

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 819

97TH GENERAL ASSEMBLY

Reported from the Committee on Governmental Accountability and Fiscal Oversight, April 1, 2014, with recommendation that the Senate Committee Substitute do pass.

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TERRY L. SPIELER, Secretary.

AN ACT

To amend chapter 160, RSMo, by adding thereto sixteen new sections relating to protecting personal privacy from government intrusion, with penalty provisions and an emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 160, RSMo, is amended by adding thereto sixteen new sections, to be known as sections 160.1500, 160.1503, 160.1506, 160.1509, 160.1512, 160.1515, 160.1518, 160.1521, 160.1524, 160.1527, 160.1530, 160.1533, 160.1536, 160.1539, 160.1542, and 160.1545, to read as follows:

160.1500. 1. As used in sections 160.1500 to 160.1545, the following terms shall mean:

(1) "Affective computing", systems and devices that can or attempt to recognize, interpret, process, or simulate aspects of human feelings or emotions;

(2) "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, voice prints, DNA sequence, including newborn screening information, facial characteristics, and handwriting;

(3) "Cloud computing service", a service that enables on-demand network access to a shared pool of configurable computing resources, including but not limited to networks, servers, storage, applications, and services to provide a student, teacher, or staff member account-based productivity applications, including but not limited to email, document storage and document editing that can be rapidly provisioned and released with minimal management effort, or cloud-

18 **computing service-provider interaction. A cloud computing service has**
19 **the characteristics of on-demand self-service, broad network access,**
20 **resource pooling, rapid elasticity, and measured service;**

21 **(4) "Cloud computing service provider", an entity, other than an**
22 **education institution, that operates a cloud computing service;**

23 **(5) "Department", the department of elementary and secondary**
24 **education;**

25 **(6) "Education institution" or "institution", any school district,**
26 **charter school, private school, community college, and any public or**
27 **private institution of higher education;**

28 **(7) "Education program", a program of instruction administered**
29 **by an education institution within this state;**

30 **(8) "Interpersonal resources" or "interpersonal skills",**
31 **noncognitive, emotional, and psychological characteristics and**
32 **attributes and skills used to manage relationships and interactions**
33 **among or between individuals;**

34 **(9) "Intrapersonal resources" or "intrapersonal skills",**
35 **noncognitive, emotional, and psychological characteristics and**
36 **attributes used to manage emotions and attitudes within an individual;**

37 **(10) "Predictive modeling", the use of educational data-mining**
38 **methods to make predictions about future behaviors or performance;**

39 **(11) "Process" or "processing", to use, access, manipulate, scan,**
40 **modify, transform, disclose, store, transmit, transfer, retain, aggregate,**
41 **or dispose of student or teacher data;**

42 **(12) "Psychological resources", noncognitive, emotional**
43 **characteristics, attributes, and skills, including mindsets, learning**
44 **strategies, and effortful control, used by an individual to address or**
45 **manage various life situations;**

46 **(13) "State agency" or "state agencies", the department, the**
47 **department of higher education, the state board of education, the P-20**
48 **Council, the coordinating board for early childhood, the coordinating**
49 **board for higher education, and companion student-finance agencies,**
50 **any regional education service agency, any other state education entity,**
51 **or any entity with which a state agency has entered into an agreement**
52 **for the sharing of agency data;**

53 **(14) "Student database", the Missouri Student Information System**
54 **(MOSIS), as well as any other data system or data warehouse**

55 containing student information, including regional, interstate, or
56 federal data warehouse organizations under contract to or with a
57 memorandum of understanding with the department;

58 (15) "Teacher records", shall apply to teachers, paraprofessionals,
59 principals, and other administrators and shall mean the following:

60 (a) Address;

61 (b) Birthdate;

62 (c) Compensation information;

63 (d) Email address;

64 (e) Name;

65 (f) Performance evaluations;

66 (g) Resume information;

