

By the Committee on Education and Senator Clary

304-1852A-01

1 A bill to be entitled
2 An act relating to student records; amending s.
3 228.093, F.S.; revising terminology; revising
4 definitions; revising exceptions; providing
5 rights of students; revising the rights of
6 parents or eligible students; expanding the
7 right to a hearing; providing a penalty for
8 third-party violation; clarifying and revising
9 lawful release of records and directory
10 information in certain circumstances; expanding
11 notification requirements; authorizing the
12 release of personally identifiable student
13 records to the Department of Highway Safety and
14 Motor Vehicles for purposes of the compulsory
15 attendance driver's license eligibility
16 requirements, to the Department of Children and
17 Family Services for purposes of the Learnfare
18 program compulsory attendance requirements, to
19 the court in specific circumstances, and, with
20 respect to postsecondary institutions, to
21 certain victims; providing notification
22 requirements; providing for applicability to
23 records of other nonpublic institutions in
24 certain circumstances; amending s. 232.23,
25 F.S., relating to maintenance and transfer of
26 student records, to conform; reenacting ss.
27 229.57(6), 240.237, 240.323, 240.40401(3),
28 242.3315, 381.0056(5), 411.223(2), F.S.,
29 relating to student assessment, university
30 student records, community college student
31 records, student financial assistance, student

1 and employee personnel records, school health
2 services, and uniform standards, to incorporate
3 the amendment of s. 228.093, F.S.; providing an
4 effective date.

5
6 Be It Enacted by the Legislature of the State of Florida:

7
8 Section 1. Section 228.093, Florida Statutes, is
9 amended to read:

10 228.093 ~~Pupil and~~ Student records and reports; rights
11 of parents, ~~guardians, pupils,~~ and eligible students;
12 notification; penalty.--

13 (1) PURPOSE.--The purpose of this section is to
14 protect the rights of ~~pupils and~~ students and their parents ~~or~~
15 ~~guardians~~ with respect to ~~pupil and~~ student records and
16 reports as created, maintained, or ~~and~~ used by public
17 educational agencies or institutions in the state. The intent
18 of the Legislature is that ~~pupils and students and their~~
19 parents and eligible students ~~or guardians~~ shall have rights
20 of access, rights of challenge, rights of hearing, and rights
21 of privacy with respect to such records and reports, and that
22 rules shall be available for the exercise of these rights.

23 (2) DEFINITIONS.--As used in this section:

24 (a) "Chief executive officer" means that person,
25 whether elected or appointed, who is responsible for the
26 management and administration of any public educational body
27 or unit, or the chief executive officer's designee for ~~pupil~~
28 ~~or~~ student records; that is, the superintendent of a district
29 school system, the director of an ~~the~~ area technical center,
30 the president of a community college, or the president of an
31

1 institution in the State University System, or their
2 designees.

3 (b) "Dates of attendance" means the period of time
4 during which a student attends or attended an educational
5 agency or institution, such as the academic year, a spring
6 semester, or a first quarter. The term does not include
7 specific daily records of a student's attendance at an
8 educational agency or institution. ~~"Child" means any person~~
9 ~~who has not reached the age of majority.~~

10 (c) "Directory information" means information
11 contained in an educational record of a student which would
12 not generally be considered harmful or an invasion of privacy
13 if disclosed, including ~~includes~~ ~~the pupil's or student's~~
14 ~~name, address, telephone number if it is a listed number,~~
15 electronic mail address, photograph, ~~date and place of birth,~~
16 ~~major field of study, participation in officially recognized~~
17 ~~activities and sports, weight and height of members of~~
18 ~~athletic teams, dates of attendance, degrees, honors, and~~
19 ~~awards received, and the most recent~~ ~~previous~~ ~~educational~~
20 ~~agency or institution attended by the~~ ~~pupil or student.~~

21 (d) "Disciplinary action or proceeding" means the
22 investigation, adjudication, or imposition of sanctions by the
23 institution with respect to an infraction or violation of the
24 internal rules of conduct applicable to students of the
25 institution.

26 (e) "Disclosure" means to permit access to, or the
27 release, transfer, or other communication of, personally
28 identifiable information contained in education records to any
29 party, by any means, including oral, written, or electronic
30 means.

31

1 (f) "Eligible student" means a student who has reached
2 18 years of age or who is attending an institution of
3 postsecondary education.

4 (g) "Parent" means a parent of the student and
5 includes a natural parent, a guardian, or an individual acting
6 as a parent in the absence of a parent or a guardian.

7 (h) "Personally identifiable information" includes,
8 but is not limited to: the student's name; the name of the
9 student's parent or other family member; the address of the
10 student or student's family; a personal identifier, such as
11 the student's social security number; a list of personal
12 characteristics that would make the student's identity easily
13 traceable; or other information that would make the student's
14 identity easily traceable.

