

House Engrossed Senate Bill

**FILED**

**MICHELE REAGAN**  
**SECRETARY OF STATE**

State of Arizona  
Senate  
Fifty-third Legislature  
First Regular Session  
2017

**CHAPTER 180**  
**SENATE BILL 1314**

AN ACT

AMENDING TITLE 15, CHAPTER 9, ARTICLE 8, ARIZONA REVISED STATUTES, BY  
ADDING SECTION 15-1046; RELATING TO THE STUDENT ACCOUNTABILITY INFORMATION  
SYSTEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 15, chapter 9, article 8, Arizona Revised  
3 Statutes, is amended by adding section 15-1046, to read:

4 15-1046. Student data privacy; definitions

5 A. AN OPERATOR MAY NOT KNOWINGLY DO ANY OF THE FOLLOWING:

6 1. ENGAGE IN TARGETED ADVERTISING ON THE OPERATOR'S SITE, SERVICE  
7 OR APPLICATION OR ON ANY OTHER SITE, SERVICE OR APPLICATION IF THE  
8 TARGETING OF THE ADVERTISING IS BASED ON ANY INFORMATION, INCLUDING  
9 COVERED INFORMATION AND PERSISTENT UNIQUE IDENTIFIERS, THAT THE OPERATOR  
10 HAS ACQUIRED BECAUSE OF THE USE OF THAT OPERATOR'S SITE, SERVICE OR  
11 APPLICATION FOR SCHOOL PURPOSES.

12 2. USE INFORMATION, INCLUDING PERSISTENT UNIQUE IDENTIFIERS,  
13 CREATED OR GATHERED BY THE OPERATOR'S SITE, SERVICE OR APPLICATION TO  
14 AMASS A PROFILE ABOUT A STUDENT EXCEPT IN FURTHERANCE OF SCHOOL PURPOSES.  
15 THIS PARAGRAPH DOES NOT APPLY TO THE COLLECTION AND RETENTION OF ACCOUNT  
16 INFORMATION THAT REMAINS UNDER THE CONTROL OF THE STUDENT, THE STUDENT'S  
17 PARENT OR GUARDIAN OR THE PUBLIC SCHOOL.

18 3. SELL OR RENT A STUDENT'S INFORMATION, INCLUDING COVERED  
19 INFORMATION. THIS PARAGRAPH DOES NOT APPLY TO THE PURCHASE, MERGER OR  
20 OTHER TYPE OF ACQUISITION OF AN OPERATOR BY ANOTHER ENTITY IF THE OPERATOR  
21 OR SUCCESSOR ENTITY COMPLIES WITH THIS SECTION REGARDING PREVIOUSLY  
22 ACQUIRED STUDENT INFORMATION, OR TO NATIONAL ASSESSMENT PROVIDERS IF THE  
23 PROVIDER SECURES THE EXPRESS WRITTEN CONSENT OF THE STUDENT'S PARENT OR  
24 GUARDIAN OR THE STUDENT THAT IS GIVEN IN RESPONSE TO A CLEAR AND  
25 CONSPICUOUS NOTICE, SOLELY TO PROVIDE ACCESS TO EMPLOYMENT, EDUCATIONAL  
26 SCHOLARSHIPS OR FINANCIAL AID OR POSTSECONDARY EDUCATIONAL OPPORTUNITIES.

27 4. EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH 3 OF THIS SUBSECTION,  
28 DISCLOSE OR USE COVERED INFORMATION UNLESS THE DISCLOSURE OR USE IS MADE  
29 FOR ANY OF THE FOLLOWING PURPOSES:

30 (a) IN FURTHERANCE OF THE SCHOOL PURPOSE OF THE SITE, SERVICE OR  
31 APPLICATION IF THE RECIPIENT OF THE DISCLOSED COVERED INFORMATION DOES NOT  
32 FURTHER DISCLOSE THE INFORMATION EXCEPT TO ALLOW OR IMPROVE OPERABILITY  
33 AND FUNCTIONALITY OF THE OPERATOR'S SITE, SERVICE OR APPLICATION.

34 (b) TO ENSURE LEGAL AND REGULATORY COMPLIANCE OR PROTECT AGAINST  
35 LIABILITY.

36 (c) TO RESPOND TO OR PARTICIPATE IN THE JUDICIAL PROCESS.