67 (h) Social Security number;

68 (i) Telephone number; and

69 (j) Other information that, alone or in combination, is linked or
70 linkable to a specific staff member that would allow a reasonable
71 person in the school community, who does not have personal knowledge
72 of the relevant circumstances, to identify the staff member with
73 reasonable certainty;

74 (16) "Track", to collect and maintain records of a student's
75 activities once the student exits the education system, including but not
76 limited to the student's entrance into and progression through the
77 workforce or the military;

78 (17) "Workforce information", information related to
79 unemployment insurance, wage records, unemployment insurance
80 benefit claims, or employment and earnings data from workforce data
81 sources, such as state wage records, wage record interchange system,
82 or the federal employment data exchange system;

83 (18) "Written consent", written consent given within six months
84 before the data collection or disclosure consented to, specifically
85 referencing that data collection or disclosure, and dated and signed on
86 the same day.

87 2. As used in sections 160.1500 to 160.1545, the following terms
88 shall have the same meaning as defined in 34 C.F.R. §99.3:

89 (1) "Disclosure";

90 (2) "Education records";

91 (3) "Eligible student";

- 92 (4) "Parent";
93 (5) "Party";
94 (6) "Personally identifiable information";
95 (7) "Record"; and
96 (8) "Student".

160.1503. 1. Student data collected by any state agency or
2 education institution without the written consent of parents for any
3 student under the age of eighteen or eligible students shall be limited
4 to the following:

- 5 (1) Name, address, email address, and family contact
6 information;
7 (2) Assessment results of the statewide assessment system;
8 (3) Course taking and completion, credits earned, course grades,
9 grade point average, date of birth, grade level, and expected graduation
10 date and graduation cohort;
11 (4) Degree, diploma, or credential attainment;
12 (5) Enrollment, attendance, and transfers;
13 (6) Medical, health, and mental-health records limited to
14 immunization records required by state law, records needed or created
15 by a school-based health professional for administering prescription
16 drugs or otherwise treating a student at school, records needed or
17 created by a school-based counselor when a student seeks counseling
18 while at school, or records required by the Individuals with Disabilities
19 Education Act or section 504 of the Rehabilitation Act;
20 (7) Discipline reports limited to objective information about
21 disciplinary incidents or required to be disclosed to appropriate law
22 enforcement authorities under section 160.261 or, for institutions of
23 higher education, objective information sufficient to produce the Title
24 IV Annual Incident Report pursuant to the Clery Act, 20 U.S.C. Section
25 1092(f);
26 (8) Juvenile delinquency or other criminal or correctional
27 records if necessary to meet the educational needs of the student or to
28 ensure staff or student safety or that may be required to be provided
29 to appropriate law enforcement authorities under section 160.261,
30 provided that an institution of higher education may collect records
31 sufficient to produce the Title IV Annual Incident Report pursuant to
32 the Clery Act, 20 U.S.C. Section 1092(f), and may collect law

33 enforcement unit records in accordance with 34 C.F.R. §99.8;

34 (9) Remediation data;

35 (10) Special education data, limited to data required by the
36 Individuals with Disabilities Education Act or Section 504 of the
37 Rehabilitation Act;

38 (11) Demographic data, limited to that required by the federal
39 Elementary and Secondary Education Act, including race, economic
40 status, disability status, and English language proficiency status;

41 (12) Student workforce information, limited to information
42 related to work-study programs participated in for academic credit;

43 (13) Student or family Social Security numbers, only if needed
44 by an institution of higher education to comply with state or federal
45 law;

46 (14) Student or family income data, limited to data required by
47 law to determine eligibility to participate in or receive financial
48 assistance under a program; and

49 (15) Information about extracurricular activities, limited to
50 activities that are school-sponsored or engaged in for academic credit.