15 ~~(d) "Pupil" means any child who is enrolled in any~~
16 ~~instructional program or activity conducted under the~~
17 ~~authority and direction of a district school board.~~

18 (i)(e) "Records" and "reports" mean any and all
19 official records, files, and data directly related to a
20 student ~~pupils and students~~ which are created, maintained, or
21 and used by a public educational agency or institution
22 institutions, or by a party acting for the agency or
23 institution, including all material that is incorporated into
24 each ~~pupil's or~~ student's cumulative record folder and
25 intended for school use or to be available to parties outside
26 the school or school system for legitimate educational or
27 research purposes. Materials which shall be considered as
28 part of a ~~pupil's or~~ student's record include, but are not
29 necessarily limited to: identifying data, including a
30 student's social security number; academic work completed;
31 level of achievement records, including grades and

1 standardized achievement test scores; attendance data; scores
2 on standardized intelligence, aptitude, and psychological
3 tests; interest inventory results; health information data;
4 family background information; teacher or counselor ratings
5 and observations; verified reports of serious or recurrent
6 behavior patterns; and any other evidence, knowledge, or
7 information recorded in any medium, ~~including, but not limited~~
8 ~~to, handwriting, typewriting, print, magnetic tapes, film,~~
9 ~~microfilm, and microfiche,~~ and maintained or and used by an
10 educational agency or institution or by a person acting for
11 such agency or institution. However, the terms "records" and
12 "reports" do not include:

13 1. Records of instructional, supervisory, and
14 administrative personnel, and educational personnel ancillary
15 to those persons, that are kept in the sole possession of the
16 maker of the record, are used only as a personal memory aid,
17 ~~thereto, which records are in the sole possession of the maker~~
18 ~~thereof and are not accessible or revealed to any other person~~
19 ~~except a temporary substitute for the maker of the record any~~
20 ~~of such persons. An example of records of this type is~~
21 ~~instructor's grade books.~~

22 2. Records of law enforcement units of the institution
23 which are created by a law enforcement unit for a law
24 enforcement purpose, and maintained by the law enforcement
25 unit maintained solely for law enforcement purposes and which
26 ~~are not available to persons other than officials of the~~
27 ~~institution or law enforcement officials of the same~~
28 ~~jurisdiction in the exercise of that jurisdiction.~~

29 3. Records made and maintained by the institution in
30 the normal course of business which relate exclusively to an
31 individual ~~a pupil or student~~ in his or her capacity as an

1 employee and which are not available for use for any other
2 purpose. Records relating to an individual in attendance at
3 the institution who is employed as a result of his or her
4 status as a student are education records, and are included as
5 records and reports.

6 4. For eligible students, records created or
7 maintained by a physician, psychiatrist, psychologist, or
8 other recognized professional or paraprofessional acting in
9 his or her professional or paraprofessional capacity, or
10 assisting in that capacity, which are created, maintained, or
11 used only in connection with the provision of treatment to the
12 ~~pupil or student and which~~ are not available to anyone other
13 than persons providing such treatment. For the purpose of this
14 definition, "treatment" does not include remedial educational
15 activities or activities that are part of the program of
16 instruction at the institution. ~~However, such records shall be~~
17 ~~open to a physician or other appropriate professional of the~~
18 ~~pupil's or student's choice.~~

19 5. Directory information as defined in this section.

20 6. Records that only contain information about an
21 individual after he or she is no longer a student at that
22 institution.

23 ~~7.6.~~ Other information, files, or data which do not
24 permit the personal identification of a ~~pupil or student.~~

25 ~~8.7.~~ Letters or statements of recommendation or
26 evaluation which were confidential under Florida law and which
27 were received and made a part of the ~~pupil's or student's~~
28 educational records prior to July 1, 1977.

29 ~~9.8.~~ Copies of the ~~pupil's or student's~~ fingerprints.

30 No public educational institution shall maintain any report or
31 record relative to a ~~pupil or~~ student which includes a copy of

1 the ~~pupil's~~ or student's fingerprints, except as otherwise
2 provided by law.

3 (j)(f) "Student" means any child or adult who is
4 enrolled or who has been enrolled in any instructional program
5 or activity conducted under the authority ~~and direction~~ of an
6 institution comprising a part of the state system of public
7 education and with respect to whom an educational institution
8 maintains educational records and reports or personally
9 identifiable information, but does not include a person who
10 has not been in attendance as an enrollee at such institution.

11 (3) RIGHTS OF STUDENTS.--

12 (a) When a student becomes an eligible student, the
13 rights accorded to, and the consent required of, parents
14 transfer from the parents to the student.

15 (b) An individual who is or has been a student at an
16 educational institution and who applies for admission at
17 another component of that institution does not have rights
18 under this section with respect to records maintained by the
19 other component, including records maintained in connection
20 with the student's application for admission, unless the
21 student is accepted and attends that other component of the
22 institution.

