HOUSE BILL NO. 1076  (Substitute for House Bill No. 946 by Representative Schroder)

BY REPRESENTATIVES SCHRODER, ADAMS, ANDERS, ARMES, ARNOLD, BADON, BARRAS, BARROW, BERTHELOT, BURFORD, CARMODY, CHAMPAGNE, COX, CROMER, GAROFALO, GISCLAIR, HARRIS, HAVARD, HENRY, HENSGENS, HODGES, HOFFMANN, HOLLIS, HOWARD, HUNTER, IVEY, KATRINA JACKSON, KLECKLEY, LORUSSO, MILLER, JAY MORRIS, NORTON, ORTEGO, PEARSON, POPE, PYLANT, REYNOLDS, RICHARD, RITCHIE, SEABAUGH, ST. GERMAIN, TALBOT, THIERRY, THOMPSON, WHITNEY, AND WILLMOTT AND SENATORS ALARIO, ALLAIN, AMEDEE, APPEL, BROWN, CHABERT, CLAITOR, CORTEZ, CROWE, DONAHUE, ERDEY, GILLORY, JOHNS, KOSTELKA, LAFLEUR, LONG, MARTINY, MILLS, MORRELL, NEVERS, PEACOCK, PERRY, RISER, GARY SMITH, JOHN SMITH, TARVER, THOMPSON, WALSWORTH, WARD, AND WHITE

AN ACT

To enact R.S. 17:3913 and 3996(B)(34), relative to student information; to limit the type of information to be collected on students; to prohibit the collection of certain information; to prohibit the sharing of student information; to provide exceptions; to provide for access by parents and specified others to certain student information stored in public school computer systems; to provide for student identification numbers; to provide definitions; to provide criminal penalties; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 17:3913 and 3996(B)(34) are hereby enacted to read as follows:

§3913. Student information; privacy; legislative intent; definitions; prohibitions; parental access; penalties

A. The legislature hereby declares that all personally identifiable information is protected as a right to privacy under the Constitution of Louisiana and the Constitution of the United States.

B.(1) For purposes of this Section, "personally identifiable information" is defined as information about an individual that can be used on its own or with other
information to identify, contact, or locate a single individual, including but not
limited to the following:

(a) Any information that can be used to distinguish or trace an individual's
identity such as full name, social security number, date and place of birth, mother's
maiden name, or biometric records.

(b) Any other information that is linked or linkable to an individual such as
medical, educational, financial, and employment information.

(c) Two or more pieces of information that separately or when linked
together can be used to reasonably ascertain the identity of the person.

(2) For purposes of this Section, “aggregate data” are statistics and other
information that relate to broad classes, groups, or categories from which it is not
possible to distinguish the identities of individuals.

(3) For purposes of this Section, “parent or legal guardian” shall mean a
student's parent, legal guardian, or other person responsible for the student.

C.(1) Notwithstanding any provision of this Subpart or any other law to the
contrary, no official or employee of a city, parish, or other local public school system
shall require the collection of any of the following student information unless
voluntarily disclosed by the parent or legal guardian:

(a) Political affiliations or beliefs of the student or the student's parent.

(b) Mental or psychological problems of the student or the student's family.

(c) Sexual behavior or attitudes.

(d) Illegal, anti-social, self-incriminating, or demeaning behavior.

(e) Critical appraisals of other individuals with whom a student has a close
family relationship.

(f) Legally recognized privileged or analogous relationships, such as those
of lawyers, physicians, and ministers.

(g) Religious practices, affiliations, or beliefs of the student or the student's
parent.

(h) Family income.

(i) Biometric information.
(j) Social security number.

(k) Gun ownership.

(l) Home Internet Protocol Address.

(m) External digital identity.

(2) Beginning June 1, 2015, no official or employee of a city, parish, or other local public school system shall provide personally identifiable student information to any member of the school board or to any other person or public or private entity, except such an official or employee may, in accordance with State Board of Elementary and Secondary Education regulation or applicable state and federal law:

(a) Provide a student's identification number as provided in Paragraph (3) of this Subsection and aggregate data to the local school board, the state Department of Education, or the State Board of Elementary and Secondary Education solely for the purpose of satisfying state and federal reporting requirements.

