S-0754.1

SENATE BILL 5316

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1   AN ACT Relating to privacy and security of personally
2 identifiable student information; amending RCW 28A.300.500,
3 28A.300.507, 28A.320.035, and 28A.605.030; adding a new section to
4 chapter 28A.300 RCW; adding a new section to chapter 28A.310 RCW;
5 adding a new section to chapter 28A.320 RCW; and creating a new
6 section.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8   NEW SECTION. **Sec. 1.** The legislature finds that the use of
9 education data and new technologies hold incredible promise for
10 improving the educational experiences and outcomes of students. The
11 legislature further finds that personally identifiable student
12 information demands highly effective privacy and security safeguards.
13 The legislature intends to promote appropriate use of education data
14 by enacting safeguards to ensure that personally identifiable student
15 information is protected and individual expectations of privacy are
16 honored.

17   NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.300
18 RCW to read as follows:
19   The superintendent of public instruction, or any employee or
20 contractor of the superintendent, shall not collect, retain, or use

in any manner, student biometric information. For the purposes of
this section, "biometric information" includes, but is not limited
to, a fingerprint or hand scan, a retina or iris scan, a voice print,
or a facial geometry scan of a student.

Sec. 3. RCW 28A.300.500 and 2007 c 401 s 2 are each amended to
read as follows:

(1) The office of the superintendent of public instruction is
authorized to establish a longitudinal student data system for and on
behalf of school districts in the state. The primary purpose of the
data system is to better aid research into programs and interventions
that are most effective in improving student performance, better
understand the state's public educator workforce, and provide
information on areas within the educational system that need
improvement.

(2) The confidentiality of personally identifiable student data
shall be safeguarded consistent with the requirements of the federal
family educational rights privacy act and applicable state laws.
Consistent with the provisions of these federal and state laws, data
may be disclosed for educational purposes and studies, including but
not limited to:

(a) Educational studies authorized or mandated by the state
legislature;

(b) Studies initiated by other state educational authorities and
authorized by the office of the superintendent of public instruction,
including analysis conducted by the education data center established
under RCW 43.41.400; and

(c) Studies initiated by other public or private agencies and
organizations and authorized by the office of the superintendent of
public instruction.

(3) The office of the superintendent of public instruction shall
grant parents and legal guardians access to any student record that
is a record of a child of the parent or a child in the care of the
legal guardian, including records that contain personally
identifiable data, unless the student is age eighteen or older.
Personally identifiable student-level data must not be disclosed to
any other third party unless the disclosure is necessary to meet a
legitimate need for the data to support the individual's professional
role.

(4) Any public agency or organization or any private contractor
or vendor, that is authorized by the office of the superintendent of
public instruction to access student-level data shall adhere to all
federal and state laws protecting student data and safeguarding the
confidentiality and privacy of student records. All public agencies
or organizations and private contractors or vendors, that receive
personally identifiable student-level data shall ensure the
following:
     (a) All personally identifiable student data must be used solely
for the purpose for which the disclosure was specifically intended;
     (b) No personally identifiable student-level data may be used for
marketing, commercial, or advertising purposes;
     (c) All personally identifiable student-level data, including
backup copies, must be destroyed when the data is no longer needed,
or upon agreement or contract termination, or project completion;
     (d) Parents and legal guardians must be granted access to any
student record that is a record of a child of the parent or a child
in the care of the legal guardian;
     (e) A record must be kept of any requests for access to the
personally identifiable student-level data;
     (f) No personally identifiable student-level data may be
disclosed to any other individual or entity without the prior written
consent of the parent, legal guardian, or student if the student is
over the age of eighteen.
     (((4))) (5) Nothing in this section precludes the office of the
superintendent of public instruction from collecting and distributing
aggregate data about students or student-level data without
personally identifiable information.

     Sec. 4. RCW 28A.300.507 and 2009 c 548 s 203 are each amended to
read as follows:
     (1) A K-12 data governance group shall be established within the
office of the superintendent of public instruction to assist in the
design and implementation of a K-12 education data improvement system
for financial, student, and educator data. It is the intent that the
data system reporting specifically serve requirements for teachers,
parents, superintendents, school boards, the office of the
superintendent of public instruction, the legislature, and the
public.