23 (4)(3) RIGHTS OF PARENT, ~~GUARDIAN, PUPIL,~~ OR ELIGIBLE
24 STUDENT.--The parent ~~or guardian~~ of any ~~pupil~~ or student who
25 is not an eligible student, or an eligible student, who
26 attends or has attended any public school, area
27 vocational-technical training center, community college, or
28 institution of higher education in the State University System
29 shall have the following rights with respect to any records or
30 reports created, maintained, or ~~and~~ used by any public
31 educational agency or institution in the state. ~~However,~~

1 ~~whenever a pupil or student has attained 18 years of age, or~~
2 ~~is attending an institution of postsecondary education, the~~
3 ~~permission or consent required of, and the rights accorded to,~~
4 ~~the parents of the pupil or student shall thereafter be~~
5 ~~required of and accorded to the pupil or student only, unless~~
6 ~~the pupil or student is a dependent pupil or student of such~~
7 ~~parents as defined in 26 U.S.C. s. 152 (s. 152 of the Internal~~
8 ~~Revenue Code of 1954).~~The State Board of Education shall
9 ~~formulate, adopt, and promulgate~~ rules whereby parents,
10 ~~guardians, pupils, or~~ eligible students may exercise these
11 rights:

12 (a) Right of access.--

13 1. ~~The Such parent, guardian, pupil, or~~ eligible
14 student has ~~shall have~~ the right, upon request directed to the
15 appropriate school official, to be provided with a list of the
16 types of records and reports, directly related to ~~pupils or~~
17 students, as maintained by the institution which the ~~pupil or~~
18 student attends or has attended.

19 2. ~~The Such parent, guardian, pupil, or~~ eligible
20 student has ~~shall have~~ the right, upon request, to inspect and
21 review ~~be shown~~ any record or report relating to the such
22 ~~pupil or~~ student maintained by any public educational agency
23 or institution. When the record or report includes
24 information on more than one ~~pupil or~~ student, the parent,
25 ~~guardian, pupil, or~~ eligible student is ~~shall be~~ entitled to
26 receive, or be informed of, only that part of the record or
27 report which pertains to the ~~pupil or~~ student who is the
28 subject of the request. Upon a reasonable request ~~therefor,~~
29 the educational agency or institution shall furnish the such
30 parent, ~~guardian, pupil, or~~ eligible student with an
31 explanation or interpretation of any such record or report.

1 3. Copies of any list, record, or report requested
2 under the provisions of this paragraph shall be furnished to
3 the parent, ~~guardian, pupil,~~ or eligible student upon request.

4 4. The State Board of Education shall establish rules
5 to be followed by all public educational agencies and
6 institutions in granting requests for lists, or for access to
7 reports and records or for copies or explanations thereof
8 under this paragraph. However, access to any report or record
9 requested under the provisions of subparagraph 2. shall be
10 granted within 30 days after receipt of such request by the
11 institution. Fees may be charged for furnishing any copies of
12 reports or records requested under subparagraph 3., but such
13 fees shall not exceed the actual cost to the educational
14 agency or institution of producing the ~~such~~ copies.

15 (b) Right of waiver of access to confidential letters
16 or statements.--~~The~~ Such parent, ~~guardian, pupil,~~ or eligible
17 student has ~~shall have~~ the right to waive the right of access
18 to letters or statements of recommendation or evaluation,
19 except that such waiver shall apply to recommendations or
20 evaluations only if:

21 1. The parent, ~~guardian, pupil,~~ or eligible student
22 is, upon request, notified of the names of all persons
23 submitting confidential letters or statements; and

24 2. The ~~Such~~ recommendations or evaluations are used
25 solely for the purpose for which they were specifically
26 intended.

27
28 Such waivers may not be required as a condition for admission
29 to, receipt of financial aid from, or receipt of any other
30 services or benefits from, any public agency or public
31 educational institution in this state.

1 (c) Right to challenge ~~and hearing~~.--If a parent or
2 eligible student believes that the education records relating
3 to the student contain information that is inaccurate,
4 misleading, or in violation of the student's rights of
5 privacy, the parent or eligible student may ask the
6 educational agency or institution to amend the record. The
7 educational agency or institution shall decide whether to
8 amend the record as requested within a reasonable time after
9 the educational agency or institution receives the request. If
10 the parties agree to amend the record as requested, the
11 agreement shall be written and signed by the parties, and the
12 appropriate school officials shall take the necessary actions
13 to implement the agreement. If the educational agency or
14 institution decides not to amend the record as requested, it
15 shall inform the parent or eligible student of its decision
16 and of his or her right to a hearing under paragraph (d) and
17 rules adopted by the State Board of Education.~~Such parent,~~
18 ~~guardian, pupil, or student shall have the right to challenge~~
19 ~~the content of any record or report to which such person is~~
20 ~~granted access under paragraph (a), in order to ensure that~~
21 ~~the record or report is not inaccurate, misleading, or~~
22 ~~otherwise in violation of the privacy or other rights of the~~
23 ~~pupil or student and to provide an opportunity for the~~
24 ~~correction, deletion, or expunction of any inaccurate,~~
25 ~~misleading, or otherwise inappropriate data or material~~
26 ~~contained therein. Any challenge arising under the provisions~~
27 ~~of this paragraph may be settled through informal meetings or~~
28 ~~discussions between the parent, guardian, pupil, or student~~
29 ~~and appropriate officials of the educational institution. If~~
30 ~~the parties at such a meeting agree to make corrections, to~~
31 ~~make deletions, to expunge material, or to add a statement of~~

