

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

43 1002.01 Definitions.—As used in this chapter, the term:
 44 (1) "Biometric information" means information collected
 45 from the noninvasive electronic measurement and evaluation of
 46 any physical or behavioral characteristics that are attributable
 47 to a single person, including fingerprint characteristics, hand
 48 characteristics, eye characteristics, vocal characteristics,
 49 facial characteristics, and any other physical characteristics
 50 used for the purpose of electronically identifying that person
 51 with a high degree of certainty. The biometric information may
 52 be collected through a fingerprint or hand scan, a retina or

53 iris scan, voice print, or face geometry scan. Biometric
 54 information collected from a student is an education record as
 55 defined in the Family Educational Rights and Privacy Act
 56 (FERPA), 20 U.S.C. s. 1232g.

57 (2)~~(1)~~ A "Home education program" means the sequentially
 58 progressive instruction of a student directed by his or her
 59 parent in order to satisfy the attendance requirements of ss.
 60 1002.41, 1003.01(13), and 1003.21(1).

61 (3)~~(2)~~ A "Private school" means ~~is~~ a nonpublic school
 62 defined as an individual, association, copartnership, or
 63 corporation, or department, division, or section of such
 64 organizations, that designates itself as an educational center
 65 that includes kindergarten or a higher grade or as an
 66 elementary, secondary, business, technical, or trade school
 67 below college level or any organization that provides
 68 instructional services that meet the intent of s. 1003.01(13);
 69 ~~or~~ that gives preemployment or supplementary training in
 70 technology or in fields of trade or industry; ~~or~~ that offers
 71 academic, literary, or career training below college level;or or
 72 any combination of the above, including an institution that
 73 performs the functions of these ~~the above~~ schools through
 74 correspondence or extension, except those licensed under ~~the~~
 75 ~~provisions of~~ chapter 1005. A private school may be a parochial,
 76 religious, denominational, for-profit, or nonprofit school. This
 77 term definition does not include a home education program
 78 ~~programs~~ conducted in accordance with s. 1002.41.

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

82 1002.20 K-12 student and parent rights.—Parents of public
 83 school students must receive accurate and timely information
 84 regarding their child's academic progress and must be informed
 85 of ways they can help their child to succeed in school. K-12
 86 students and their parents are afforded numerous statutory
 87 rights including, but not limited to, the following:

88 (13) STUDENT RECORDS.—

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

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

100 (25) STUDENT BIOMETRIC INFORMATION.—

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

102 1. "Algorithmic process" means the comparison of a
 103 previously stored template of a biometric scan against a person
 104 being scanned for identification purposes to determine a match

105 in the system. The stored template is not a full replication of
106 the original biometric scan but is an encrypted pattern taken
107 from the original that can be compared to a submitted scan of a
108 person to identify a match.

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

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

115 (b) Collection and use.—

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

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

123 b. Require written permission from the student's parent or
124 legal guardian, or the student if he or she is 18 years of age
125 or older, before the collection of any biometric information.
126 Each school that collects biometric information must give the
127 parent, legal guardian, or student if he or she is 18 years of
128 age or older written notice regarding the collection of the
129 biometric information at least 30 days before the date of
130 collection. The written permission must be obtained on a form

131 that is created for the express purpose of obtaining the
132 required permission. The granting of permission must not be
133 included as a part of any form used for enrollment purposes or
134 any form required by the school's governing authority for any
135 other purpose.

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

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

144 e. Ensure that a student's biometric information is not
145 disclosed to another state, federal, or contractual entity
146 without the written permission of the student's parent or legal
147 guardian, or the student if he or she is 18 years of age or
148 older, except in accordance with and permitted by s. 1002.221 or
149 FERPA.

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

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

157 | h. Ensure that the use of a student's biometric
 158 | information is discontinued within 30 days after:
 159 | (I) The student's graduation or withdrawal from school; or
 160 | (II) Receipt of a written request to discontinue use of
 161 | the information from the student's parent or legal guardian, or
 162 | the student if he or she is 18 years of age or older.
 163 | i. Require that a student's biometric information be
 164 | destroyed within 30 days after the use of the information is
 165 | discontinued.
 166 | 2. Each school district of a school that collects
 167 | biometric information from students shall disclose on its
 168 | website and at the school's location the policies regarding the
 169 | collection of biometric information as the collection applies to
 170 | students attending or planning on attending the school.
 171 | 3. If there is a security breach of a student's biometric
 172 | information, the school district or the school shall notify the
 173 | student's parent or legal guardian, or the student if he or she
 174 | is 18 years of age or older, within 30 days after the breach.
 175 | 4. The superintendent of the school district, or his or
 176 | her designee, shall determine the persons who may electronically
 177 | have access to student biometric information based on the needs
 178 | of the school district. Authorized persons must be kept at the
 179 | minimum number of people needed to perform the daily
 180 | responsibilities and tasks of maintaining and using the
 181 | biometric information. Each school district of a school that
 182 | collects student biometric information must:

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

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

189
 190 The unauthorized use of a student's biometric information is
 191 punishable as provided in s. 775.082, s. 775.083, or s. 817.568.

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

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

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

201 1002.39 The John M. McKay Scholarships for Students with
 202 Disabilities Program.—There is established a program that is
 203 separate and distinct from the Opportunity Scholarship Program
 204 and is named the John M. McKay Scholarships for Students with
 205 Disabilities Program.

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

208 (a) While he or she is enrolled in a school operating for

209 the purpose of providing educational services to youth in
210 Department of Juvenile Justice commitment programs;

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

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

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

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

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

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

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

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

232 Section 4. Paragraph (g) of subsection (2) and subsection
233 (4) of section 1002.395, Florida Statutes, are amended to read:

234 1002.395 Florida Tax Credit Scholarship Program.—

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

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

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

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

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

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

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

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

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

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

261 1002.421 Accountability of private schools participating
 262 in state school choice scholarship programs.—

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

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

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

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

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

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

282 (f) Demonstrate fiscal soundness and accountability by:

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

287 2. Requiring the parent of each scholarship student to
288 personally restrictively endorse the scholarship warrant to the
289 school. The school may not act as attorney in fact for the
290 parent of a scholarship student under the authority of a power
291 of attorney executed by such parent, or under any other
292 authority, to endorse scholarship warrants on behalf of such
293 parent.

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

- 296 1. Firesafety.
297 2. Building safety.

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

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

313 shall be provided to the participating private school. For
314 purposes of this paragraph:

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

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

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

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

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