

Sixty-fourth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1453

Introduced by

Representatives B. Koppelman, Rick C. Becker, Dosch, Kasper, Rohr, Sanford, Schatz,
Toman

Senators Larsen, Luick, Rust, Schaible

1 A BILL for an Act to create and enact chapter 15.1-02.1, a new section to chapter 15.1-19, and
2 three new sections to chapter 15.1-21 of the North Dakota Century Code, relating to restrictions
3 on the collection and dissemination of student information; and to provide a penalty.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1.** Chapter 15.1-02.1 of the North Dakota Century Code is created and enacted
6 as follows:

7 **15.1-02.1-01. Student information - Collection by state agency - Limitation.**

8 1. A state agency may not collect any information about a student other than the
9 following:

- 10 a. The student's name;
- 11 b. The student's age;
- 12 c. The student's gender;
- 13 d. The student's race;
- 14 e. The student's grade level;
- 15 f. The student's school and school district of enrollment;
- 16 g. The student's state assessment scores;
- 17 h. Courses or units the student has completed, together with the grades obtained;
- 18 i. The student's dates of enrollment;
- 19 j. The student's unique identification number, as used in PowerSchool; and
- 20 k. A list of federal programs in which the student participates.
- 21 2. A state agency may not, by means of a data sharing contract, expand the list of
22 permitted information set forth in this section.

1 **15.1-02.1-02. Student information - Collection by state assessment administrator -**
2 **Limitation.**

3 An entity administering state assessments to public school students may not collect any
4 information about a student other than the following:

- 5 1. The student's unique identification number, as derived from a state or school district
6 database;
- 7 2. The student's gender;
- 8 3. The student's race;
- 9 4. The student's grade level;
- 10 5. The student's school and school district of enrollment; and
- 11 6. A list of federal programs in which the student participates.

12 **15.1-02.1-03. Directory information - Disclosable.**

- 13 1. A school district may disclose directory information about a student only if:
 - 14 a. The student or the student's parent in the case of a student who is younger than
15 eighteen has been notified of:
 - 16 (1) The intent to disclose the directory information;
 - 17 (2) The proposed recipient of the directory information; and
 - 18 (3) The purpose of the proposed disclosure;
 - 19 b. The student or the student's parent in the case of a student who is younger than
20 eighteen has been given an opportunity to opt-out of the disclosure; and
 - 21 c. The disclosure is limited to:
 - 22 (1) The student's school newspaper or yearbook;
 - 23 (2) A newspaper in this state;
 - 24 (3) A club or organization at the student's school;
 - 25 (4) An honor roll or other student recognition list;
 - 26 (5) A graduation program;
 - 27 (6) A sports-related publication that provides specific information about
28 particular students for the purpose of an athletic activity or function; or
 - 29 (7) A parent teacher organization.
- 30 2. For purposes of this section, directory information means a student's:
 - 31 a. Name;

- b. Age;
- c. Photograph;
- d. Grade level;
- e. Participation in school district-sponsored activities; and
- f. Height and weight if required for participation in certain athletic activities.

15.1-02.1-04. Personally identifiable student information - Requirements for disclosure.

1. A school district may disclose a student's personally identifiable information only if:

- a. The student or the student's parent in the case of a student who is younger than eighteen has been notified of :
 - (1) The intent to disclose the personally identifiable information;
 - (2) The proposed recipient of the personally identifiable information;
 - (3) The purpose of the proposed disclosure;
- b. The student or the student's parent in the case of a student who is younger than eighteen has provided written permission for the disclosure; and
- c. The recipient of the information is:
 - (1) Another student enrolled in the school or the parent of another student enrolled in the school; or
 - (2) A not-for-profit organization that requests the information for a specific purpose, which the student's school district determines is beneficial to the student, and agrees in writing to use the personally identifiable student information only for the stated purpose and to return or destroy the information upon the fulfillment of that purpose or within one year of the receipt, whichever comes first.

2. For purposes of this section, "personally identifiable information" means:

- a. Any information listed as disclosable directory information if the information is to be disclosed for a purpose not permitted under section 15.1-02.1- 01;
- b. The address, telephone number, and email address of a student; and
- c. The address, telephone number, and email address of a student's parent.

1 **15.1-02.1-05. Penalty.**

2 A person violating this chapter is subject to a class A misdemeanor and to a civil penalty in
3 the amount of ten thousand dollars per violation. The impermissible disclosure of each student's
4 information is deemed to be a violation for purposes of this section.

