

By Senator Hukill

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1                                   A bill to be entitled  
2       An act relating to the use of biometric information;  
3       amending s. 1002.01, F.S.; defining the term  
4       "biometric information" as it relates to student and  
5       parental rights and educational choices; amending s.  
6       1002.20, F.S.; providing that parents have a right not  
7       to have their children submit any form of biometric  
8       information; providing that students have a right not  
9       to submit any form of biometric information; providing  
10      definitions; requiring each school district of a  
11      public elementary, middle, and high school that  
12      collects biometric information from students to  
13      develop, adopt, and implement policies that govern  
14      collection and use of the information; requiring each  
15      school district of a public elementary, middle, and  
16      high school that collects student biometric  
17      information to disclose on its website and at school  
18      locations the policies regarding collection and use of  
19      student biometric information; requiring the school  
20      district or the school to notify the student's parent  
21      or legal guardian or the student if there has been a  
22      security breach regarding the student's biometric  
23      information; requiring the superintendent of a school  
24      district to determine persons who may have access to  
25      student biometric information; requiring school  
26      districts and schools that collect biometric  
27      information to ensure the security and protection of  
28      such information; providing criminal penalties;  
29      prohibiting a school district or a school from

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30 refusing or denying a student services due to the  
31 failure of the parent, legal guardian, or student to  
32 provide written permission to collect biometric  
33 information; requiring the collection of student  
34 biometric information to comply with applicable state  
35 and federal laws and requirements; amending ss.  
36 1002.39, 1002.395, and 1002.421, F.S.; conforming  
37 cross-references; providing an effective date.  
38

39 Be It Enacted by the Legislature of the State of Florida:  
40  
41

42 Section 1. Section 1002.01, Florida Statutes, is amended to  
43 read:

44 1002.01 Definitions.—As used in this chapter, the term:  
45 (1) "Biometric information" means information collected  
46 from the noninvasive electronic measurement and evaluation of  
47 any physical or behavioral characteristics that are attributable  
48 to a single person, including fingerprint characteristics, hand  
49 characteristics, eye characteristics, vocal characteristics,  
50 facial characteristics, and any other physical characteristics  
51 used for the purpose of electronically identifying that person  
52 with a high degree of certainty. The biometric information may  
53 be collected through a fingerprint or hand scan, a retina or  
54 iris scan, voice print, or face geometry scan. Biometric  
55 information collected from a student is an education record as  
56 defined in the Family Educational Rights and Privacy Act  
57 (FERPA), 20 U.S.C. s. 1232g.

58 (2)~~(1)~~ A "Home education program" means the sequentially

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59 progressive instruction of a student directed by his or her  
60 parent in order to satisfy the attendance requirements of ss.  
61 1002.41, 1003.01(13), and 1003.21(1).

62 (3)~~(2)~~ A "Private school" means ~~is~~ a nonpublic school  
63 defined as an individual, association, copartnership, or  
64 corporation, or department, division, or section of such  
65 organizations, that designates itself as an educational center  
66 that includes kindergarten or a higher grade or as an  
67 elementary, secondary, business, technical, or trade school  
68 below college level or any organization that provides  
69 instructional services that meet the intent of s. 1003.01(13);  
70 ~~or~~ that gives preemployment or supplementary training in  
71 technology or in fields of trade or industry; ~~or~~ that offers  
72 academic, literary, or career training below college level;~~7~~ or  
73 any combination of the above, including an institution that  
74 performs the functions of these ~~the above~~ schools through  
75 correspondence or extension, except those licensed under ~~the~~  
76 ~~provisions of~~ chapter 1005. A private school may be a parochial,  
77 religious, denominational, for-profit, or nonprofit school. This  
78 term definition does not include a home education program  
79 ~~programs~~ conducted in accordance with s. 1002.41.