51 2. A state agency or education institution shall obtain written
52 consent from parents or eligible students as defined in subsection 2 of
53 section 160.1500 before collecting any data points other than those
54 listed in subsection 1 of this section, including but not limited to the
55 following:

56 (1) Medical, health information, including but not limited to
57 height, weight, and body mass index, and mental health records, except
58 as provided in subdivision (6) of subsection 1 of this section;

59 (2) Student or family workforce information, except as provided
60 in subdivision (12) of subsection 1 of this section;

61 (3) Student biometric records;

62 (4) Any data collected via affective computing, including analysis
63 of facial expressions, EEG brain wave patterns, skin conductance,
64 galvanic skin response, heart-rate variability, pulse, blood volume,
65 posture, and eye-tracking;

66 (5) Any data, including any data resulting from state or national
67 assessments, that measure psychological resources, mindsets, learning
68 strategies, effortful control, attributes, dispositions, social skills,
69 attitudes, or intrapersonal resources;

- 70 **(6) Any data collected through predictive modeling; and**
71 **(7) Information about student or family religious affiliation.**

72 **3. No funds, whether from federal Race to the Top grants,**
73 **American Reinvestment and Recovery Act funds, or any other source,**
74 **shall be used on construction, enhancement, or expansion of any data**
75 **system that does not comply with the provisions of section 160.1500 to**
76 **160.1545, or that is designed to track students beyond their K-12 or**
77 **postsecondary education careers or compile their personal,**
78 **nonacademic information beyond what is necessary for either**
79 **administrative functions directly related to the student's education, or**
80 **evaluation of academic programs and student progress.**

81 **4. No state agency or education institution shall pursue or accept**
82 **any grant, whether from the federal government or any private entity,**
83 **that would require collecting or reporting any types of data in violation**
84 **of this section.**

160.1506. 1. State agencies and education institutions shall
2 **publicly and conspicuously disclose on their websites the existence and**
3 **character of any personally identifiable information from education**
4 **records or teacher records maintained by the agencies or education**
5 **institutions, directly or through contracts with outside**
6 **parties. Education institutions shall annually notify parents, eligible**
7 **students, and teachers of this required website posting. State agencies**
8 **shall also provide annual electronic notification of this information to**
9 **the chairs of the senate education committee, house of representatives**
10 **elementary and secondary education committee, and the joint**
11 **committee on education. Such disclosure and electronic notifications**
12 **shall include the following:**

13 **(1) The legal authority that authorizes the establishment and**
14 **existence of the data repository;**

15 **(2) The principal purpose or purposes for which the information**
16 **is intended to be used;**

17 **(3) The categories of individuals on whom records are**
18 **maintained in the data repository;**

19 **(4) The categories of records maintained in the data repository;**

20 **(5) Each expected disclosure of the records contained in the data**
21 **repository, including the categories of recipients and the purpose of**
22 **such disclosure;**

23 **(6) The policies and practices of the state agency or education**
24 **institution regarding storage, retrievability, access controls, retention,**
25 **and disposal of the records;**

26 **(7) The title and business address of the official who is**
27 **responsible for the data repository, and the name and business address**
28 **of any contractor or other outside party maintaining the data**
29 **repository for or on behalf of the state agency or education institution;**

30 **(8) The procedures whereby parents or eligible students, or**
31 **teachers, can be notified at their request if the data repository contains**
32 **a record pertaining to that student or teacher; and**

33 **(9) The procedures whereby parents or eligible students, or**
34 **teachers, can be notified at their request how to gain access to any**
35 **record pertaining to that student or teacher contained in the data**
36 **repository, and how they can contest its content.**

37 **2. Upon request, parents and eligible students shall be provided**
38 **a printed copy of their education records that are held in an education**
39 **database, and shall have the right to correct those education records**
40 **in a manner that is consistent with requirements of state and federal**
41 **law.**

42 **3. State agencies shall use only aggregate data in published**
43 **reports.**