1 ~~explanation or rebuttal to the file, such agreement shall be~~
2 ~~reduced to writing and signed by the parties; and the~~
3 ~~appropriate school officials shall take the necessary actions~~
4 ~~to implement the agreement. If the parties cannot reach an~~
5 ~~agreement, upon the request of either party, a hearing shall~~
6 ~~be held on such challenge under rules promulgated by the State~~
7 ~~Board of Education. Upon the request of the parent, guardian,~~
8 ~~pupil, or student, the hearing shall be exempt from the~~
9 ~~requirements of s. 286.011. Such rules shall include at least~~
10 ~~the following provisions:~~

11 ~~1. The hearing shall be conducted within a reasonable~~
12 ~~period of time following the request for the hearing.~~

13 ~~2. The hearing shall be conducted, and the decision~~
14 ~~rendered, by an official of the educational institution or~~
15 ~~other party who does not have a direct interest in the outcome~~
16 ~~of the hearing.~~

17 ~~3. The parent, guardian, pupil, or student shall be~~
18 ~~afforded a full and fair opportunity to present evidence~~
19 ~~relevant to the issues raised under this paragraph.~~

20 ~~4. The decision shall be rendered in writing within a~~
21 ~~reasonable period of time after the conclusion of the hearing.~~

22 ~~5. The appropriate school officials shall take the~~
23 ~~necessary actions to implement the decision.~~

24 (d) Right to hearing.--

25 1. An educational agency or institution shall give a
26 parent or eligible student, upon request, an opportunity for a
27 hearing to challenge the content of the student's education
28 records on the grounds that the information contained in the
29 education records is inaccurate, misleading, or in violation
30 of the privacy rights of the student. Upon request of the
31

1 parent or eligible student, the hearing shall be exempt from
2 the requirements of s. 286.011.

3 2. If, as a result of the hearing, the educational
4 agency or institution decides that the information is
5 inaccurate, misleading, or otherwise in violation of the
6 privacy rights of the student, it shall amend the record
7 accordingly and inform the parent or eligible student in
8 writing.

9 3. If, as a result of the hearing, the educational
10 agency or institution decides that the information in the
11 education record is not inaccurate, misleading, or otherwise
12 in violation of the privacy rights of the student, it shall
13 inform the parent or eligible student of the right to place a
14 statement in the record commenting on the contested
15 information in the record or stating why he or she disagrees
16 with the decision of the agency or institution, or both.

17 4. If a parent or eligible student places a statement
18 in the education records of a student under subparagraph 3.,
19 the educational agency or institution shall maintain the
20 statement with the contested part of the record for as long as
21 the record is maintained, and disclose the statement whenever
22 it discloses the portion of the record to which the statement
23 relates.

24 5. A hearing under this paragraph must meet the
25 following requirements:

26 a. The educational agency or institution shall hold
27 the hearing within a reasonable time after it has received the
28 request for the hearing from the parent or eligible student.

29 b. The educational agency or institution shall give
30 the parent or eligible student notice of the date, time, and
31 place, reasonably in advance of the hearing.

1 c. The hearing may be conducted by any individual,
2 including an official of the educational agency or
3 institution, who does not have a direct interest in the
4 outcome of the hearing.

5 d. The educational agency or institution shall give
6 the parent or eligible student a full and fair opportunity to
7 present evidence relevant to the issues raised under this
8 paragraph. The parent or eligible student may, at his or her
9 own expense, be assisted or represented by one or more
10 individuals of his or her choice, including an attorney.

11 e. The educational agency or institution shall make
12 its decision in writing within a reasonable period of time
13 after the hearing.

14 f. The decision must be based solely on the evidence
15 presented at the hearing and must include a summary of the
16 evidence and the reasons for the decision.

17 g. The appropriate school officials shall take the
18 necessary actions to implement the decision.

19 (e)(d) Right of privacy.--Every pupil or student has
20 shall have a right of privacy with respect to the educational
21 records of the student kept on him or her. Personally
22 identifiable records or reports of a pupil or student, and any
23 personal information contained therein, are confidential and
24 exempt from the provisions of s. 119.07(1). No state or local
25 educational agency, board, public school, area technical
26 center, community college, or institution of higher education
27 in the State University System shall permit the release of
28 such records, reports, or information without the written
29 consent of the pupil's or student's parent or guardian, or of
30 the eligible pupil or student himself or herself if he or she
31 is qualified as provided in this subsection, to any

1 individual, agency, or organization. However, personally
2 identifiable records or reports of a ~~pupil or~~ student may be
3 released to the following persons or organizations without the
4 consent of the ~~pupil or the pupil's parent~~ or eligible
5 student:

6 1. Officials of schools, school systems, area
7 technical centers, community colleges, or institutions of
8 higher learning in which the ~~pupil or~~ student seeks or intends
9 to enroll; and a copy of such records or reports shall be
10 furnished to the parent, ~~guardian, pupil, or~~ eligible student
11 upon request.

12 2. Other school officials, including teachers within
13 the educational institution or agency, who have legitimate
14 educational interests in the information contained in the
15 records.

