



State of Wisconsin
2013 - 2014 LEGISLATURE



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**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO ASSEMBLY BILL 618**

February 10, 2014 - Offered by Representative PRIDEMORE.

1 **AN ACT** *to renumber and amend* 118.125 (2) (d); *to amend* 118.125 (2) (a); and
2 *to create* 115.28 (61), 115.297 (7), 115.298, 118.125 (2) (d) 1. and 118.125 (2r)
3 of the statutes; **relating to:** pupil data, the disclosure of pupil records, granting
4 rule-making authority, and providing an exemption from rule-making
5 procedures.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

6 **SECTION 1.** 115.28 (61) of the statutes is created to read:

7 115.28 (61) INDIVIDUAL PUPIL DATA. (a) Ensure that the department does not
8 provide individual pupil data to a federal agency.

9 **SECTION 2.** 115.297 (7) of the statutes is created to read:

10 115.297 (7) ENFORCEMENT. The attorney general or any district attorney may
11 bring an action in circuit court for the enforcement of this section, including an action
12 to restrain by temporary or permanent injunction any violation of this section.

1 **SECTION 3.** 115.298 of the statutes is created to read:

2 **115.298 Pupil data. (1)** In this section, “student information system” means
3 the student information system under s. 115.28 (12).

4 **(2)** The department shall post on its Internet site a comprehensive list of every
5 distinct type of individual pupil data that the department collects or may collect,
6 including all of the following:

7 (a) Individual pupil data required by state or federal law to be reported to the
8 department.

9 (b) Individual pupil data included in the student information system.

10 (c) Individual pupil data that has been proposed to be included in the student
11 information system, including a statement regarding the reason for the proposed
12 inclusion.

13 **(3)** Annually by January 15, the department shall notify the governor, and the
14 appropriate standing committees of the legislature under s. 13.172 (3), of any
15 individual data that is proposed to be included in the student information system
16 since the last report under this subsection.

17 **(4)** The department shall promulgate a rule listing every distinct type of
18 individual pupil data that the department collects and revise the rule periodically
19 to keep it up to date. Revisions to the rule that are necessary in order to comply with
20 federal law shall be promulgated as emergency rules under s. 227.24 for the period
21 before the effective date of the permanent rules, but not to exceed the period
22 authorized under s. 227.24 (1) (c), subject to extension under s. 227.24 (2).
23 Notwithstanding s. 227.24 (1) (a), (2) (b), and (3), the department is not required to
24 provide evidence that promulgating the rule as an emergency rule is necessary for

1 the preservation of the public peace, health, safety, or welfare and is not required to
2 provide a finding of emergency for the rule.

3 **(5)** The department shall develop a detailed data security plan that includes
4 all of the following:

5 (a) Guidelines for authorizing access to the student information system and to
6 individual pupil data, including guidelines for authenticating authorized access.

7 (b) Privacy compliance standards.

8 (c) Privacy and security audits.

9 (d) Breach planning, notification, and procedures.

10 (e) Data retention and disposition policies.

11 (f) Data security policies, including electronic, physical, and administrative
12 safeguards, such as data encryption and employee training.

13 **(6)** The department shall ensure that any contract with a private vendor that
14 governs databases, assessments, or instructional supports and that includes pupil
15 data or pupil data that has been redacted to remove pupil and parent identifying
16 information, includes provisions to safeguard the privacy and security of the data
17 and includes penalties for noncompliance with the provisions.

18 **SECTION 4.** 118.125 (2) (a) of the statutes is amended to read:

19 118.125 **(2)** (a) A pupil, or the parent or guardian of a minor pupil, shall, upon
20 request, be shown and provided with a copy of the pupil's ~~progress~~ pupil records other
21 than the pupil's behavioral records.

22 **SECTION 5.** 118.125 (2) (d) of the statutes is renumbered 118.125 (2) (d) 2. and
23 amended to read:

24 118.125 **(2)** (d) 2. Pupil records shall be made available to persons employed by
25 the school district which the pupil attends who are required by the department under

1 s. 115.28 (7) to hold a license, law enforcement officers who are individually
2 designated by the school board and assigned to the school district, and other school
3 district officials who have been determined by the school board to have legitimate
4 educational interests, including safety interests, in the pupil records. Law
5 enforcement officers' records obtained under s. 938.396 (1) (c) 3. shall be made
6 available as provided in s. 118.127. A school board member or an employee of a school
7 district may not be held personally liable for any damages caused by the
8 nondisclosure of any information specified in this ~~paragraph~~ subdivision unless the
9 member or employee acted with actual malice in failing to disclose the information.
10 A school district may not be held liable for any damages caused by the nondisclosure
11 of any information specified in this ~~paragraph~~ subdivision unless the school district
12 or its agent acted with gross negligence or with reckless, wanton, or intentional
13 misconduct in failing to disclose the information.

14 **SECTION 6.** 118.125 (2) (d) 1. of the statutes is created to read:

15 118.125 (2) (d) 1. In this paragraph, "school district official" includes a
16 contractor, consultant, volunteer, or any other person to whom the school board has
17 outsourced school services or functions if the contractor, consultant, volunteer, or
18 other person satisfies the following conditions:

19 a. He or she performs a service or function for which the school board would
20 otherwise use school district employees.

21 b. He or she is under the direct control of the school board with respect to the
22 use and maintenance of pupil records.

23 c. He or she is subject to the requirements governing the use and redisclosure
24 of personally identifiable information from pupil records under this section and
25 under federal law.