160.1509. No state or national student assessment shall be
2 **adopted or administered in this state by any school district or charter**
3 **school that collects any type of psychological data, including**
4 **assessment of noncognitive skills or attributes, psychological resources,**
5 **mindsets, learning strategies, effortful control, attitudes, dispositions,**
6 **social skills, or other interpersonal or intrapersonal resources.**

160.1512. No state agency, school board, or education institution
2 **offering grades prekindergarten through twelve shall administer any**
3 **student survey, assessment, analysis, evaluation, or similar instrument**
4 **that solicits information about the student or the student's family**
5 **concerning the following:**

6 **(1) Political affiliations or beliefs;**

7 **(2) Mental or psychological problems, psychological resources,**
8 **mindsets, learning strategies, effortful control, attributes, dispositions,**
9 **social skills, attitudes, or intrapersonal resources;**

10 **(3) Sexual behavior or attitudes;**

- 11 **(4) Illegal, antisocial, self-incriminating, or demeaning behavior;**
12 **(5) Critical appraisals of another individual with whom a student**
13 **has a close family relationship;**
14 **(6) Legally recognized privileged or analogous relationships,**
15 **such as those with a lawyer, physician, or clergy member;**
16 **(7) Religious practices, affiliations, or beliefs;**
17 **(8) Personal or family firearm ownership; or**
18 **(9) Income or other income-related information except that**
19 **which is required by law to determine eligibility to participate in or**
20 **receive financial assistance under a program.**

160.1515. 1. Subject to the exceptions contained in sections
2 **160.1500 to 160.1545, access to student education records in the student**
3 **database shall be restricted to the authorized representatives of the**
4 **department, state agency, or education institution who require such**
5 **access to perform their assigned duties. No party may be designated**
6 **an authorized representative unless that party is an employee of the**
7 **department, state agency, or education institution and is under the**
8 **direct control of the department, state agency, or education institution.**

2. Subject to the exceptions contained in sections 160.1500 to
10 **160.1545, no personally identifiable student or teacher data shall be**
11 **disclosed without the written consent of the parents for any student**
12 **under age of eighteen, eligible students as defined in subsection 2 of**
13 **section 160.1500, or of the affected teachers.**

3. The department shall develop and publish criteria for the
15 **approval of research-related data requests from state agencies, political**
16 **subdivisions, local governmental agencies, the general assembly,**
17 **academic researchers, and the public.**

4. Personally identifiable information from an education record
19 **of a student, or from teacher records, shall not be released to a party**
20 **conducting studies for or on behalf of the state agencies or education**
21 **institutions without the written consent of the parent or eligible**
22 **student, or of the affected teacher, except to develop, validate, or**
23 **administer assessments or administer student-aid programs. Any**
24 **outside party conducting such a study shall meet all the requirements**
25 **for contractors set forth in subsection 6 of this section.**

5. In conducting any audit or evaluation of an education
27 **program, or any compliance or enforcement activity in connection with**

28 legal requirements that relate to state or district supported education
29 programs, when such audit, evaluation, or activity involves access to
30 personally identifiable student or teacher data or information,
31 education records and teacher records may be released only to
32 authorized representatives of state agencies, school boards, or
33 institutions. No party may be designated an authorized representative
34 unless that party is an employee of the department, state agency, or
35 education institution and is under the direct control of the department,
36 state agency, or education institution.

37 6. State agencies, school boards, and institutions shall not
38 disclose personally identifiable information from education records or
39 teacher records without the written consent of parents or eligible
40 students or of the affected teachers, to a contractor, consultant, or
41 other party to whom the state agency, school board, or institution has
42 outsourced institutional services or functions unless that outside party:

43 (1) Performs an institutional service or function for which the
44 state agency, school board, or institution would otherwise use its
45 employees;

46 (2) Is under the direct control of the state agency, school board,
47 or institution with respect to the use and maintenance of education
48 records or teacher records;

49 (3) Limits internal access to education records or teacher
50 records to those individuals who require access to those records for
51 completion of the contract;