16 3. The United States Secretary of Education, ~~the~~
17 ~~Director of the National Institute of Education, the Assistant~~
18 ~~Secretary for Education,~~ the Comptroller General of the United
19 States, the Attorney General of the United States, or state or
20 local educational authorities who are authorized to receive
21 such information subject to the conditions set forth in
22 applicable federal statutes and regulations of the United
23 States Department of Education, or in applicable state
24 statutes and rules of the State Board of Education.

25 4. Relevant ~~Other school~~ officials, in connection with
26 ~~a pupil's or student's application for or receipt of~~ financial
27 aid for which the student has applied or which the student has
28 received, if the information is necessary to determine
29 eligibility for the aid, the amount of the aid, or the
30 conditions for the aid, or to enforce the terms and conditions
31 of the aid. For purposes of this subparagraph, "financial aid"

1 means a payment of funds provided to an individual or a
2 payment in kind of tangible or intangible property to the
3 individual that is conditioned on the individual's attendance
4 at an institution.

5 5. Individuals or organizations, including, but not
6 limited to, federal, state, and local agencies, and
7 independent organizations, conducting studies for or on behalf
8 of an educational agency or institution ~~or a board of~~
9 education for the purpose of developing, validating, or
10 administering predictive tests, administering ~~pupil or~~ student
11 aid programs, or improving instruction, if such studies are
12 conducted in such a manner as will not permit the personal
13 identification of ~~pupils or~~ students and their parents by
14 persons other than representatives of such organizations and
15 if such information will be destroyed when no longer needed
16 for the purpose of conducting such studies. If the United
17 States Department of Education Family Policy Compliance Office
18 determines that a third party that is outside the educational
19 agency or institution to whom information is disclosed under
20 this subparagraph violates this subparagraph, the agency or
21 institution may not allow that third party access to
22 personally identifiable information from education records for
23 at least 5 years.

24 6. Accrediting organizations, in order to carry out
25 their accrediting functions.

26 7. School readiness coalitions and the Florida
27 Partnership for School Readiness in order to carry out their
28 assigned duties.

29 8. For use as evidence in ~~pupil or~~ student expulsion
30 hearings conducted by a district school board pursuant to the
31 provisions of chapter 120.

1 9. Appropriate parties in connection with an
2 emergency, if knowledge of the information in the ~~pupil's or~~
3 student's educational records is necessary to protect the
4 health or safety of the ~~pupil, student, or~~ other individuals.

5 10. The Auditor General in connection with his or her
6 official functions; however, except when the collection of
7 personally identifiable information is specifically authorized
8 by law, any data collected by the Auditor General is
9 confidential and exempt from the provisions of s. 119.07(1)
10 and shall be protected in such a way as will not permit the
11 personal identification of students and their parents by other
12 than the Auditor General and his or her staff, and such
13 personally identifiable data shall be destroyed when no longer
14 needed for the Auditor General's official use.

15 11. ~~a.~~ A court of competent jurisdiction in compliance
16 with an order of that court or the attorney of record pursuant
17 to a lawfully issued subpoena, upon the condition that the
18 ~~pupil or student and the pupil's or~~ student's parent or
19 eligible student is ~~are~~ notified of the order or subpoena in
20 advance of compliance ~~therewith~~ by the educational institution
21 or agency so that the parent or eligible student may seek
22 protective action, unless the disclosure is in compliance with
23 a court order that the existence or the contents of the
24 subpoena or the information furnished in response to the
25 subpoena not be disclosed. If the educational agency or
26 institution initiates legal action against a parent or
27 student, and has complied with this subparagraph, it may
28 disclose the student's education records that are relevant to
29 the action to the court without a court order or subpoena.

30 ~~b.~~ A person or entity pursuant to a court of competent
31 jurisdiction ~~in compliance with an order of that court or the~~

1 ~~attorney of record pursuant to a lawfully issued subpoena,~~
2 ~~upon the condition that the pupil or student, or his or her~~
3 ~~parent if the pupil or student is either a minor and not~~
4 ~~attending an institution of postsecondary education or a~~
5 ~~dependent of such parent as defined in 26 U.S.C. s. 152 (s.~~
6 ~~152 of the Internal Revenue Code of 1954), is notified of the~~
7 ~~order or subpoena in advance of compliance therewith by the~~
8 ~~educational institution or agency.~~

9 12. Credit bureaus, in connection with an agreement
10 for financial aid which the student has executed, provided
11 that such information may be disclosed only to the extent
12 necessary to enforce the terms or conditions of the financial
13 aid agreement. Credit bureaus shall not release any
14 information obtained pursuant to this paragraph to any person.

