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1 A bill to be entitled  
2 An act relating to student online personal information  
3 protection; providing a short title; creating s.  
4 1006.1494, F.S.; defining terms; prohibiting operators  
5 from knowingly engaging in specified activities  
6 relating to students' covered information; providing  
7 an exception; specifying the duties of an operator;  
8 providing circumstances under which an operator may  
9 disclose students' covered information; providing  
10 construction; providing for enforcement under the  
11 Florida Deceptive and Unfair Trade Practices Act;  
12 authorizing the State Board of Education to adopt  
13 rules; providing an effective date.

14  
15 Be It Enacted by the Legislature of the State of Florida:

16  
17 Section 1. This act may be cited as the "Student Online  
18 Personal Information Protection Act."

19 Section 2. Section 1006.1494, Florida Statutes, is created  
20 to read:

21 1006.1494 Student online personal information protection.-

22 (1) As used in this section, the term:

23 (a) "Covered information" means personal identifying  
24 information or material of a student, or information linked to  
25 personal identifying information or material of a student, in  
26 any media or format that is not publicly available and is any of  
27 the following:

28 1. Created by or provided to an operator by the student, or  
29 the student's parent or legal guardian, in the course of the

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30 student's, parent's, or legal guardian's use of the operator's  
31 site, service, or application for K-12 school purposes.

32 2. Created by or provided to an operator by an employee or  
33 agent of a K-12 school or school district for K-12 school  
34 purposes.

35 3. Gathered by an operator through the operation of its  
36 site, service, or application for K-12 school purposes and  
37 personally identifies a student, including, but not limited to,  
38 information in the student's educational record or electronic  
39 mail, first and last name, home address, telephone number,  
40 electronic mail address, or other information that allows  
41 physical or online contact, discipline records, test results,  
42 special education data, juvenile dependency records, grades,  
43 evaluations, criminal records, medical records, health records,  
44 social security number, biometric information, disabilities,  
45 socioeconomic information, food purchases, political  
46 affiliations, religious information, text messages, documents,  
47 student identifiers, search activity, photos, voice recordings,  
48 or geolocation information.

49 (b) "Interactive computer service" means any information  
50 service, system, or access software provider that provides or  
51 enables computer access by multiple users to a computer server,  
52 including a service or system that provides access to the  
53 Internet and such systems operated or services offered by  
54 libraries or educational institutions.

55 (c) "K-12 school" has the same meaning as described in s.  
56 1000.04(2).

57 (d) "K-12 school purposes" means purposes directed by or  
58 that customarily take place at the direction of a K-12 school,

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59 teacher, or school district or that aid in the administration of  
60 school activities, including, but not limited to, instruction in  
61 the classroom or at home, administrative activities, and  
62 collaboration between students, school personnel, or parents, or  
63 that are otherwise for the use and benefit of the school.

64 (e) "Operator" means, to the extent that it is operating in  
65 this capacity, the operator of an Internet website, online  
66 service, online application, or mobile application with actual  
67 knowledge that the site, service, or application is used  
68 primarily for K-12 school purposes, or the site, service, or  
69 application was designed and marketed for K-12 school purposes.

70 (f) "School district" has the same meaning as in s.  
71 595.402.

72 (g) "Targeted advertising" means presenting advertisements  
73 to a student which are selected on the basis of information  
74 obtained or inferred over time from that student's online  
75 behavior, usage of applications, or covered information. The  
76 term does not include advertising to a student at an online  
77 location based upon the student's current visit to that  
78 location, or advertising presented in response to a student's  
79 request for information or feedback, if the student's online  
80 activities or requests are not retained over time for the  
81 purpose of targeting subsequent advertisements to that student.

82 (2) An operator may not knowingly do any of the following:

83 (a) Engage in targeted advertising on the operator's site,  
84 service, or application, or targeted advertising on any other  
85 site, service, or application if the targeting of the  
86 advertising is based on any information, including covered  
87 information and persistent unique identifiers, which the

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88 operator has acquired because of the use of that operator's  
89 site, service, or application for K-12 school purposes.

90 (b) Use covered information, including persistent unique  
91 identifiers, created or gathered by the operator's site,  
92 service, or application to amass a profile of a student, except  
93 in furtherance of K-12 school purposes. The term "amass a  
94 profile" does not include the collection and retention of  
95 account information that remains under the control of the  
96 student or the student's parent or guardian or K-12 school.

97 (c) Share, sell, or rent a student's information, including  
98 covered information. This paragraph does not apply to the  
99 purchase, merger, or other acquisition of an operator by a third  
100 party, if the third party complies with this section regarding  
101 previously acquired student information, or to a national  
102 assessment provider if the provider obtains the express written  
103 consent of the parent or student, given in response to clear and  
104 conspicuous notice, solely to provide access to employment,  
105 educational scholarships or financial aid, or postsecondary  
106 educational opportunities.

107 (d) Except as otherwise provided in subsection (4),  
108 disclose covered information, unless the disclosure is made for  
109 any of the following purposes:

110 1. In furtherance of the K-12 school purpose of the site,  
111 service, or application, if the recipient of the covered  
112 information disclosed under this subparagraph does not further  
113 disclose the information.