52 (4) Does not use the education records or teacher records for any
53 purposes other than those explicitly authorized in the contract;

54 (5) Does not disclose any personally identifiable information
55 from education records or teacher records to any other party:

56 (a) Without the written consent of the parent for any student
57 under the age of eighteen, eligible student, or the affected teacher; or

58 (b) Unless required by statute or court order and the party
59 provides a notice of the disclosure to the state agency, school board, or
60 institution that provided the information no later than the time the
61 information is disclosed, unless providing notice of the disclosure is
62 expressly prohibited by the statute or court order;

63 (6) Maintains reasonable administrative, technical, and physical
64 safeguards to protect the security, confidentiality, and integrity of the

65 personally identifiable student or teacher data in its custody;

66 (7) Uses encryption technologies to protect data while in motion
67 or in its custody from unauthorized disclosure using a technology or
68 methodology specified by the Secretary of the United States
69 Department of Health and Human Services in guidance issued under
70 section 13402(H)(2) of Public Law 111-5;

71 (8) Has sufficient administrative and technical procedures to
72 monitor continuously the security of personally identifiable student or
73 teacher data in its custody;

74 (9) Conducts a security audit annually and provides the results
75 of that audit to each state agency, school board, or institution that
76 provides education records or teacher records;

77 (10) Provides the state agency, school board, or institution with
78 a breach-remediation plan acceptable to the state agency, school board,
79 or institution before initial receipt of education records or teacher
80 records;

81 (11) Reports all suspected security breaches to the state agency,
82 school board, or institution that provided education records or teacher
83 records as soon as possible but not later than forty-eight hours after a
84 suspected breach was known or would have been known by exercising
85 reasonable diligence;

86 (12) Reports all actual security breaches to the state agency,
87 school board, or institution that provided education records as soon as
88 possible but not later than twenty-four hours after an actual breach
89 was known or would have been known by exercising reasonable
90 diligence;

91 (13) In the event of a security breach or unauthorized disclosure
92 of personally identifiable information, pays all costs and liabilities
93 incurred by the state agency, school board, or institution related to the
94 security breach or unauthorized disclosure, including but not limited
95 to the costs of responding to inquiries about the security breach or
96 unauthorized disclosure, of notifying subjects of personally identifiable
97 information about the breach, of mitigating the effects of the breach for
98 the subjects of the personally identifiable information, and of
99 investigating the cause or consequences of the security breach or
100 unauthorized disclosure; and

101 (14) Destroys or returns to the state agency, school board, or

102 institution all personally identifiable information in its custody upon
103 request and at the termination of the contract.

160.1518. In the event of a security breach or unauthorized
2 disclosure of personally identifiable student or teacher data, whether
3 by a state agency, school board, or education institution, or by a third
4 party given access to education records or teacher records pursuant to
5 section 160.1515, the state agency, school board, or education
6 institution shall:

- 7 (1) Immediately notify the subjects of the breach or disclosure;
- 8 (2) Report the breach or disclosure to the Family Policy
9 Compliance Office of the United States Department of Education; and
- 10 (3) Investigate the causes and consequences of the breach or
11 disclosure.

160.1521. 1. Personally identifiable information from education
2 records or teacher records shall not be disclosed to any party for a
3 commercial use, including but not limited to marketing products or
4 services, compilation of lists for sale or rental, development of products
5 or services, or creation of individual, household, or group profiles.