15 13. Parties to an interagency agreement among the
16 Departments ~~Department~~ of Children and Family Services or
17 Juvenile Justice, school and law enforcement authorities, and
18 other signatory agencies for the purpose of reducing juvenile
19 crime ~~and especially motor vehicle theft~~ by promoting
20 cooperation and collaboration, or for the purpose of ~~and the~~
21 sharing of appropriate information in a joint effort to
22 improve school safety, to reduce truancy, to reduce ~~in-school~~
23 ~~and out-of-school~~ suspensions, to support alternatives to
24 ~~in-school and out-of-school~~ suspensions and expulsions that
25 ~~provide structured and well-supervised educational programs~~
26 ~~supplemented by a coordinated overlay of other appropriate~~
27 ~~services designed to correct behaviors that lead to truancy,~~
28 ~~suspensions, and expulsions,~~ or to ~~and which~~ support students
29 in successfully completing their education. The interagency
30 agreement must specify the conditions under which information
31 is to be shared. All parties entering into such agreement

1 must maintain confidentiality of the information unless
2 otherwise provided by law. Information provided to further ~~in~~
3 ~~furtherance~~ of such interagency agreements is intended solely
4 for use in determining the appropriate programs and services
5 for each student ~~juvenile~~ or the student's ~~juvenile's~~ family,
6 or for coordinating the delivery of such programs and
7 services, and as such is inadmissible in any court proceedings
8 prior to a dispositional hearing unless written consent is
9 provided by a parent, ~~guardian, or other responsible adult~~ on
10 behalf of the student ~~juvenile~~.

11 14. The Department of Highway Safety and Motor
12 Vehicles for purposes of the compulsory attendance driver's
13 license eligibility requirements of s. 322.091.

14 15. The Department of Children and Family Services for
15 purposes of the Learnfare program compulsory attendance
16 requirements of s. 414.125.

17 16. The United States Armed Services for purposes of
18 recruiting and testing.

19 17. The parent of a dependent student, as defined in
20 26 U.S.C. s. 152, the Internal Revenue Code of 1986.

21 18. The parent of a student who is not an eligible
22 student or to the eligible student.

23 19. The court, pursuant to this subparagraph. If an
24 educational agency or institution initiates legal action
25 against a parent or student, the educational agency or
26 institution may disclose to the court, without a court order
27 or subpoena, the education records of the student that are
28 relevant for the educational agency or institution to proceed
29 with the legal action as plaintiff. If a parent or eligible
30 student initiates legal action against an educational agency
31 or institution, the educational agency or institution may

1 disclose to the court, without a court order or subpoena, the
2 student's education records that are relevant for the
3 educational agency or institution to defend itself.

4 20. With respect to postsecondary education
5 institutions, a victim of a crime of violence or a nonforcible
6 sex offense. As used in this subparagraph, a crime of
7 violence means: arson; assault; burglary; criminal homicide;
8 manslaughter by negligence; murder; nonnegligent manslaughter;
9 destruction, damage, or vandalism of property; kidnapping;
10 abduction; robbery; or forcible sex offenses. A nonforcible
11 sex offense means statutory rape or incest. The disclosure
12 may only include the final results of the disciplinary
13 proceeding conducted by the postsecondary education
14 institution with respect to that alleged crime or offense,
15 regardless of whether the institution concluded a violation
16 was committed, as long as the institution determines that:

17 a. The alleged perpetrator of a crime of violence or a
18 nonforcible sex offense is a student at the postsecondary
19 education institution.

20 b. With respect to the allegation made against him or
21 her, the student has committed a violation of the
22 institution's rules or policies.

23 c. The institution does not disclose the name of any
24 other student, including a victim or witness, without the
25 prior consent of the other student.

26
27 This subparagraph applies only to disciplinary proceedings in
28 which the final results were reached on or after October 7,
29 1998. This subparagraph and subparagraph 21. do not supersede
30 any provision of state law that prohibits a postsecondary
31 education institution from disclosing information.

1 21. A parent of a student at a postsecondary education
2 institution regarding the student's violation of any federal,
3 state, or local law, or of any rule or policy of the
4 institution, governing the use or possession of alcohol or a
5 controlled substance if:

6 a. The institution determines that the student has
7 committed a disciplinary violation with respect to that use or
8 possession.

9 b. The student is under the age of 21 years at the
10 time of the disclosure to the parent.

11 22. The alleged victim of any crime of violence, as
12 that term is defined in 18 U.S.C. s. 16, of the results of any
13 disciplinary proceeding conducted by an institution of
14 postsecondary education against the alleged perpetrator of
15 that crime with respect to that crime.

16
17 ~~This paragraph does not prohibit any educational institution~~
18 ~~from publishing and releasing to the general public directory~~
19 ~~information relating to a pupil or student if the institution~~
20 ~~elects to do so. However, No school district or K-12~~
21 ~~educational institution shall release, to any individual,~~
22 ~~agency, business, or organization which is not listed in~~
23 ~~subparagraphs 1.-22.1.-13., or to an individual student,~~
24 ~~directory information relating to an individual student or~~
25 ~~students or the student body in general unless the school~~
26 ~~district or K-12 educational institution has received the~~
27 ~~written consent of the parents of the students to whom the~~
28 ~~information relates, except that an individual student may~~
29 ~~receive such information which relates only to such individual~~
30 ~~student or a portion thereof unless it is normally published~~
31 ~~for the purpose of release to the public in general. Any~~