(b) Provide to the state Department of Education, for the purpose of satisfying state and federal assessment, auditing, funding, monitoring, program administration, and state accountability requirements, information from which enough personally identifiable information has been removed such that the remaining information does not identify a student and there is no basis to believe that the information alone can be used to identify a student. No official or employee of the state Department of Education shall share such information with any person or public or private entity located outside of Louisiana, other than for purposes of academic analysis of assessments.

(c) Provide personally identifiable information regarding a particular student to any person or public or private entity if the sharing of the particular information with the particular recipient of the information has been authorized in writing by the parent or legal guardian of the student, or by a student who has reached the age of legal majority, or if the information is provided to a person authorized by the state, including the legislative auditor, to audit processes including student enrollment counts. Any recipient of such information shall maintain the confidentiality of such information. Any person who knowingly and willingly fails to maintain the
confidentiality of such information shall be subject to the penalties provided in
Subsection G of this Section.

(d) Provide for the transfer of student information pursuant to the provisions
of R.S. 17:112.

(3) By not later than May 1, 2015, the state Department of Education shall
develop a system of unique student identification numbers. By not later than June
1, 2015, each local public school board shall assign such a number to every student
enrolled in a public elementary or secondary school. Student identification numbers
shall not include or be based on social security numbers, and a student shall retain
his student identification number for his tenure in Louisiana public elementary and
secondary schools.

D.(1) Except as provided in Paragraphs (2) and (3) of this Subsection, no
person or public or private entity shall access a public school computer system on
which student information is stored. No official or employee of a public school
system shall authorize access to such a computer system to any person or public or
private entity except as authorized by Paragraphs (2) and (3) of this Subsection.

(2) The following persons may access a public school computer system on
which student information for students at a particular school is stored:

(a) A student who has reached the age of eighteen or is judicially
emancipated or emancipated by marriage and the parent or legal guardian of a
student who is under the age of eighteen and not emancipated. For a student who has
reached the age of eighteen or is emancipated, such access is limited to information
about the student. For the parent or legal guardian of a student who has not reached
the age of eighteen and is not emancipated, such access shall be limited to
information about the student. A student who has reached the age of eighteen or is
emancipated and the parent or legal guardian of a student who has not reached the
age of eighteen and is not emancipated may authorize, in writing, another person to
access such information.

(b) A teacher of record. Such access shall be limited to information about
his current students.
(c) The school principal and school registrar.

(d) A school system employee employed at the school and designated by the principal. Such access shall be limited to student information necessary to perform his duties.

(e) A person authorized by the superintendent to maintain or repair the computer system or to provide services that the school system would otherwise provide.

(f) A person authorized by the state to audit student records.

(3) The following persons may access a computer system of a city, parish, or other local public school system on which student information for students from throughout the system is stored:

(a) The superintendent of the school system.

(b) A school system employee designated by the superintendent. Such access shall be limited to student information necessary to perform his duties.

(c) A person authorized by the superintendent to maintain or repair the computer system or to provide services that the school system would otherwise provide.

(d) A person authorized by the state to audit student records.

(4) Any person who is authorized by this Subsection to access a public school computer system, except a parent or legal guardian, shall maintain the confidentiality of any student information to which he has access. Failure to maintain the confidentiality of such information is punishable as provided in Subsection G of this Section.

E.(1) No person who has access to student information shall convert the student information as specified in Subparagraph (C)(2)(b) of this Section such that the remaining information can be used to identify a student.

(2) The State Board of Elementary and Secondary Education and the state Department of Education shall not require a city, parish, or other local public school system to limit a student’s learning opportunity or opportunities to explore any occupation based upon predictive modeling.
F. (1) A city, parish, or other local public school board may contract with a private entity for student and other education services, and pursuant to such contract, student information, including personally identifiable information and cumulative records, may be transferred to computers operated and maintained by the private entity for such purpose.

(2) No contractor pursuant to this Subsection shall allow access to, release, or allow the release of student information to any person or entity except as specified in the contract.

(3) A contract pursuant to this Subsection shall include requirements regarding the protection of student information which at a minimum include provision for all of the following:

(a) Guidelines for authorizing access to computer systems on which student information is stored including guidelines for authentication of authorized access.