80 Section 2. Subsection (13) of section 1002.20, Florida  
81 Statutes, is amended, and subsection (25) is added to that  
82 section, to read:

83 1002.20 K-12 student and parent rights.—Parents of public  
84 school students must receive accurate and timely information  
85 regarding their child's academic progress and must be informed  
86 of ways they can help their child to succeed in school. K-12  
87 students and their parents are afforded numerous statutory

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88 rights including, but not limited to, the following:

89 (13) STUDENT RECORDS.—

90 (a) *Parent rights.*—Parents have rights regarding the  
91 student records of their children, including right of access,  
92 right of waiver of access, right to challenge and hearing, and  
93 right of privacy, in accordance with ~~the provisions of s.~~  
94 1002.22. Parents also have a right not to have their children  
95 submit any form of biometric information.

96 (b) *Student rights.*—In accordance with ~~the provisions of s.~~  
97 1008.386, a student is not required to provide his or her social  
98 security number as a condition for enrollment or graduation. A  
99 student is not required to submit any form of biometric  
100 information.

101 (25) STUDENT BIOMETRIC INFORMATION.—

102 (a) *Definitions.*—As used in this subsection, the term:

103 1. "Algorithmic process" means the comparison of a  
104 previously stored template of a biometric scan against a person  
105 being scanned for identification purposes to determine a match  
106 in the system. The stored template is not a full replication of  
107 the original biometric scan but is an encrypted pattern taken  
108 from the original that can be compared to a submitted scan of a  
109 person to identify a match.

110 2. "School district" means any of the 67 county school  
111 districts in this state, including the respective district  
112 school board.

113 3. "Written permission" means consent in writing to have a  
114 student be biometrically scanned for identification or fraud  
115 prevention.

116 (b) *Collection and use.*—

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117 1. The school district of each public elementary, middle,  
118 and high school that collects student biometric information must  
119 develop, adopt, and implement policies governing the collection  
120 and use of such information which, at a minimum, must:

121 a. Contain a full explanation of what type of biometric  
122 information is collected, how it is collected and stored, and  
123 the purposes for which the information is used.

124 b. Require written permission from the student's parent or  
125 legal guardian, or the student if he or she is 18 years of age  
126 or older, before the collection of any biometric information.  
127 Each school that collects biometric information must give the  
128 parent, legal guardian, or student if he or she is 18 years of  
129 age or older written notice regarding the collection of the  
130 biometric information at least 30 days before the date of  
131 collection. The written permission must be obtained on a form  
132 that is created for the express purpose of obtaining the  
133 required permission. The granting of permission must not be  
134 included as a part of any form used for enrollment purposes or  
135 any form required by the school's governing authority for any  
136 other purpose.

137 c. Ensure that a student's biometric information is used  
138 only for identification or fraud prevention purposes.

139 d. Ensure that a student's biometric information is not  
140 disclosed to a third party without the written permission of the  
141 student's parent or legal guardian, or the student if he or she  
142 is 18 years of age or older, except in accordance with and as  
143 permitted by s. 1002.221 or the Family Educational Rights and  
144 Privacy Act (FERPA), 20 U.S.C. s. 1232g.

145 e. Ensure that a student's biometric information is not

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146 disclosed to another state, federal, or contractual entity  
147 without the written permission of the student's parent or legal  
148 guardian, or the student if he or she is 18 years of age or  
149 older, except in accordance with and permitted by s. 1002.221 or  
150 FERPA.

151 f. Provide for the secure storage and secure transmission  
152 of all biometric information and for the protection of the  
153 information from unauthorized disclosure.

154 g. Require that a student's biometric information be  
155 encrypted for the purpose of transforming data into a pattern in  
156 which there is a low probability of assigning meaning to such  
157 information without the use of a confidential process or key.

158 h. Ensure that the use of a student's biometric information  
159 is discontinued within 30 days after:

160 (I) The student's graduation or withdrawal from school; or

161 (II) Receipt of a written request to discontinue use of the  
162 information from the student's parent or legal guardian, or the  
163 student if he or she is 18 years of age or older.

164 i. Require that a student's biometric information be  
165 destroyed within 30 days after the use of the information is  
166 discontinued.

167 2. Each school district of a school that collects biometric  
168 information from students shall disclose on its website and at  
169 the school's location the policies regarding the collection of  
170 biometric information as the collection applies to students  
171 attending or planning on attending the school.