1 non-K-12 educational institution desiring to make ~~making~~
2 directory information public shall give public notice of the
3 categories of information which it has designated as directory
4 information with respect to all ~~pupils or~~ students attending
5 the institution and shall allow a reasonable period of time
6 after such notice has been given for a parent, ~~guardian,~~
7 ~~pupil,~~ or eligible student to inform the institution in
8 writing that any or all of the information designated should
9 not be released. Prior to releasing directory information, any
10 school district or K-12 educational institution that intends
11 to make directory information public shall provide written
12 notification to the parent of each student whose information
13 will be released, listing the specific directory information
14 to be released and the individual, agency, business, or
15 organization to receive the information. If prior written
16 authorization from the parent or eligible student is not
17 obtained for that release of information, the information
18 shall not be released. However, this paragraph does not
19 prohibit any school district or K-12 educational institution
20 from publishing and releasing to the general public the name
21 or size of any student participating in school activities or
22 extracurricular activities or receiving an honor, provided
23 that the student's address or telephone number is not
24 disclosed without the written consent of the parent; and
25 provided further that if the custodial parent so directs, the
26 school district or K-12 educational institution shall not
27 release any information whatsoever on the student under any
28 circumstances.

29 (5)(4) NOTIFICATION.--

30 (a) Parents of students currently in attendance or
31 eligible students currently in attendance ~~Every parent,~~

1 ~~guardian, pupil, and student entitled to rights relating to~~
2 ~~pupil and student records and reports under the provisions of~~
3 ~~subsection (3)~~ shall be notified annually, in writing, of such
4 rights and that the institution has a policy of supporting the
5 law; the types of information and data generally entered in
6 the ~~pupil and~~ student records as maintained by the
7 institution; and the procedures to be followed in order to
8 exercise such rights.

9 **(b)** The notification shall be general in form and in a
10 manner to be determined by the State Board of Education and
11 may be incorporated with other printed materials distributed
12 to ~~pupils and~~ students, such as being printed on the back of
13 school assignment forms or report cards for students ~~pupils~~
14 attending kindergarten or grades 1 through 12 in the public
15 school system and being printed in college catalogs or in
16 other program announcement bulletins for students attending
17 postsecondary institutions.

18 **(c)** The notice must inform parents or eligible
19 students that they have the right to:

20 1. Inspect and review the student's education records.

21 2. Seek amendment of the student's education records
22 that the parent or eligible student believes to be inaccurate,
23 misleading, or otherwise in violation of the student's privacy
24 rights.

25 3. Consent to disclosures of personally identifiable
26 information contained in the student's education records
27 except to the extent that disclosure is authorized.

28 4. File with the United States Department of Education
29 Family Policy Compliance Office concerning alleged failures by
30 the institution to comply with the requirements of this
31 section.

1 (d) The notice must include the procedure for
2 exercising the right to inspect and review education records
3 and the procedures for requesting amendment of records under
4 this section.

5 (e) If the educational agency or institution has a
6 policy of disclosing education records under subparagraph
7 (4)(e)2., a specification of criteria for determining who
8 constitutes a school official and what constitutes a
9 legitimate educational interest must be included in the
10 notice.

11 (f) The institution shall effectively provide this
12 notification to parents or eligible students who are disabled.

13 (g) An institution of elementary or secondary
14 education shall effectively notify parents who have a primary
15 home language other than English.

16 ~~(6)(5)~~ PENALTY.--In the event that any public school
17 official or employee, State University System official or
18 employee, area technical center official or employee,
19 community college official or employee, or district school
20 board official or employee refuses to comply with any of the
21 provisions of this section, the aggrieved parent, ~~guardian,~~
22 ~~pupil,~~ or eligible student ~~has~~ shall have an immediate right
23 to bring an action in the circuit court to enforce the
24 violated right by injunction. Any aggrieved parent, ~~guardian,~~
25 ~~pupil,~~ or eligible student who brings such an action and whose
26 rights are vindicated may be awarded attorney's fees and court
27 costs.

28 ~~(7)(6)~~ APPLICABILITY TO RECORDS OF DEFUNCT OR CERTAIN
29 OTHER NONPUBLIC INSTITUTIONS.--The provisions of this section
30 also apply to ~~pupil or~~ student records which any nonpublic
31 educational institution that is no longer operating, or

1 nonpublic educational institution that has or had students who
2 participated in the public educational system's statewide
3 assessment program,has deposited with or received from the
4 district school superintendent in the county where the
5 nonpublic educational institution was or is located or ~~with~~
6 the clerk of the circuit court of that county; has deposited
7 with or received from the Department of Education; has
8 deposited with or received from the Division of Library and
9 Information Services, records and information management
10 program, of the Department of State; or has deposited with or
11 received from any other public agency.

12 Section 2. Section 232.23, Florida Statutes, is
13 amended to read:

14 232.23 Procedures for maintenance and transfer of
15 student ~~pupil~~ records.--

16 (1) Each principal shall maintain a permanent
17 cumulative record for each student ~~pupil~~ enrolled in a public
18 school. Such record shall be maintained in the form, and
19 contain all data, prescribed by rule by the Commissioner of
20 Education. The cumulative record is confidential and exempt
21 from the provisions of s. 119.07(1) and is open to inspection
22 only as provided in s. 228.093.

23 (2) The procedure for transferring and maintaining
24 records of students ~~pupils~~ who transfer from school to school
25 shall be prescribed by regulations of the commissioner.

