

107TH CONGRESS
1ST SESSION

S. 290

To increase parental involvement and protect student privacy.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 8, 2001

Mr. DODD (for himself and Mr. SHELBY) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To increase parental involvement and protect student privacy.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Student Privacy Pro-
5 tection Act”.

6 **SEC. 2. INCREASING PARENTAL INVOLVEMENT AND PRO-**
7 **TECTING STUDENT PRIVACY.**

8 Title XIV of the Elementary and Secondary Edu-
9 cation Act of 1965 (20 U.S.C. 8801 et seq.) is amended
10 by adding at the end the following:

1 **“Part I—Increasing Parental Involvement and**
2 **Protecting Student Privacy**

3 **“SEC. 14901. INTENT.**

4 “‘It is the purpose of this part to provide parents with
5 notice of and opportunity to make informed decisions re-
6 garding commercial activities occurring in their children’s
7 classrooms.

8 **“SEC. 14902. COMMERCIALIZATION POLICIES AND PRIVACY**
9 **FOR STUDENTS.**

10 “(a) POLICY DEVELOPMENT.—A State educational
11 agency or local educational agency that receives funds
12 under this Act shall develop a policy regarding in-school
13 commercialization activities in consultation with parents
14 and provide notice to parents regarding such policy and
15 any changes to such policy, including locally developed ex-
16 ceptions under subsection (e).

17 “(b) FUNDING PROHIBITION.—Except as provided in
18 subsection (c), no State educational agency or local edu-
19 cational agency that receives funds under this Act may—

20 “(1) disclose data or information the agency
21 gathered from a student to a person or entity that
22 seeks disclosure of the data or information for the
23 purpose of benefiting the person or entity’s commer-
24 cial interests; or

25 “(2) permit by contract a person or entity to
26 gather from a student, or assist a person or entity

1 in gathering from a student, data or information, if
 2 the purpose of gathering the data or information is
 3 to benefit the commercial interests of the person or
 4 entity.

5 “(c) PARENTAL CONSENT.—

6 “(1) DISCLOSURE.—A State educational agency
 7 or local educational agency that is a recipient of
 8 funds under this Act may disclose data or informa-
 9 tion under subsection (b)(1) if the agency, prior to
 10 the disclosure—

11 “(A) explains to the student’s parent, in
 12 writing, what data or information will be dis-
 13 closed, to which person or entity the data or in-
 14 formation will be disclosed, the amount of class
 15 time, if any, that will be consumed by the dis-
 16 closure, and how the person or entity will use
 17 the data or information; and

18 “(B) obtains the parent’s written permis-
 19 sion for the disclosure.

20 “(2) GATHERING.—A State educational agency
 21 or local educational agency that is a recipient of
 22 funds under this Act may permit by contract, or as-
 23 sist, the gathering of data or information under sub-
 24 section (b)(2) if the agency, prior to the gathering—

1 “(A) explains to the student’s parent, in
 2 writing, what data or information will be gath-
 3 ered including whether any of the information
 4 is personally identifiable, which person or entity
 5 will gather the data or information, the amount
 6 of class time if any, that will be consumed by
 7 the gathering, and how the person or entity will
 8 use the data or information; and

9 “(B) obtains the parent’s written permis-
 10 sion for the gathering.

11 “(d) DEFINITIONS.—In this part:

12 “(1) STUDENT.—The term ‘student’ means a
 13 student under the age of 18.

14 “(2) COMMERCIAL INTEREST.—The term ‘com-
 15 mercial interest’ does not include the interest of a
 16 person or entity in gathering data or information
 17 from a student for the purpose of developing, evalu-
 18 ating, or providing educational products or services
 19 for or to students or educational institutions, such
 20 as—

21 “(A) college and other post-secondary edu-
 22 cation recruiting;

23 “(B) book clubs and other programs pro-
 24 viding access to low cost books or other related
 25 literary products;

1 “(C) curriculum and instructional mate-
2 rials used by elementary and secondary schools
3 to teach if—

4 “(i) the information is not used to
5 sell, advertise, or develop another product;
6 and

7 “(ii) the curriculum and instructional
8 materials are used in accordance with ap-
9 plicable Federal, State, and local policies;
10 and

11 “(D) the development and administration
12 of tests and assessments used by elementary
13 and secondary schools to provide cognitive, eval-
14 uative, diagnostic, clinical, aptitude, or achieve-
15 ment information about students (or to gen-
16 erate other statistically useful data for the pur-
17 pose of securing such tests and assessments)
18 and the subsequent analysis and public release
19 of aggregate data if—

20 “(i) the information is not used to
21 sell, advertise, or develop another product;
22 and

23 “(ii) the tests are conducted in ac-
24 cordance with applicable Federal, State,
25 and local policies.

1 “(e) **LOCALLY DEVELOPED EXCEPTIONS.**—A local
2 educational agency, in consultation with parents, may de-
3 velop appropriate exceptions to the consent requirements
4 contained in this part.

5 “(f) **FUNDING.**—A State educational agency or local
6 educational agency may use funds provided under part A
7 of title VI to enhance parental involvement in areas affect-
8 ing children’s in-school privacy.”.