172 3. If there is a security breach of a student's biometric  
173 information, the school district or the school shall notify the  
174 student's parent or legal guardian, or the student if he or she

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175 is 18 years of age or older, within 30 days after the breach.

176 4. The superintendent of the school district, or his or her  
177 designee, shall determine the persons who may electronically  
178 have access to student biometric information based on the needs  
179 of the school district. Authorized persons must be kept at the  
180 minimum number of people needed to perform the daily  
181 responsibilities and tasks of maintaining and using the  
182 biometric information. Each school district of a school that  
183 collects student biometric information must:

184 a. Ensure that all biometric information is secure;  
185 confidential in accordance with s. 1002.221 and FERPA; not  
186 compromised; and protected against fraud and unauthorized access  
187 or use; and

188 b. Maintain student biometric information in a manner that  
189 only authorized persons may electronically access.

190  
191 The unauthorized use of a student's biometric information is  
192 punishable as provided in s. 775.082, s. 775.083, or s. 817.568.

193 5. A school district or school may not refuse or deny a  
194 student any services due to the failure of the student's parent  
195 or legal guardian, or the student if he or she is 18 years of  
196 age or older, to provide written permission.

197 6. Collection and maintenance of biometric information from  
198 students must comply with all applicable state and federal laws  
199 and requirements, including s. 1002.221 and FERPA.

200 Section 3. Subsection (3) of section 1002.39, Florida  
201 Statutes, is amended to read:

202 1002.39 The John M. McKay Scholarships for Students with  
203 Disabilities Program.—There is established a program that is

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204 separate and distinct from the Opportunity Scholarship Program  
205 and is named the John M. McKay Scholarships for Students with  
206 Disabilities Program.

207 (3) JOHN M. MCKAY SCHOLARSHIP PROHIBITIONS.—A student is  
208 not eligible for a John M. McKay Scholarship:

209 (a) While he or she is enrolled in a school operating for  
210 the purpose of providing educational services to youth in  
211 Department of Juvenile Justice commitment programs;

212 (b) While he or she is receiving a Florida tax credit  
213 scholarship under s. 1002.395;

214 (c) While he or she is receiving an educational scholarship  
215 pursuant to this chapter;

216 (d) While he or she is participating in a home education  
217 program as defined in s. 1002.01 ~~s. 1002.01(1)~~;

218 (e) While he or she is participating in a private tutoring  
219 program pursuant to s. 1002.43;

220 (f) While he or she is participating in a virtual school,  
221 correspondence school, or distance learning program that  
222 receives state funding pursuant to the student's participation  
223 unless the participation is limited to no more than two courses  
224 per school year;

225 (g) While he or she is enrolled in the Florida School for  
226 the Deaf and the Blind;

227 (h) While he or she is not having regular and direct  
228 contact with his or her private school teachers at the school's  
229 physical location; or

230 (i) If he or she has been issued a temporary 504  
231 accommodation plan under s. 504 of the Rehabilitation Act of  
232 1973 which is valid for 6 months or less.



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233 Section 4. Paragraph (g) of subsection (2) and subsection  
234 (4) of section 1002.395, Florida Statutes, are amended to read:  
235 1002.395 Florida Tax Credit Scholarship Program.—

236 (2) DEFINITIONS.—As used in this section, the term:

237 (g) "Eligible private school" means a private school, as  
238 defined in s. 1002.01 ~~s. 1002.01(2)~~, located in this state  
239 ~~Florida~~ which offers an education to students in any grades K-12  
240 and that meets the requirements in subsection (8).