37 (d) TO PROTECT THE SAFETY OR INTEGRITY OF USERS OF THE SITE,  
38 SERVICE OR APPLICATION OR OTHERS OR THE SECURITY OF THE SITE, SERVICE OR  
39 APPLICATION.

40 (e) FOR A SCHOOL, EDUCATIONAL OR EMPLOYMENT PURPOSE REQUESTED BY  
41 THE STUDENT OR THE STUDENT'S PARENT OR GUARDIAN IF THE INFORMATION IS NOT  
42 USED OR FURTHER DISCLOSED FOR ANY OTHER PURPOSE.

43 (f) TO A THIRD PARTY IF THE OPERATOR CONTRACTUALLY PROHIBITS THE  
44 THIRD PARTY FROM USING ANY COVERED INFORMATION FOR ANY PURPOSE OTHER THAN  
45 PROVIDING THE CONTRACTED SERVICE TO OR ON BEHALF OF THE OPERATOR,

1 PROHIBITS THE THIRD PARTY FROM DISCLOSING ANY COVERED INFORMATION PROVIDED  
2 BY THE OPERATOR WITH SUBSEQUENT THIRD PARTIES, AND REQUIRES THE THIRD  
3 PARTY TO IMPLEMENT AND MAINTAIN REASONABLE SECURITY PROCEDURES AND  
4 PRACTICES.

5 B. THIS SECTION DOES NOT PROHIBIT THE OPERATOR'S USE OF INFORMATION  
6 FOR MAINTAINING, DEVELOPING, SUPPORTING, IMPROVING OR DIAGNOSING THE  
7 OPERATOR'S SITE, SERVICE OR APPLICATION. AN OPERATOR MAY USE STUDENT  
8 DATA, INCLUDING COVERED INFORMATION, FOR ADAPTIVE OR CUSTOMIZED STUDENT  
9 LEARNING. THIS SUBSECTION DOES NOT ALLOW AN OPERATOR TO DISCLOSE OR USE  
10 STUDENT DATA, INCLUDING COVERED INFORMATION, IN VIOLATION OF SUBSECTION A  
11 OF THIS SECTION.

12 C. AN OPERATOR SHALL DO ALL OF THE FOLLOWING:

13 1. IMPLEMENT AND MAINTAIN REASONABLE SECURITY PROCEDURES AND  
14 PRACTICES THAT ARE APPROPRIATE TO THE NATURE OF THE COVERED INFORMATION  
15 AND THAT ARE DESIGNED TO PROTECT THAT COVERED INFORMATION FROM  
16 UNAUTHORIZED ACCESS, DESTRUCTION, USE, MODIFICATION OR DISCLOSURE.

17 2. DELETE, WITHIN A REASONABLE TIME PERIOD, A STUDENT'S COVERED  
18 INFORMATION IF THE PUBLIC SCHOOL REQUESTS DELETION OF COVERED INFORMATION  
19 UNDER THE CONTROL OF THE PUBLIC SCHOOL, UNLESS THE STUDENT OR THE  
20 STUDENT'S PARENT OR GUARDIAN CONSENTS TO THE MAINTENANCE OF THE COVERED  
21 INFORMATION.

22 3. PROVIDE PROMINENT NOTICE BEFORE MAKING MATERIAL CHANGES TO ITS  
23 PRIVACY POLICIES.

24 D. AN OPERATOR MAY USE OR DISCLOSE COVERED INFORMATION OF A STUDENT  
25 UNDER THE FOLLOWING CIRCUMSTANCES:

26 1. FEDERAL OR STATE LAW REQUIRES THE OPERATOR TO DISCLOSE THE  
27 INFORMATION AND THE OPERATOR COMPLIES WITH THE REQUIREMENTS OF FEDERAL AND  
28 STATE LAW IN PROTECTING AND DISCLOSING THAT INFORMATION.

29 2. THE COVERED INFORMATION IS NOT USED FOR ADVERTISING OR TO AMASS  
30 A PROFILE ON THE STUDENT FOR PURPOSES OTHER THAN SCHOOL PURPOSES, FOR  
31 LEGITIMATE RESEARCH PURPOSES AS REQUIRED BY STATE OR FEDERAL LAW AND  
32 SUBJECT TO THE RESTRICTIONS UNDER APPLICABLE STATE AND FEDERAL LAW, OR AS  
33 ALLOWED BY STATE OR FEDERAL LAW AND IN FURTHERANCE OF SCHOOL PURPOSES.

