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BILL



ANALYSIS

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Senate Bill 33 (Substitute S-2 as reported)
Sponsor: Senator Phil Pavlov
Committee: Education

CONTENT

The bill would amend the Revised School Code to require the State Board of Education to ensure that the Department of Education complied with the following:

- The Department could not sell or provide to a for-profit business entity any information that was part of a pupil's education record, although the Department could provide the information to an educational management organization for a pupil enrolled in a public school academy (PSA), if the PSA had a management agreement with the organization.
- Within 30 days after the bills effective date, the Department would have to post on its website a notice of the information it collected for a pupil's education record, including an inventory and description of all pupil data elements.
- At least 30 days before it initiated the collection of any additional pupil data elements, the Department would have to post on its website a notice of the additional data elements it was proposing to collect and an explanation of the reasons for the proposal.
- The Department could not disclose any information concerning a pupil that it collected or created except in accordance with a policy adopted and made publicly available by the State Board that clearly stated the criteria for disclosure.
- The Department would have to ensure that any contract with a vendor that allowed access to education records expressly required the vendor to protect the privacy of education records and provided express penalties for noncompliance.
- Upon written request by a pupil's parent or legal guardian, the Department would have to disclose to that individual, within 30 days and without charge, any information concerning the pupil that the Department collected or created as part of the pupil's education records.
- If the Department provided any collected or created information to a person other than the pupil's school district, intermediate school district (ISD), PSA or its authorizing body, or the pupil's parent or legal guardian, the Department would have to disclose to the parent or legal guardian, within 30 days and without charge, a) the specific information disclosed, b) the name and contact information of each person to which the information was disclosed, and c) the reason for the disclosure.

In addition, the State Board would have to ensure that the Department complied with all other applicable privacy law.

The board of a school district or ISD, board of directors of a PSA, or governing board of an authorizing body, would have to ensure that the school district, ISD, PSA, or authorizing body complied with both of the following:

- It could not sell or provide to a for-profit business entity any information that was part of a pupil's education record, except as provided for a PSA that had a management agreement with an educational management organization.

- Upon written request by a pupil's parent or legal guardian, it would have to disclose to that person, within 30 days and without charge, any information concerning the pupil that the district, PSA, or authorizing body collected or created as part of the pupil's education records.

If the school district, ISD, PSA, or authorizing body provided any collected or created information to any person, the district, PSA, or authorizing body would have to disclose to the parent or legal guardian, within 30 days and without charge, a) the specific information disclosed, b) the name and contact information of each person to whom the information was disclosed, and c) the reason for the disclosure. This requirement would not apply to a school district, ISD, PSA, or authorizing body providing the information to the Department or the pupil's parent or legal guardian. The requirement also would not apply to the following: a) a PSA providing the information to its authorizing body or an educational management organization with which it had a management agreement, b) a school district providing the information to its ISD, c) an ISD providing the information to a school district in which the student was enrolled or resided, or d) an authorizing body providing the information to a PSA in which the student was enrolled.

If an educational management organization received information that was part of a pupil's education records from any source as permitted, the educational management organization could not sell or provide the information to any other person except as provided in the bill.

Proposed MCL 380.1136

Legislative Analyst: Jeff Mann

FISCAL IMPACT

The bill would result in a number of additional expenses for the Department of Education and the Center for Education Performance and Information (CEPI), since both the Department and CEPI collect pupil information. First, the Department and CEPI would need to spend resources to list the current pupil information that was collected and post it on the webpage within 30 days. The Department and CEPI then would need to spend resources on reviewing existing contracts to ensure that they were in compliance with the statute. Finally, the Department and CEPI would need to develop a formal process that allowed parents and legal guardians to request information concerning their pupil's record and respond to the request within 30 days. Currently, CEPI receives these requests under Federal requirements; however, there is no formal process and no time line for a response. The 30-day response time and the possible increase in the volume of requests would result in additional costs. At this time, the total administrative costs are unknown.

The bill also would result in additional expenses for ISDs, school districts, and PSAs, which would have to ensure that current contracts and practices were in compliance with the statute. They also would have to have a formal process for parents and legal guardians to request their pupil's information, and respond within 30 days. At this time, the total administrative costs for local units are unknown.

Date Completed: 6-10-15

Fiscal Analyst: Cory Savino

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.