241 (4) SCHOLARSHIP PROHIBITIONS.—A student is not eligible for  
242 a scholarship while he or she is:

243 (a) Enrolled in a school operating for the purpose of  
244 providing educational services to youth in Department of  
245 Juvenile Justice commitment programs;

246 (b) Receiving a scholarship from another eligible nonprofit  
247 scholarship-funding organization under this section;

248 (c) Receiving an educational scholarship pursuant to  
249 chapter 1002;

250 (d) Participating in a home education program as defined in  
251 s. 1002.01 ~~s. 1002.01(1)~~;

252 (e) Participating in a private tutoring program pursuant to  
253 s. 1002.43;

254 (f) Participating in a virtual school, correspondence  
255 school, or distance learning program that receives state funding  
256 pursuant to the student's participation unless the participation  
257 is limited to no more than two courses per school year; or

258 (g) Enrolled in the Florida School for the Deaf and the  
259 Blind.

260 Section 5. Subsection (2) of section 1002.421, Florida  
261 Statutes, is amended to read:

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262 1002.421 Accountability of private schools participating in  
263 state school choice scholarship programs.—

264 (2) A private school participating in a scholarship program  
265 must be a ~~Florida~~ private school as defined in s. 1002.01 ~~s.~~  
266 ~~1002.01(2)~~, must be located in this state, must be registered in  
267 accordance with s. 1002.42, and must:

268 (a) Comply with the antidiscrimination provisions of 42  
269 U.S.C. s. 2000d.

270 (b) Notify the department of its intent to participate in a  
271 scholarship program.

272 (c) Notify the department of any change in the school's  
273 name, school director, mailing address, or physical location  
274 within 15 days after the change.

275 (d) Complete student enrollment and attendance verification  
276 requirements, including use of an online attendance verification  
277 form, before ~~prior to~~ scholarship payment.

278 (e) Annually complete and submit to the department a  
279 notarized scholarship compliance statement certifying that all  
280 school employees and contracted personnel with direct student  
281 contact have undergone background screening pursuant to s.  
282 943.0542.

283 (f) Demonstrate fiscal soundness and accountability by:

284 1. Being in operation for at least 3 school years or  
285 obtaining a surety bond or letter of credit for the amount equal  
286 to the scholarship funds for any quarter and filing the surety  
287 bond or letter of credit with the department.

288 2. Requiring the parent of each scholarship student to  
289 personally restrictively endorse the scholarship warrant to the  
290 school. The school may not act as attorney in fact for the

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291 parent of a scholarship student under the authority of a power  
292 of attorney executed by such parent, or under any other  
293 authority, to endorse scholarship warrants on behalf of such  
294 parent.

295 (g) Meet applicable state and local health, safety, and  
296 welfare laws, codes, and rules, including:

297 1. Firesafety.

298 2. Building safety.

299 (h) Employ or contract with teachers who hold baccalaureate  
300 or higher degrees, have at least 3 years of teaching experience  
301 in public or private schools, or have special skills, knowledge,  
302 or expertise that qualifies them to provide instruction in  
303 subjects taught.

304 (i) Require each employee and contracted personnel who has  
305 ~~with~~ direct student contact, upon employment or engagement to  
306 provide services, to undergo a state and national background  
307 screening, pursuant to s. 943.0542, by electronically filing  
308 with the Department of Law Enforcement a complete set of  
309 fingerprints taken by an authorized law enforcement agency or an  
310 employee of the private school, a school district, or a private  
311 company who is trained to take fingerprints and deny employment  
312 to or terminate an employee if he or she fails to meet the  
313 screening standards under s. 435.04. Results of the screening  
314 shall be provided to the participating private school. For  
315 purposes of this paragraph:

316 1. The term ~~An~~ "employee or contracted personnel with  
317 direct student contact" means any employee or contracted  
318 personnel who has unsupervised access to a scholarship student  
319 for whom the private school is responsible.

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320           2. The costs of fingerprinting and the background check may  
321 ~~shall~~ not be borne by the state.

322           3. Continued employment of an employee or contracted  
323 personnel after notification that he or she has failed the  
324 background screening under this paragraph shall cause a private  
325 school to be ineligible for participation in a scholarship  
326 program.

327           4. An employee or contracted personnel holding a valid  
328 Florida teaching certificate who has been fingerprinted pursuant  
329 to s. 1012.32 is not required to comply with the provisions of  
330 this paragraph.

331           Section 6. This act shall take effect July 1, 2014.