5 **15.1-02.1-06. Applicability of chapter.**

6 Nothing in this chapter limits the release of school district records to or the administrative
7 use of school district records by:

8 1. A court;

9 2. An employee of a school district, a state agency, or the bureau of Indian education,
10 provided that:

11 a. The individual is acting within the scope of the individual's employment; and

12 b. The individual's employment bears a direct relationship to the provision of
13 elementary or secondary education; or

14 3. Any other governmental entity if there is a reasonable belief that an individual is or
15 may be in imminent danger.

16 **SECTION 2.** A new section to chapter 15.1-19 of the North Dakota Century Code is created
17 and enacted as follows:

18 **Participation in surveys.**

19 1. Without the prior written consent of a student age eighteen or older and without prior
20 written consent from a student's parent, in the case of a student under the age of
21 eighteen, a school district may not permit a student to participate in or respond to a
22 survey, analysis, evaluation, or questionnaire, which seeks information pertaining to:

23 a. The political beliefs of the student, the student's parent, or a family member;

24 b. Mental or psychological conditions of the student, the student's parent, or a family
25 member;

26 c. The sexual behavior of or attitudes regarding sexual behavior held by the
27 student, the student's parent, or a family member;

28 d. Illegal, antisocial, self-incriminating, or demeaning behavior engaged in by the
29 student, the student's parent, or a family member;

30 e. Critical appraisals of individuals with whom the student has a familial or close
31 relationship;

- 1 f. Legally recognized privileged relationships;
- 2 g. Religious practices, affiliations, or beliefs of the student, the student's parent, or a
- 3 family member;
- 4 h. Gun ownership by the student, the student's parent, or a family member; and
- 5 i. Income of the student, the student's parent, or a family member.
- 6 2. The written consent required under subsection 1 must be specific to each identified
- 7 survey, analysis, evaluation, or questionnaire.
- 8 3. If a student's failure to participate in a survey, analysis, evaluation, or questionnaire,
- 9 as set forth in subsection 1, will cause or could cause a student to lose direct or
- 10 indirect benefits, those consequences must be specifically communicated to the
- 11 student and the student's parent, by means of a written document.
- 12 4. Any individual from whom consent is required, in accordance with this section, must
- 13 upon request be:
- 14 a. Provided with a copy of the survey, analysis, evaluation, or questionnaire; or
- 15 b. Permitted to view the survey, analysis, evaluation, or questionnaire, at the school
- 16 in which the student is enrolled.

17 **SECTION 3.** A new section to chapter 15.1-21 of the North Dakota Century Code is created
18 and enacted as follows:

19 **Provision of electronic devices to students.**

20 Before a school district may implement a program under which a student is provided with
21 his or her own laptop, netbook, tablet computer, or other mobile-computing device, the student's
22 parent, in the case of a student under the age of eighteen must be notified of the program and
23 provided with an opportunity to prohibit their child's participation in the program. A student age
24 eighteen or older may refuse to accept such a device.

25 **SECTION 4.** A new section to chapter 15.1-21 of the North Dakota Century Code is created
26 and enacted as follows:

27 **Information and communication monitoring.**

28 Without written parental consent in the case of a student under the age of eighteen and
29 without written consent from a student age eighteen or older, a school district may not utilize
30 any technology that:

- 1 1. Scans, monitors, or records the student's biometric information, body temperature,
- 2 vital signs, posture, or facial expressions;
- 3 2. Scans, monitors, or records the student's internet browsing habits;
- 4 3. Monitors or tracks the student's electronic communications or data storage; or
- 5 4. Monitors or tracks the student's location.

6 **SECTION 5.** A new section to chapter 15.1-21 of the North Dakota Century Code is created
7 and enacted as follows:

8 **Assessment questions - Survey items - Limitations.**

9 Any assessment required by this state or by a school district may not include any questions
10 or survey items, whether mandatory or optional, that seek information pertaining to:

- 11 1. The political beliefs of the student, the student's parent, or a family member;
- 12 2. Mental or psychological conditions of the student, the student's parent, or a family
- 13 member;
- 14 3. The sexual behavior of or attitudes regarding sexual behavior held by the student, the
- 15 student's parent, or a family member;
- 16 4. Illegal, antisocial, self-incriminating, or demeaning behavior engaged in by the student,
- 17 the student's parent, or a family member;
- 18 5. Critical appraisals of individuals with whom the student has a familial or close
- 19 relationship;
- 20 6. Legally recognized privileged relationships;
- 21 7. Religious practices, affiliations, or beliefs of the student, the student's parent, or a
- 22 family member;
- 23 8. Gun ownership by the student, the student's parent, or a family member;
- 24 9. Income of the student, the student's parent, or a family member; or
- 25 10. Any other matter not directly related to the content of the assessment, as identified in
- 26 state or school district standards.