114 2. Disclosure as required by state or federal law.

115 3. To comply with the order of a court or quasi-judicial  
116 entity.

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117 4. To protect the safety or integrity of users of the site  
118 or others or the security of the site, service, or application.

119 5. For a school, educational, or employment purpose  
120 requested by the student or the student's parent or guardian,  
121 provided that the information is not used or further disclosed  
122 for any other purpose.

123 6. To a third party, if the operator contractually  
124 prohibits the third party from using any covered information for  
125 any purpose other than providing the contracted service to or on  
126 behalf of the operator, prohibits the third party from  
127 disclosing any covered information provided by the operator with  
128 subsequent third parties, and requires the third party to  
129 implement and maintain reasonable security procedures and  
130 practices. An operator may not disclose covered information  
131 relating to any contracted services provided in paragraph (a),  
132 paragraph (b), or paragraph (c).

133 (3) An operator shall do all of the following:

134 (a) Collect no more covered information than is reasonably  
135 necessary to operate an Internet website, online service, online  
136 application, or mobile application with actual knowledge that  
137 the site, service, or application is used primarily for K-12  
138 school purposes, or the site, service, or application was  
139 designed and marketed for K-12 school purposes.

140 (b) Implement and maintain reasonable security procedures  
141 and practices appropriate to the nature of the covered  
142 information which are designed to protect it from unauthorized  
143 access, destruction, use, modification, or disclosure.

144 (c) Unless a parent or guardian expressly consents to the  
145 operator retaining a student's covered information, delete the

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146 covered information at the conclusion of the course or  
147 corresponding program and no later than 90 days after a student  
148 is no longer enrolled in a school within the district.

149 (4) An operator may use or disclose covered information of  
150 a student under any of the following circumstances:

151 (a) If federal or state law requires the operator to  
152 disclose the information, and the operator complies with federal  
153 or state law, as applicable, in protecting and disclosing that  
154 information.

155 (b) If the covered information is disclosed to a state  
156 educational agency or the student's local educational agency for  
157 K-12 school purposes, as allowed under state or federal law.

158 (c) If the covered information is disclosed to a state or  
159 local educational agency, including K-12 schools and school  
160 districts, for K-12 school purposes, as allowed under state or  
161 federal law.

162 (5) This section does not prohibit an operator from doing  
163 any of the following:

164 (a) Using covered information to improve educational  
165 products, if that information is not associated with an  
166 identified student within the operator's site, service, or  
167 application, or other sites, services, or applications owned by  
168 the operator.

169 (b) Using covered information that is not associated with  
170 an identified student to demonstrate the effectiveness of the  
171 operator's products or services, including use in their  
172 marketing.

173 (c) Sharing covered information that is not associated with  
174 an identified student for the development and improvement of

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175 educational sites, services, or applications.

176 (d) Using recommendation engines to recommend to a student  
177 any of the following:

178 1. Additional content relating to an educational, an  
179 employment, or any other learning opportunity purpose within an  
180 online site, service, or application, if the recommendation is  
181 not determined in whole or in part by payment or other  
182 consideration from a third party.

183 2. Additional services relating to an educational, an  
184 employment, or any other learning opportunity purpose within an  
185 online site, service, or application, if the recommendation is  
186 not determined in whole or in part by payment or other  
187 consideration from a third party.

188 (e) Responding to a student's request for information or  
189 feedback without the information or response being determined in  
190 whole or in part by payment or other consideration from a third  
191 party.

192 (6) This section does not do any of the following:

193 (a) Limit the authority of a law enforcement agency to  
194 obtain any content or information from an operator as authorized  
195 by law or under a court order.

196 (b) Limit the ability of an operator to use student data,  
197 including covered information, for adaptive learning or  
198 customized student learning purposes.

199 (c) Apply to general audience Internet websites, general  
200 audience online services, general audience online applications,  
201 or general audience mobile applications, even if login  
202 credentials created for an operator's site, service, or  
203 application may be used to access those general audience sites,

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204 services, or applications.

205 (d) Limit service providers from providing Internet  
206 connectivity to schools or students and their families.

207 (e) Prohibit an operator of an Internet website, online  
208 service, online application, or mobile application from  
209 marketing educational products directly to parents, if such  
210 marketing did not result from the use of covered information  
211 obtained by the operator through the provision of services  
212 covered under this section.

213 (f) Impose a duty upon a provider of an electronic store,  
214 gateway, marketplace, or other means of purchasing or  
215 downloading software or applications to review or enforce  
216 compliance with this section on such software or applications.

217 (g) Impose a duty upon a provider of an interactive  
218 computer service to review or enforce compliance with this  
219 section by third-party content providers.

220 (h) Prohibit students from downloading, exporting,  
221 transferring, saving, or maintaining their own student data or  
222 documents.

223 (7) Any violation of this section is a deceptive and unfair  
224 trade practice and constitutes a violation of the Florida  
225 Deceptive and Unfair Trade Practices Act, part II of chapter  
226 501.

227  
228 The State Board of Education may adopt rules to implement this  
229 section.

230 Section 3. This act shall take effect July 1, 2023.