6 2. Any cloud computing service provider performing services for
7 a state agency or an education institution is prohibited from using
8 information from education records or teacher records, or information
9 relating to a student or created by a student through the use of a cloud
10 computing service, for any purpose other than providing the cloud
11 computing service to the state agency or education institution for
12 educational purposes and maintaining the integrity of that specific
13 service. Prohibited purposes for processing the information identified
14 in this subsection include, but are not limited to, the following:

- 15 (1) Online behavioral advertising;
- 16 (2) Creating or correcting an individual or household profile for
17 advertising, marketing, or similar commercial purposes;
- 18 (3) Analyzing information to facilitate the advertising, sale, or
19 marketing of a product or service;
- 20 (4) The sale of the information for any commercial purpose;
- 21 (5) Disclosing the information to any third party other than a
22 service provider that is performing services on behalf of the cloud
23 computing service provider and that is subject to all of the privacy and
24 data security restrictions that apply to the cloud computing service

25 provider; or

26 (6) Any other similar commercial for-profit activity; provided
27 however, that a cloud computing service provider may process or
28 monitor student data solely to provide such service to the state agency
29 or education institution and to maintain the integrity of such service.

30 3. Any cloud computing service provider that enters into an
31 agreement to provide cloud computing services to a state agency,
32 school board, or institution shall certify in writing to that state agency,
33 school board, or institution that:

34 (1) It shall comply with the terms and conditions set forth in
35 subsection 6 of section 160.1515; and

36 (2) The state agency, school board, or institution maintains
37 ownership of all student and teacher data.

38 4. Any student or teacher data stored by a cloud computing
39 service provider shall be stored within the boundaries of the United
40 States.

160.1524. No student data shall be used for predictive modeling
2 for detecting behaviors, beliefs, or value systems, or predicting or
3 forecasting student outcomes.

160.1527. There shall be no video monitoring of classrooms for
2 any purpose, including for teacher evaluation, without the approval of
3 the district's school board after public hearings and the written consent
4 of the teacher, of all eligible students, and of the parents of all students
5 in the classroom.

160.1530. Personally identifiable information from education
2 records or teacher records shall not be disclosed to any noneducation
3 government agency, including but not limited to the Missouri
4 department of labor and industrial relations, whether within or outside
5 the state, or to any party that intends to use or disclose the information
6 or data for the purpose of workforce development or economic
7 planning. Data linkages or sharing of data with other states without
8 expressed permission of the individuals affected are prohibited.

160.1533. 1. Personally identifiable information from education
2 records or teacher records may not be disclosed to any government
3 agency or other entity outside the state, except disclosure in the
4 following circumstances:

5 (1) To an institution attended by a student who has transferred

6 out of state;

7 (2) To an out-of-state program in which a student voluntarily
8 participates and for which such a data transfer is a condition or
9 requirement of participation; or

10 (3) When a student is classified as a "migrant" for federal
11 reporting purposes.

12 2. Any person performing work for a school district or charter
13 school for which teacher certification or administrator certification is
14 regularly required under the laws relating to the certification of
15 teachers or administrators shall be an employee of the school district
16 or charter school. All evaluations of any such person shall be
17 maintained in the teacher's or administrator's personnel file at the
18 office of the board of education and shall not be shared with any state
19 or federal agency.

160.1536. 1. No personally identifiable information from
2 education records or teacher records may be disclosed to any federal
3 agency, including the United States Department of Education or the
4 United States Department of Labor or their representatives, unless:

5 (1) Such disclosure is required by the United States Department
6 of Education as a condition of receiving a federal education grant;

7 (2) The United States Department of Education agrees in writing
8 to use the information from the education records or teacher records
9 only to evaluate the program or programs funded by the grant;

10 (3) The United States Department of Education agrees in writing
11 that the information shall not be used for any research beyond that
12 related to evaluation of the program or programs funded by the grant,
13 unless the parent or eligible student, or any teacher, whose information
14 or data shall be used for such evaluation affirmatively consents in
15 writing to that use;

16 (4) The United States Department of Education agrees in writing
17 to destroy the information or data upon completion of the evaluation
18 of the program or programs for which the information or data were
19 compiled; and

20 (5) The grant or program in connection with which the
21 information or data are required is one explicitly authorized by federal
22 statute or by federal rule properly promulgated under the federal
23 Administrative Procedure Act, 5 U.S.C. Section 500, et seq.