1   (2) The K-12 data governance group shall include representatives
2 of the education data center, the office of the superintendent of
3 public instruction, the legislative evaluation and accountability
4 program committee, the professional educator standards board, the
5 state board of education, and school district staff, including
6 information technology staff. Additional entities with expertise in
7 education data may be included in the K-12 data governance group.
8   (3) The K-12 data governance group shall:
9   (a) Develop a detailed data security plan and procedures to
10 govern the use and maintenance of data systems, including ensuring
11 the use of appropriate administrative, physical, and technical
12 safeguards for electronic and physical personally identifiable
13 student-level data at the state level; and develop a model plan for
14 school districts to use to safeguard personally identifiable student-
15 level data at the school district level;
16   (b) Identify the critical research and policy questions that need
17 to be addressed by the K-12 education data improvement system;
18   (((b))) (c) Identify reports and other information that should be
19 made available on the internet in addition to the reports identified
20 in subsection (5) of this section;
21   (((c))) (d) Create a comprehensive needs requirement document
22 detailing the specific information and technical capacity needed by
23 school districts and the state to meet the legislature's expectations
24 for a comprehensive K-12 education data improvement system as
25 described under RCW 28A.655.210;
26   (((d))) (e) Conduct a gap analysis of current and planned
27 information compared to the needs requirement document, including an
28 analysis of the strengths and limitations of an education data system
29 and programs currently used by school districts and the state, and
30 specifically the gap analysis must look at the extent to which the
31 existing data can be transformed into canonical form and where
32 existing software can be used to meet the needs requirement document;
33   (((e))) (f) Focus on financial and cost data necessary to support
34 the new K-12 financial models and funding formulas, including any
35 necessary changes to school district budgeting and accounting, and on
36 assuring the capacity to link data across financial, student, and
37 educator systems; and
38   (((f))) (g) Define the operating rules and governance structure
39 for K-12 data collections, ensuring that data systems are flexible
40 and able to adapt to evolving needs for information, within an

objective and orderly data governance process for determining when
changes are needed and how to implement them. Strong consideration
must be made to the current practice and cost of migration to new
requirements. The operating rules should delineate the coordination,
delegation, and escalation authority for data collection issues,
business rules, and performance goals for each K-12 data collection
system, including:

(i) Defining and maintaining standards for privacy and
confidentiality;

(ii) Setting data collection priorities;

(iii) Defining and updating a standard data dictionary;

(iv) Ensuring data compliance with the data dictionary;

(v) Ensuring data accuracy; and

(vi) Establishing minimum standards for school, student,
financial, and teacher data systems. Data elements may be specified
"to the extent feasible" or "to the extent available" to collect more
and better data sets from districts with more flexible software.
Nothing in RCW 43.41.400, this section, or RCW 28A.655.210 should be
construed to require that a data dictionary or reporting should be
hobbled to the lowest common set. The work of the K-12 data
governance group must specify which data are desirable. Districts
that can meet these requirements shall report the desirable data.
Funding from the legislature must establish which subset data are
absolutely required.

(4)(a) The K-12 data governance group shall provide updates on
its work as requested by the education data center and the
legislative evaluation and accountability program committee.

(b) The work of the K-12 data governance group shall be
periodically reviewed and monitored by the educational data center
and the legislative evaluation and accountability program committee.

(5) To the extent data is available, the office of the
superintendent of public instruction shall make the following minimum
reports available on the internet. The reports must either be run on
demand against current data, or, if a static report, must have been
run against the most recent data:

(a) The percentage of data compliance and data accuracy by school
district;

(b) The magnitude of spending per student, by student estimated
by the following algorithm and reported as the detailed summation of
the following components:

1   (i) An approximate, prorated fraction of each teacher or human
2 resource element that directly serves the student. Each human
3 resource element must be listed or accessible through online
4 tunneling in the report;
5   (ii) An approximate, prorated fraction of classroom or building
6 costs used by the student;
7   (iii) An approximate, prorated fraction of transportation costs
8 used by the student; and
9   (iv) An approximate, prorated fraction of all other resources
10 within the district. District-wide components should be disaggregated
11 to the extent that it is sensible and economical;
12   (c) The cost of K-12 basic education, per student, by student, by
13 school district, estimated by the algorithm in (b) of this
14 subsection, and reported in the same manner as required in (b) of
15 this subsection;
16   (d) The cost of K-12 special education services per student, by
17 student receiving those services, by school district, estimated by
18 the algorithm in (b) of this subsection, and reported in the same
19 manner as required in (b) of this subsection;
20   (e) Improvement on the statewide assessments computed as both a
21 percentage change and absolute change on a scale score metric by
22 district, by school, and by teacher that can also be filtered by a
23 student's length of full-time enrollment within the school district;
24   (f) Number of K-12 students per classroom teacher on a per
25 teacher basis;
26   (g) Number of K-12 classroom teachers per student on a per
27 student basis;
28   (h) Percentage of a classroom teacher per student on a per
29 student basis; and
30   (i) The cost of K-12 education per student by school district
31 sorted by federal, state, and local dollars.
32   (6) The superintendent of public instruction shall submit a
33 preliminary report to the legislature by November 15, 2009, including
34 the analyses by the K-12 data governance group under subsection (3)
35 of this section and preliminary options for addressing identified
36 gaps. A final report, including a proposed phase-in plan and
37 preliminary cost estimates for implementation of a comprehensive data
38 improvement system for financial, student, and educator data shall be
39 submitted to the legislature by September 1, 2010.

