

SESSION OF 2016

**SUPPLEMENTAL NOTE ON SENATE BILL NO. 342**

As Amended by Senate Committee on  
Education

**Brief\***

SB 342 would enact the Student Online Personal Protection Act (SOPPA). The bill would prohibit operators (defined as the operator of an educational online product with actual knowledge the product is used primarily for educational purposes and was designed and marketed for educational purposes) from knowingly:

- Engaging in targeted advertising on the operator's educational online product or targeting advertising on any other educational online product using information, including student information and persistent unique identifiers, the operator has acquired because of the use of such operator's educational online product for educational purposes;
- Using information, including student information and persistent unique identifiers, created or gathered through the operation of the operator's educational online product, to amass a profile about a student, except in furtherance of educational purposes;
- Selling or renting student information to a third party, except as part of the assets being transferred during the purchase, merger, or other acquisition of an operator by another entity, provided the successor entity complies with the provisions of

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\*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

this subsection as though it were an operator with respect to the acquired information; or

- Disclosing student information, except as provided.

For the purposes of the bill, the term “operator” would not be construed to include any school district or school district employee acting on behalf of a school district employer.

Operators would be required to:

- Implement and maintain reasonable security procedures and practices appropriate to the nature of the student information and designed to protect such information from unauthorized access, destruction, use, modification, or disclosure; and
- Delete student information within a reasonable period of time at the school district’s request, unless the student or student’s parent or legal guardian requests that information be maintained.

The bill also outlines several instances when an operator may disclose information, including the following:

- In furtherance of the educational purpose of the educational online product, provided the recipient of the student information does not further disclose the student information to another individual or entity unless such disclosure is solely to allow or improve the operation and functionality of the operator’s educational online product;
- To ensure compliance with federal, state, and local laws and regulations or to protect the operator against liability;
- In response to an order issued by a court of competent jurisdiction;

- To protect the safety or integrity of users of the operator's educational online product or other individuals, or the security of such educational online product;
- For educational or employment purposes upon request by the student or the student's parent or legal guardian, provided the student information is not used or further disclosed for any other purpose;
- To a service provider, so long as the service provider is contractually prohibited from using student information for any purpose other than providing the contracted service; prohibited from disclosing student information to subsequent third parties; and required to implement and maintain reasonable security procedures and practices to ensure confidentiality;
- In the course of transferring assets as part of a business purchase, merger, or other acquisition, as described above;
- For legitimate research purposes subject to and as allowed by federal and state law, and under the direction of a school district or the Kansas State Department of Education, provided the information is not used for advertising or to amass a profile on the student for any purpose other than educational purposes;
- Upon request by a school district or state agency for educational purposes; or
- If other provisions of federal or state law require the operator to disclose the information, and the operator complies with the federal and state law requirements in protecting and disclosing such information.

Finally, the bill clarifies other instances where the bill's provisions are not intended to apply and would define key terms.

## **Background**

The bill was introduced in the Senate Committee on Education at the request of Senator Abrams. At the Senate Committee hearing on the bill, a representative of Microsoft testified in support of the bill. A parent and a representative of Educational Management Consultants were opponents to the bill. A representative of the Kansas Association of School Boards (KASB) offered neutral testimony, including a proposed amendment to clarify the term "operator" would not be construed to include any school district or school district employee acting on behalf of a school district employer.

The Senate Committee adopted the amendment proposed by KASB.

The fiscal note prepared by the Division of the Budget for the bill, as introduced, indicates passage would have no fiscal effect.