34 3. TO A STATE OR LOCAL EDUCATIONAL AGENCY FOR SCHOOL PURPOSES AS  
35 PERMITTED BY STATE OR FEDERAL LAW.

36 E. THIS SECTION DOES NOT PROHIBIT AN OPERATOR FROM DOING ANY OF THE  
37 FOLLOWING:

38 1. USING COVERED INFORMATION TO IMPROVE EDUCATIONAL PRODUCTS IF  
39 THAT INFORMATION IS NOT ASSOCIATED WITH AN IDENTIFIED STUDENT WITHIN THE  
40 OPERATOR'S SITE, SERVICE OR APPLICATION OR OTHER SITES, SERVICES OR  
41 APPLICATIONS OWNED BY THE OPERATOR.

42 2. USING COVERED INFORMATION THAT IS NOT ASSOCIATED WITH AN  
43 IDENTIFIED STUDENT TO DEMONSTRATE THE EFFECTIVENESS OF THE OPERATOR'S  
44 PRODUCTS OR SERVICES, INCLUDING IN THE OPERATOR'S MARKETING.

1           3. SHARING COVERED INFORMATION THAT IS NOT ASSOCIATED WITH AN  
2 IDENTIFIED STUDENT FOR THE DEVELOPMENT AND IMPROVEMENT OF EDUCATIONAL  
3 SITES, SERVICES OR APPLICATIONS.

4           4. USING RECOMMENDATION ENGINES TO RECOMMEND TO A STUDENT EITHER OF  
5 THE FOLLOWING:

6           (a) ADDITIONAL CONTENT RELATING TO AN EDUCATIONAL, OTHER LEARNING  
7 OR EMPLOYMENT OPPORTUNITY PURPOSE WITHIN AN ONLINE SITE, SERVICE OR  
8 APPLICATION IF THE RECOMMENDATION IS NOT DETERMINED IN WHOLE OR IN PART BY  
9 PAYMENT OR OTHER CONSIDERATION FROM A THIRD PARTY.

10           (b) ADDITIONAL SERVICES RELATING TO AN EDUCATIONAL, OTHER LEARNING  
11 OR EMPLOYMENT OPPORTUNITY PURPOSE WITHIN AN ONLINE SITE, SERVICE OR  
12 APPLICATION IF THE RECOMMENDATION IS NOT DETERMINED IN WHOLE OR IN PART BY  
13 PAYMENT OR OTHER CONSIDERATION FROM A THIRD PARTY.

14           5. RESPONDING TO A STUDENT'S REQUEST FOR INFORMATION OR FEEDBACK  
15 WITHOUT THE INFORMATION OR RESPONSE BEING DETERMINED IN WHOLE OR IN PART  
16 BY PAYMENT OR OTHER CONSIDERATION FROM A THIRD PARTY.

17           F. THIS SECTION DOES NOT:

18           1. LIMIT THE AUTHORITY OF A LAW ENFORCEMENT AGENCY TO OBTAIN ANY  
19 CONTENT OR INFORMATION FROM AN OPERATOR AS AUTHORIZED BY LAW OR UNDER A  
20 COURT ORDER.

21           2. APPLY TO GENERAL AUDIENCE INTERNET WEBSITES, GENERAL AUDIENCE  
22 ONLINE SERVICES, GENERAL AUDIENCE ONLINE APPLICATIONS OR GENERAL AUDIENCE  
23 MOBILE APPLICATIONS, EVEN IF LOGIN CREDENTIALS CREATED FOR AN OPERATOR'S  
24 SITE, SERVICE OR APPLICATION MAY BE USED TO ACCESS THOSE GENERAL AUDIENCE  
25 SITES, SERVICES OR APPLICATIONS.

26           3. LIMIT SERVICE PROVIDERS FROM PROVIDING INTERNET CONNECTIVITY TO  
27 SCHOOLS, STUDENTS AND FAMILIES.

28           4. PROHIBIT AN OPERATOR OF AN INTERNET WEBSITE, ONLINE SERVICE,  
29 ONLINE APPLICATION OR MOBILE APPLICATION FROM MARKETING EDUCATIONAL  
30 PRODUCTS DIRECTLY TO PARENTS IF THE MARKETING DOES NOT RESULT FROM THE USE  
31 OF COVERED INFORMATION OBTAINED BY THE OPERATOR BY PROVIDING SERVICES  
32 COVERED UNDER THIS SECTION.