24 2. If the United States Department of Education requires, as a
25 condition of making a federal education grant, that the grant recipient
26 disclose student information or teacher data under circumstances that
27 do not comply with subdivision (1) of subsection 1 of this section, the
28 grant recipient shall obtain written consent from the parents of every
29 student, or from eligible students, whose information shall be disclosed,
30 or from every teacher whose data shall be disclosed.

31 3. If the United States Department of Education demands
32 personally identifiable student information, or teacher data, without
33 the written consent of the affected parents, eligible students, or
34 teachers, the grant recipient shall provide written notification to those
35 parents, eligible students, and teachers of the following:

36 (1) That the grant recipient has been required to disclose the
37 student's information or the teacher's data to the United States
38 Department of Education;

39 (2) That neither the grant recipient nor any other entity within
40 the state of Missouri shall have control over use or further disclosure
41 of that information or data; and

42 (3) The contact information, including the name, telephone
43 number, and email address of the United States Department of
44 Education official who demands the disclosure.

 160.1539. State agencies, school boards, or institutions shall not
2 disclose student or teacher information to any assessment consortium
3 of which the state is a member, or company with which the state
4 contracts for development or administration of any assessment, unless:

5 (1) The information is transmitted in nonindividual record
6 format;

7 (2) The information is limited to information directly related to
8 the assessment, such as a student's grade level and test scores; and

9 (3) No psychological information of any kind, including that
10 listed in section 160.1503, is included as part of the test scores.

 160.1542. An education institution shall destroy and remove from
2 the student database all education records of a student within five
3 years of the student's graduation from that institution, provided that
4 the institution may retain records showing dates of attendance,
5 diploma, or degree received and contact information. If a student
6 withdraws from an education institution before graduating, the

7 institution shall, within one year of the student's withdrawal, destroy
8 and remove from the database all education records of that student
9 except records showing dates of attendance.

160.1545. 1. Each violation of any provision of sections 160.1500
2 to 160.1545 by an organization or entity other than a state agency, a
3 school board, or an institution shall be punishable by a civil penalty of
4 up to one thousand dollars. A second violation by the same
5 organization or entity involving the education records and privacy of
6 the same student shall be punishable by a civil penalty of up to five
7 thousand dollars. Any subsequent violation by the same organization
8 or entity involving the education records and privacy of the same
9 student shall be punishable by a civil penalty of up to ten thousand
10 dollars. Each violation involving a different individual education
11 record or a different individual student shall be considered a separate
12 violation for purposes of civil penalties.

13 2. The attorney general shall have the authority to enforce
14 compliance with this section by investigation and subsequent
15 commencement of a civil action, to seek civil penalties for violations of
16 sections 160.1500 to 160.1545, and to seek appropriate injunctive relief,
17 including but not limited to a prohibition on obtaining personally
18 identifiable information for an appropriate time period. In carrying
19 out such investigation and in maintaining such civil action, the
20 attorney general or any deputy or assistant attorney general is
21 authorized to subpoena witnesses, compel their attendance, examine
22 them under oath, and require that any books, records, documents,
23 papers, or electronic records relevant to the inquiry be turned over for
24 inspection, examination, or audit. Subpoenas issued under this
25 subsection may be enforced pursuant to the Missouri rules of civil
26 procedure.

27 3. Nothing contained in this section shall be construed as
28 creating a private right of action against a state agency, a school board,
29 or an institution as defined in 160.1500.

Section B. Because of the immediate need to protect Missourians from
2 government intrusion and the immediate need to protect personal privacy in
3 Missouri, section A of this act is deemed necessary for the immediate preservation
4 of the public health, welfare, peace and safety, and is hereby declared to be an
5 emergency act within the meaning of the constitution, and section A of this act

6 shall be in full force and effect upon its passage and approval.

✓

Unofficial

Bill

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