) (I) “TARGETED ADVERTISING” MEANS PRESENTING ADVERTISEMENTS TO AN INDIVIDUAL STUDENT THAT ARE SELECTED BASED ON INFORMATION OBTAINED OR INFERRED FROM THE STUDENT’S ONLINE BEHAVIOR, USAGE OF APPLICATIONS, OR COVERED INFORMATION.

(Over)

(II) “TARGETED ADVERTISING” DOES NOT INCLUDE ADVERTISEMENTS PRESENTED TO AN INDIVIDUAL STUDENT AT AN ONLINE LOCATION:

1. BASED ON THE STUDENT’S CURRENT VISIT TO THE ONLINE LOCATION WITHOUT COLLECTION OR RETENTION OF THE STUDENT’S ONLINE ACTIVITIES OVER TIME; OR

2. IN RESPONSE TO A SINGLE SEARCH QUERY WITHOUT COLLECTION OR RETENTION OF THE STUDENT’S ONLINE ACTIVITIES OVER TIME.”;

in line 22, strike “CONTROL” and substitute “AUTHORITY”; in the same line, after “A” insert “PUBLIC”; in line 23, after “SYSTEM” insert “IN ACCORDANCE WITH A CONTRACT OR AN AGREEMENT”; in the same line, after “DELETE” insert “WITHIN A REASONABLE TIME”; in the same line, after the second “THE” insert “PUBLIC”; and in line 25, after “NOT” insert “KNOWINGLY”.

AMENDMENT NO. 2

On page 5, in line 1, strike “USE” and substitute “EXCEPT IN FURTHERANCE OF A PREK-12 SCHOOL PURPOSE, USE”; in line 5, after “SUBSECTION” insert “AND EXCEPT AS PROVIDED IN SUBSECTION (F) OF THIS SECTION”; after line 12, insert:

“(3) FOR PURPOSES OF PARAGRAPH (1)(II) OF THIS SUBSECTION, MAKING A PROFILE OF A STUDENT DOES NOT INCLUDE THE COLLECTION AND RETENTION OF ACCOUNT INFORMATION THAT REMAINS UNDER THE AUTHORITY OF A STUDENT, A STUDENT’S PARENT OR GUARDIAN, A PUBLIC SCHOOL, OR A LOCAL SCHOOL SYSTEM.”;

in line 21, strike “AND” and substitute “OR”; after line 21, insert:

“(3) TO TAKE PRECAUTIONS AGAINST LIABILITY;”;

in lines 22, 23, and 25, strike “(3)”, “(4)”, and “(5)”, respectively, and substitute “(4)”, “(5)”, and “(6)”, respectively; in line 23, after “USERS” insert “OR OTHERS”; in the same line, after “SECURITY” insert “OR INTEGRITY”; and in line 24, after “SITE” insert “SERVICE, OR APPLICATION”.

On page 6, in line 1, strike “PROHIBITS” and substitute “EXCEPT FOR A PURPOSE EXPRESSLY PERMITTED UNDER THIS SUBSECTION, PROHIBITS”; in lines 6, 8, 12, and 19, strike “(6)”, “(7)”, “(8)”, and “(9)”, respectively, and substitute “(7)”, “(8)”, “(9)”, and “(10)”, respectively; in line 15, after the first “A” insert “PUBLIC”; in line 19, after “INCLUDING” insert “PUBLIC”; in line 24, after “SECTION” insert “FOR PREVIOUSLY COLLECTED COVERED INFORMATION”; in line 26, after “USING” insert “AGGREGATED OR”; in line 27, after “TO” insert “DEVELOP OR”; and in the same line, after “PRODUCT” insert “OR SERVICE”.

On page 7, in line 1, after “AGGREGATED” insert “OR”; in line 2, strike “AND” and substitute “OR”; strike beginning with “THIS” in line 4 down through “INFORMATION.” in line 14 and substitute:

“(1) EXCEPT FOR SUBSECTION (D)(1)(III) OF THIS SECTION AND SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, NOTHING IN SUBSECTIONS (D) AND (E) OF THIS SECTION MAY BE CONSTRUED TO PROHIBIT THE USE OR DISCLOSURE OF A STUDENT’S COVERED INFORMATION BY AN OPERATOR.

“(2) THE USE OR DISCLOSURE OF A STUDENT’S COVERED INFORMATION UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY INCLUDE THE USE OR DISCLOSURE FOR THE PURPOSE OF:

(I) CONDUCTING A COLLEGE OR CAREER READINESS ASSESSMENT;

(II) LONGITUDINAL RESEARCH TO IMPROVE EDUCATIONAL PRACTICE OR POLICY; OR

(III) PROVIDING ACCESS TO POSTSECONDARY EDUCATION OR SCHOLARSHIPS.

(3) AN OPERATOR MAY USE OR DISCLOSE COVERED INFORMATION UNDER PARAGRAPH (1) OF THIS SUBSECTION IF THE OPERATOR:

(I) PROVIDED CLEAR AND CONSPICUOUS NOTICE OF THE USE OR DISCLOSURE OF THE STUDENT'S COVERED INFORMATION TO THE STUDENT OR THE STUDENT'S PARENT OR GUARDIAN; AND

(II) OBTAINED THE AFFIRMATIVE CONSENT OF THE STUDENT, IF THE STUDENT IS AT LEAST 18 YEARS OLD, OR THE STUDENT'S PARENT OR GUARDIAN TO USE OR DISCLOSE THE STUDENT'S COVERED INFORMATION.”;

in line 19, after “TO” insert “:

(1)”;

in line 20, strike “USE” and substitute “USE”; in line 21, after “PURPOSES” insert “;

(2) USE RECOMMENDATION ENGINES TO RECOMMEND TO A STUDENT ADDITIONAL CONTENT OR SERVICES RELATING TO AN EDUCATIONAL, OTHER LEARNING, OR EMPLOYMENT OPPORTUNITY PURPOSE WITHIN AN

OPERATOR'S SITE, SERVICE, OR APPLICATION IF THE RECOMMENDATION IS NOT DETERMINED IN WHOLE OR IN PART BY PAYMENT OR OTHER CONSIDERATION FROM A THIRD PARTY;

(3) RESPOND TO A STUDENT'S SEARCH QUERY, OTHER REQUEST FOR INFORMATION, OR REQUEST FOR FEEDBACK IF THE INFORMATION OR RESPONSE IS NOT DETERMINED IN WHOLE OR IN PART BY PAYMENT OR OTHER CONSIDERATION FROM A THIRD PARTY; OR

(4) USE OR RETAIN COVERED INFORMATION TO:

(I) ENSURE LEGAL OR REGULATORY COMPLIANCE; OR

(II) TAKE PRECAUTIONS AGAINST LIABILITY”;

and in lines 28 and 32, in each instance, strike “DOES NOT” and substitute “MAY NOT BE CONSTRUED TO”.

AMENDMENT NO. 3

On page 8, in line 1, strike “DOES NOT” and substitute “MAY NOT BE CONSTRUED TO”; in line 2, after “EXPORT,” insert “TRANSFER,”; in lines 2 and 3, strike “STUDENT CREATED”; and after line 3, insert:

“(O) THE PROVISIONS OF THIS SECTION MAY NOT BE CONSTRUED TO PROHIBIT AN INTERNET SERVICE PROVIDER FROM PROVIDING INTERNET CONNECTIVITY TO PUBLIC SCHOOLS, STUDENTS, OR STUDENTS' FAMILIES.”.