26 (3) Procedures relating to the acceptance of transfer
27 work and credit for students ~~pupils~~ shall be prescribed by
28 rule by the Commissioner of Education.

29 Section 3. For the purpose of incorporating the
30 amendment of section 228.093, Florida Statutes, in references
31 thereto, subsection (6) of section 229.57, Florida Statutes,

1 sections 240.237 and 240.323, Florida Statutes, subsection (3)
2 of section 240.40401, Florida Statutes, section 242.3315,
3 Florida Statutes, subsection (5) of section 381.0056, Florida
4 Statutes, and subsection (2) of section 411.223, Florida
5 Statutes, are reenacted to read:

6 229.57 Student assessment program.--

7 (6) ANNUAL REPORTS.--The commissioner shall prepare
8 annual reports of the results of the statewide assessment
9 program which describe student achievement in the state, each
10 district, and each school. The commissioner shall prescribe
11 the design and content of these reports, which must include,
12 without limitation, descriptions of the performance of all
13 schools participating in the assessment program and all of
14 their major student populations as determined by the
15 Commissioner of Education, and must also include the median
16 scores of all eligible students who scored at or in the lowest
17 25th percentile of the state in the previous school year;
18 provided, however, that the provisions of s. 228.093
19 pertaining to student records apply to this section. Until
20 such time as annual assessments prescribed in this section are
21 fully implemented, annual reports shall include student
22 performance data based on existing assessments.

23 240.237 Student records.--The university may prescribe
24 the content and custody of records and reports which the
25 university may maintain on its students. Such records are
26 confidential and exempt from the provisions of s. 119.07(1)
27 and are open to inspection only as provided in s. 228.093.

28 240.323 Student records.--Rules of the State Board of
29 Community Colleges may prescribe the content and custody of
30 records and reports which a community college may maintain on
31 its students. Such records are confidential and exempt from s.

1 119.07(1) and are open to inspection only as provided in s.
2 228.093.

3 240.40401 Student financial assistance database.--

4 (3) The database must include records on any student
5 receiving any form of financial assistance as described in
6 subsection (2). Institutions participating in any state
7 financial assistance program shall annually submit such
8 information to the Department of Education in a format
9 prescribed by the department and consistent with the
10 provisions of s. 228.093.

11 242.3315 Student and employee personnel records.--The
12 Board of Trustees for the Florida School for the Deaf and the
13 Blind shall provide for the content and custody of student and
14 employee personnel records. Student records shall be subject
15 to the provisions of s. 228.093. Employee personnel records
16 shall be subject to the provisions of s. 231.291.

17 381.0056 School health services program.--

18 (5) Each county health department shall develop,
19 jointly with the district school board and the local school
20 health advisory committee, a school health services plan; and
21 the plan shall include, at a minimum, provisions for:

- 22 (a) Health appraisal;
23 (b) Records review;
24 (c) Nurse assessment;
25 (d) Nutrition assessment;
26 (e) A preventive dental program;
27 (f) Vision screening;
28 (g) Hearing screening;
29 (h) Scoliosis screening;
30 (i) Growth and development screening;
31 (j) Health counseling;

1 (k) Referral and followup of suspected or confirmed
2 health problems by the local county health department;

3 (l) Meeting emergency health needs in each school;

4 (m) County health department personnel to assist
5 school personnel in health education curriculum development;

6 (n) Referral of students to appropriate health
7 treatment, in cooperation with the private health community
8 whenever possible;

9 (o) Consultation with a student's parent or guardian
10 regarding the need for health attention by the family
11 physician, dentist, or other specialist when definitive
12 diagnosis or treatment is indicated;

13 (p) Maintenance of records on incidents of health
14 problems, corrective measures taken, and such other
15 information as may be needed to plan and evaluate health
16 programs; except, however, that provisions in the plan for
17 maintenance of health records of individual students must be
18 in accordance with s. 228.093;

19 (q) Health information which will be provided by the
20 school health nurses, when necessary, regarding the placement
21 of students in exceptional student programs and the
22 reevaluation at periodic intervals of students placed in such
23 programs; and

24 (r) Notification to the local nonpublic schools of the
25 school health services program and the opportunity for
26 representatives of the local nonpublic schools to participate
27 in the development of the cooperative health services plan.

28 411.223 Uniform standards.--

29 (2) Duplicative diagnostic and planning practices
30 shall be eliminated to the extent possible. Diagnostic and
31 other information necessary to provide quality services to

1 high-risk or handicapped children shall be shared among the
2 program offices of the Department of Children and Family
3 Services, pursuant to the provisions of s. 228.093.

4 Section 4. This act shall take effect upon becoming a
5 law.

6
7 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
8 COMMITTEE SUBSTITUTE FOR
9 sb192

10 The committee substitute differs from SB 192 in the following
11 ways:

- 12 1. Prior written consent from a student's parent is required
13 for the release of student records. The bill provides
14 exceptions for the release of records to the Department of
15 Highway Safety and Motor Vehicles and the Department of
16 Children and Family Services for specified purposes.
- 17 2. Educational institutions may release information about
18 students in extracurricular activities and honors, but locator
19 information may not be released unless the custodial parent
20 gives written permission for the release.

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