(b) Privacy compliance standards.

(c) Privacy and security audits performed under the direction of the local school superintendent.

(d) Breach planning, notification, and remediation procedures.

(e) Information storage, retention, and disposition policies.

(f) Disposal of all information from the servers of the contractor upon termination of the contract, unless otherwise directed by an applicable legal requirement or otherwise specified in the contract and subject to the privacy protection provisions of this Part. Upon termination of the contract, all information removed from the contractor’s servers shall be returned to the city, parish, or other local public school board.

(4) Any person who knowingly and willingly violates the provisions of this Subsection shall be fined not more than ten thousand dollars or imprisoned for not more than three years, or both.

G. Except as provided in Paragraph (F)(4) of this Section, a person who violates any provision of this Section shall be punished by imprisonment for not more than six months or by a fine of not more than ten thousand dollars.
H. Nothing is this Section shall prohibit a school system employee employed at the school and a person authorized by the superintendent of the school system from having access to a student's records as may be necessary to perform his duties.

I. The provisions of this Part shall apply to each charter school, its governing authority, and any education management organization under contract to operate a charter school.

J.(1) No city, parish, or other local public school system, local or state governmental agency, public or private entity, or any person with access to personally identifiable student information shall sell, transfer, share, or process any student data for use in commercial advertising, or marketing, or any other commercial purpose, unless otherwise stipulated in a contract for services as provided in Subsection (F) of this Section.

(2) The provisions of Paragraph (1) of this Subsection shall not apply to a student's parent or legal guardian, or a student who has reached the legal age of majority.

K.(1) Notwithstanding any provision of this Part to the contrary, the governing authority of each public school, with the permission of a student's parent or legal guardian, shall collect the following personally identifiable information for each student enrolled in grades eight through twelve:

(a) Full name.

(b) Date of birth.

(c) Social security number.

(d) Student transcript data.

(2) The governing authority of a public school shall disclose the information collected pursuant to Paragraph (1) of this Subsection, upon request, only to a Louisiana postsecondary educational institution, to be used solely for the purpose of processing applications for admission, and to the Office of Student Financial Assistance, to be used solely for the purpose of processing applications made to the office for state and federal grant and for required grant program reporting.
(3)(a) Beginning in the eighth grade, the governing authority of each public school shall annually, at the beginning of each school year, provide a form to be signed by the parent or legal guardian of each student enrolled in the school, whereby the student's parent or legal guardian may provide consent or deny consent for the collection and disclosure of the student's information as provided in Paragraphs (1) and (2) of this Subsection.

(b) No data shall be collected pursuant to this Subsection, unless a student's parent or legal guardian provides written consent.

(c) The form will contain the following:

(i) A statement notifying the student's parent or legal guardian exactly what items of student information will be collected and that disclosure of the student information collected will be restricted to Louisiana postsecondary educational institutions and the Office of Student Financial Assistance to be used solely for the purpose of processing applications for admission and for state and federal financial aid.

(ii) A statement whereby a student's parent or legal guardian acknowledges that failure to provide written consent for the collection and disclosure of the student's information as provided in this Subsection may result in delays or may prevent successful application for admission to a postsecondary educational institution and for state and federal student financial aid. This statement shall be displayed prominently and shall be printed in bold type.

(4) The governing authority of each public school, each Louisiana postsecondary educational institution, and the Office of Student Financial Assistance shall destroy all data collected for purposes of this Subsection not later than five years after the student graduates, unless otherwise required by state or federal law or regulation.

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CODING: Words in struck through type are deletions from existing law; words underscored are additions.
§3996. Charter schools; exemptions; requirements

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B. Notwithstanding any state law, rule, or regulation to the contrary and except as may be otherwise specifically provided for in an approved charter, a charter school established and operated in accordance with the provisions of this Chapter and its approved charter and the school’s officers and employees shall be exempt from all statutory mandates or other statutory requirements that are applicable to public schools and to public school officers and employees except for the following laws otherwise applicable to public schools with the same grades:

* * *

(34) Student information, R.S. 17:3913.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____________________