SB424

151509-1

By Senator Brewbaker

RFD: Education

First Read: 11-APR-13
SYNOPSIS: Under existing law, student record data is shared between high schools and colleges and universities.

This bill would explicitly prohibit the Department of Education, the State Board of Education, local boards of education, public and private schools, and public and private two-year and four-year institutions of higher learning from disclosing personally identifiable student information to any third party without consent, except in limited circumstances.

This bill would prohibit the use of any personally identifiable student information for the development of commercial products or services.

This bill would authorize the Attorney General to enforce the provisions of this act.

This bill would also require the State Auditor to periodically perform audits to ensure compliance with the provisions of this act.
A BILL

TO BE ENTITLED

AN ACT

Relating to education; to prohibit the Department of Education, the State Board of Education, local boards of education, and schools, colleges, and universities from disclosing personally identifiable student information to any third party without consent, except in limited circumstances; to prohibit the use of any personally identifiable student information for the development of commercial products or services; to authorize the Attorney General to enforce the provisions of this act; and to require the State Auditor to periodically perform audits to ensure compliance with the provisions of this act.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. As used in this act, the following terms have the following meanings:

(1) BIOMETRIC RECORD. A record of one or more measurable biological or behavioral characteristics that can be used for automated recognition of an individual, including fingerprints, retina and iris patterns, voiceprints, DNA sequence, facial characteristics, or handwriting.

(2) PERSONALLY IDENTIFIABLE STUDENT INFORMATION. Includes, but is not limited to, any of the following information about a student:

   a. Name.
b. Name of the student's parent or another family member.

c. Address of the student or student's family.

d. Personal identifier, such as the student's Social Security number, student number, or biometric records.

e. Other indirect identifiers, such as the student's date of birth, place of birth, or mother's maiden name.

f. Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty.

g. Information requested by a person who the Department of Education, the State Board of Education, a county or city board of education, or a school reasonably believes knows the identity of the student to whom the education record relates.

(3) SCHOOL. Any public or private elementary or secondary school or two-year or four-year institution of higher learning.

(4) STUDENT. Any person with respect to whom the Department of Education, the State Board of Education, a county or city board of education, or a school maintains education records or personally identifiable information, but does not include a person who has not been in attendance at such agency or school.
Section 2. (a) The Department of Education, the State Board of Education, a county or city board of education, or a school may not disclose any personally identifiable student information to any third party without parental consent, or in the case of students 18 years of age or older, the consent of the student, except where:

(1) Disclosure is required by law.

(2) Disclosure is pursuant to a court order or subpoena.

(3) Disclosure is to a third party pursuant to a contract whereby the entity is performing administrative, technical, or transactional functions that would either be performed by employees of the Department of Education, State Board of Education, county or city board of education, or school, provided that the contractor:

a. Agrees not to disclose or use the personally identifiable student information for any other purpose.

b. Maintains reasonable administrative, technical, and physical safeguards to protect the security, confidentiality, and integrity of the personally identifiable student information.

c. Indemnifies the Department of Education, State Board of Education, county or city board of education, or school for any damages due to a violation of this section.

(4) Disclosure is to a third party for the purpose of a research study carried out by or on the behalf of the
Department of Education, State Board of Education, county or city board of education, or school.

(5) Disclosure is for the purpose of a state or federal audit or evaluation by entities authorized under state or federal law.

(6) Disclosure is necessary due to a health or safety emergency.

(b) Detailed records of all non-consensual disclosures pursuant to subsection (a) shall be included in the corresponding student's educational records.

(c) Where the Department of Education, State Board of Education, county or city board of education, or school makes a disclosure pursuant to subdivision (4) of subsection (a) or pursuant to subdivision (5) of subsection (a) where practicable, it shall post on its website, send home via mail, and make otherwise publicly available all of the following:

(1) The particular type or types of personally identifiable student information that is to be disclosed.

(2) The entity to which the disclosure is to be made.

(3) The purpose of the study, audit, or evaluation and why the disclosure is necessary for its completion.

(4) The specific time frame during which the personally identifiable student information will be utilized and then securely destroyed.

(5) The entity's assurance of compliance with administrative, technical, and physical safeguards, including
all the federal and state data privacy and data safeguarding rules the Department of Education, State Board of Education, county or city board of education, or school is subject to, to protect the security, confidentiality, and integrity of the personally identifiable student information.

(6) The entity's indemnification of the Department of Education, State Board of Education, county or city board of education, or school for any violation of this section.

(d) Notification and consent forms shall include:

(1) The scope, purpose, and allowable uses of the personally identifiable student information.

(2) The risk of data breaches and the reasonable administrative, technical, and physical safeguards used to protect the security, confidentiality, and integrity of the personally identifiable student information.

(3) Information regarding who is legally and financially responsible should there be a violation of this section.

(e) Notwithstanding subsection (a), the Department of Education, the State Board of Education, a county or city board of education, a school, and any other entity may not use any personally identifiable student information for the development of commercial products or services or disclose any personally identifiable student information to any third party for the development of commercial products or services.

(f) Any person or entity found in violation of the provisions of this section shall be prohibited from obtaining
personally identifiable student information for a period of no less than five years.

(g) Nothing in this section shall limit the provisions of Section 16-5-7, Code of Alabama 1975, or limit the administrative use of school records by a person acting exclusively in the person's capacity as an employee of a school, a board of education, or of the state or any of its political subdivisions, any court, or the federal government, that demonstrates an appropriate need for the information.

Section 3. The Attorney General shall have the authority to oversee and enforce compliance with this act and to impose appropriate penalties on those found in violation of any of its provisions.

Section 4. With regard to Section 2, the State Auditor shall carry out regular audits to ensure all of the following:

(1) Proper procedures have been used.
(2) Relevant notification and consent forms are completed.

(3) Security and privacy protection measures used in the storage, transmission, and usage of personally identifiable student information are effective and accurately described in the notification documents.

Section 5. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.