

House Bill 2708

Sponsored by Representatives FREDERICK, HELM; Representative REARDON (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires operator of website, online service, online application or mobile application to implement and maintain reasonable security procedures and practices related to covered information of student, to protect covered information and to delete covered information when requested by school or school district.

Prohibits operator from knowingly engaging in certain activities related to covered information of student.

A BILL FOR AN ACT

1
2 Relating to student information.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. (1) As used in this section:**

5 (a) **"Covered information" means personally identifiable information that:**

6 (A) **Is created or provided by a student, the student's parent or the student's legal**
7 **guardian to an operator in the course of the student's, parent's or legal guardian's use of**
8 **the operator's site, service or application for school purposes.**

9 (B) **Is created or provided to an operator by an employee or agent of a school, a school**
10 **district, an education service district or the Department of Education.**

11 (C) **Is gathered by an operator through the operation of a site, service or application and**
12 **is descriptive of a student or otherwise identifies a student, including:**

13 (i) **Information in the student's education record or electronic mail.**

14 (ii) **The student's first and last name, address, telephone number, electronic mail address**
15 **or other information that allows physical or online contact with the student.**

16 (iii) **The student's discipline records, test results, special education data, juvenile de-**
17 **pendency records, grades, evaluations, criminal records, medical records, health records,**
18 **social security number, biometric information, disabilities, socioeconomic information, food**
19 **purchases, political affiliations, religious information, text messages, documents, student**
20 **identifiers, search activity, photos, voice recordings or geolocation information.**

21 (b) **"Deidentified covered information" means covered information that has had all per-**
22 **sonally identifiable information removed.**

23 (c) **"Online service" includes cloud computing services.**

24 (d) **"Operator" means the operator of a site, service or application that has actual**
25 **knowledge that the site, service or application is used primarily for school purposes and was**
26 **designed and marketed for school purposes.**

27 (e) **"School" means a public elementary or secondary school in this state.**

28 (f) **"School purposes" means purposes that:**

29 (A) **Customarily occur at the direction of a school, the teacher of a school or a school**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 district;

2 (B) Aid in the administration of school activities, including instruction in the classroom
3 or at home, administrative activities and collaboration between students, school personnel
4 and parents; or

5 (C) Are for the use and benefit of a school, teacher of a school or school district.

6 (g) "Site, service or application" means a website, online service, online application or
7 mobile application.

8 (h) "Student" means a student of a public school who is under 18 years of age.

9 (2) An operator shall:

10 (a) Implement and maintain reasonable security procedures and practices appropriate to
11 the nature of the covered information;

12 (b) Protect covered information from unauthorized access, destruction, use, modification
13 or disclosure; and

14 (c) Delete a student's covered information if a school or school district requests deletion
15 of data under the control of the school or school district.

16 (3) An operator may not knowingly engage in any of the following activities with respect
17 to the operator's site, service, or application:

18 (a) Target advertising on the operator's site, service or application or on any other site,
19 service or application when the targeting is based upon covered information or persistent
20 unique identifiers that the operator has acquired because of the use of that operator's site,
21 service or application for school purposes.

22 (b) Use covered information or persistent unique identifiers that are created or gathered
23 by the operator's site, service or application to amass a profile about a student unless the
24 use is in furtherance of school purposes.

25 (c) Sell covered information. The prohibition imposed by this paragraph does not apply
26 to the purchase, merger or other type of acquisition of an operator by another entity, pro-
27 vided that the operator or successor entity continues to be subject to the provisions of this
28 section with respect to previously acquired covered information.

29 (d) Disclose covered information unless the disclosure is made:

30 (A) In furtherance of a school purpose and the recipient of the covered information does
31 not further disclose the information except to allow or improve the operability and
32 functionality of a student's classroom or school.

33 (B) To respond to or participate in a judicial process.

34 (C) To protect the safety of users or others or the security of the site, service or appli-
35 cation.

36 (D) To a service provider, provided the operator contractually:

37 (i) Prohibits the service provider from using any covered information for any purpose
38 other than providing the contracted service to, or on behalf of, the operator;

39 (ii) Prohibits the service provider from disclosing any covered information provided by
40 the operator to subsequent third parties; and

41 (iii) Requires the service provider to implement and maintain reasonable security proce-
42 dures and practices as required by subsection (2) of this section.

43 (E) To comply with provisions of federal or state law and the operator complies with the
44 requirements of federal and state law in protecting and disclosing that information.

45 (F) For research purposes:

1 (i) As required by state or federal law and subject to restrictions imposed by the appli-
2 cable state or federal law; or

3 (ii) As allowed by state or federal law and under the direction of a school, school district
4 education service district or the Department of Education if no covered information is used
5 for any purpose in furtherance of advertising or amassing a profile on the student for pur-
6 poses other than school purposes.

7 (G) To schools, school districts, education service districts and the Department of Edu-
8 cation for school purposes, as permitted by state or federal law.

9 (4) Nothing in this section shall be construed to prohibit an operator from:

10 (a) Using information for maintaining, developing, supporting, improving or diagnosing
11 the operator's site, service or application.

12 (b) Using deidentified covered information as follows:

13 (A) Within the operator's site, service or application or other sites, services or applica-
14 tions owned by the operator, to improve educational products.

15 (B) To demonstrate or market the effectiveness of the operator's products or services.

16 (c) Sharing aggregated deidentified covered information for the development and im-
17 provement of educational sites, services or applications.

18 (d) Using covered information for adaptive learning or customized student learning pur-
19 poses.

20 (e) Marketing educational products directly to parents, as long as the marketing does not
21 result from the use of covered information obtained by the operator through the provision
22 of services covered under this section.

23 (5) Nothing in this section may be construed to place limitations on:

24 (a) The authority of a law enforcement agency to obtain any content or information from
25 an operator as authorized by law or pursuant to a court order.

26 (b) General audience websites, general audience online services, general audience online
27 applications or general audience mobile applications even if login credentials created for an
28 operator's site, service or application may be used to access those general audience sites,
29 services or applications.

30 (c) Service providers that provide Internet connectivity to schools or students and their
31 families.

32 (d) A student's ability to download, export or otherwise save or maintain the student's
33 own student-created data or documents.

34 (6) Nothing in this section may be construed to impose a duty on:

35 (a) A provider of an electronic store, gateway, marketplace or other means of purchasing
36 or downloading software or applications to review or enforce compliance of this section on
37 the software of applications.

38 (b) A provider of an interactive computer service or system to review or enforce com-
39 pliance with this section by third-party content providers.

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