(7) All reports and data referenced in this section and RCW
43.41.400 and 28A.655.210 shall be made available in a manner
consistent with the technical requirements of the legislative
evaluation and accountability program committee and the education
data center so that selected data can be provided to the legislature,
governor, school districts, and the public.

(8) Reports shall contain data to the extent it is available. All
reports must include documentation of which data are not available or
are estimated. Reports must not be suppressed because of poor data
accuracy or completeness. Reports may be accompanied with
documentation to inform the reader of why some data are missing or
inaccurate or estimated.

NEW SECTION. **Sec. 5.** A new section is added to chapter 28A.310
RCW to read as follows:

No educational service district board of directors, employee, or
contractor may collect, retain, or use in any manner, student
biometric information. For the purposes of this section, "biometric
information" includes, but is not limited to, a fingerprint or hand
scan, a retina or iris scan, a voice print, or a facial geometry scan
of a student.

Sec. 6. RCW 28A.320.035 and 1997 c 267 s 1 are each amended to
read as follows:

(1)(a) The board of directors of a school district may contract
with other school districts, educational service districts, public or
private organizations, agencies, schools, or individuals to implement
the board's powers and duties. The board of directors of a school
district may contract for goods and services, including but not
limited to contracts for goods and services as specifically
authorized in statute or rule, as well as other educational,
instructional, and specialized services. When a school district board
of directors contracts for educational, instructional, or specialized
services, the purpose of the contract must be to improve student
learning or achievement.

(((2))) (b) A contract under ((subsection (1) of)) this section
may not be made with a religious or sectarian organization or school
where the contract would violate the state or federal Constitution.

(c) Personally identifiable student-level data may be disclosed
to a third party only if the disclosure is necessary to meet a

legitimate need for the data to support the individual's professional role.

(d) Any public agency or organization or any private contractor or vendor, that is authorized by the school district board of directors to access student-level data must adhere to all federal and state laws protecting student data and safeguarding the confidentiality and privacy of student records. All public agencies or organizations and private contractors or vendors, that receive personally identifiable student-level data shall ensure the following:

(i) All personally identifiable student-level data shall be used solely for the purpose for which the disclosure was specifically intended;

(ii) No personally identifiable student-level data may be sold or used for marketing, commercial, or advertising purposes;

(iii) All personally identifiable student-level data, including backup copies, must be destroyed when the data is no longer needed, or upon agreement or contract termination, or project completion;

(iv) Parents and legal guardians must be granted access to any student record that is a record of a child of the parent or a child in the care of the legal guardian;

(v) A record must be kept of any requests for access to the personally identifiable student-level data;

(vi) No personally identifiable student-level data shall be disclosed to any other individual or entity without the prior written consent of the parent, legal guardian, or student if the student is over the age of eighteen.

(2) Nothing in this section precludes the school district from collecting and distributing aggregate data about students or student-level data without personally identifiable information.

NEW SECTION. **Sec. 7.** A new section is added to chapter 28A.320 RCW to read as follows:

No school district board of directors, employee, or contractor may collect, retain, or use in any manner, student biometric information. For the purposes of this section, "biometric information" includes, but is not limited to, a fingerprint or hand scan, a retina or iris scan, a voice print, or a facial geometry scan of a student.

1   **Sec. 8.** RCW 28A.605.030 and 1997 c 119 s 1 are each amended to
2   read as follows:
3   (1) The parent or guardian of a student who is or has been in
4   attendance at a school has the right to review all education records
5   of the student. A school may not release the education records of a
6   student without the written consent of the student's parent or
7   guardian, except as authorized by RCW 28A.600.475 and the family
8   educational and privacy rights act of 1974, 20 U.S.C. Sec. 1232g.
9   (2) The board of directors of each school district shall
10   establish a procedure for:
11   ((~~(1)~~)) (a) Granting the request by a parent or guardian for
12   access to the education records of his or her child that provides
13   that:
14   (i) Records shall be provided electronically, if practicable;
15   (ii) No fee may be charged for the inspection of records; and
16   (iii) If the records are provided in a nonelectronic format, then
17   the school district may impose a reasonable charge to cover the
18   actual costs directly incident to the copying; and
19   ((~~(2)~~)) (b) Prohibiting the release of student information
20   without the written consent of the student's parent or guardian,
21   after the parent or guardian has been informed what information is
22   being requested, who is requesting the information and why, and what
23   will be done with the information.
24   (3) The procedure adopted by the school district must be in
25   compliance with the family educational and privacy rights act of
26   1974, 20 U.S.C. Sec. 1232g.

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