33           5. IMPOSE A DUTY ON A PROVIDER OF AN ELECTRONIC STORE, GATEWAY,  
34 MARKETPLACE OR OTHER MEANS OF PURCHASING OR DOWNLOADING SOFTWARE OR  
35 APPLICATIONS TO REVIEW OR ENFORCE COMPLIANCE WITH THIS SECTION ON THOSE  
36 APPLICATIONS OR SOFTWARE.

37           6. IMPOSE A DUTY ON A PROVIDER OF AN INTERACTIVE COMPUTER SERVICE  
38 TO REVIEW OR ENFORCE COMPLIANCE WITH THIS SECTION BY THIRD-PARTY CONTENT  
39 PROVIDERS.

40           7. PROHIBIT STUDENTS FROM DOWNLOADING, EXPORTING, TRANSFERRING,  
41 SAVING OR MAINTAINING STUDENT DATA OR DOCUMENTS.

42           G. IN ADDITION TO ANY ENFORCEMENT OR REGULATORY ACTION AUTHORIZED  
43 BY STATE OR FEDERAL LAW, A VIOLATION OF THIS SECTION CONSTITUTES AN  
44 UNLAWFUL PRACTICE UNDER SECTION 44-1522, AND THE ATTORNEY GENERAL MAY

1 INVESTIGATE AND TAKE APPROPRIATE ACTION UNDER TITLE 44, CHAPTER 10,  
2 ARTICLE 7.

3 H. A LOCAL EDUCATION AGENCY SHALL ADOPT POLICIES REGARDING THE USE  
4 OF TECHNOLOGY AND THE INTERNET WHILE AT SCHOOL. THE POLICY SHALL INCLUDE  
5 NOTIFYING A PARENT OF THE ADOPTED POLICIES AND THE PARENT'S ABILITY TO  
6 PROHIBIT THE STUDENT FROM THE USE OF TECHNOLOGY AND THE INTERNET WHILE AT  
7 SCHOOL IN WHICH COVERED INFORMATION MAY BE SHARED WITH AN OPERATOR. THIS  
8 SUBSECTION DOES NOT APPLY TO SOFTWARE OR TECHNOLOGY THAT IS USED FOR THE  
9 DAILY OPERATIONS OR ADMINISTRATION OF A LOCAL EDUCATION AGENCY OR ARIZONA  
10 ONLINE INSTRUCTION PROGRAMS AUTHORIZED PURSUANT TO SECTION 15-808.

11 I. FOR THE PURPOSES OF THIS SECTION:

12 1. "COVERED INFORMATION" MEANS PERSONALLY IDENTIFIABLE INFORMATION  
13 OR MATERIAL OR INFORMATION THAT IS LINKED TO PERSONALLY IDENTIFIABLE  
14 INFORMATION OR MATERIAL, IN ANY MEDIUM OR FORMAT THAT IS NOT PUBLICLY  
15 AVAILABLE AND THAT IS ANY OF THE FOLLOWING:

16 (a) CREATED BY OR PROVIDED TO AN OPERATOR BY A STUDENT OR THE  
17 STUDENT'S PARENT OR LEGAL GUARDIAN IN THE COURSE OF THE STUDENT'S,  
18 PARENT'S OR LEGAL GUARDIAN'S USE OF THE OPERATOR'S SITE, SERVICE OR  
19 APPLICATION FOR SCHOOL PURPOSES.

20 (b) CREATED BY OR PROVIDED TO AN OPERATOR BY AN EMPLOYEE OR AGENT  
21 OF A PUBLIC SCHOOL FOR SCHOOL PURPOSES.

22 (c) GATHERED BY AN OPERATOR THROUGH THE OPERATION OF THE OPERATOR'S  
23 SITE, SERVICE OR APPLICATION FOR SCHOOL PURPOSES AND THAT PERSONALLY  
24 IDENTIFIES A STUDENT, INCLUDING INFORMATION IN THE STUDENT'S EDUCATIONAL  
25 RECORD OR E-MAIL OR INFORMATION RELATING TO THE STUDENT'S FIRST AND LAST  
26 NAME, HOME ADDRESS, TELEPHONE NUMBER, E-MAIL ADDRESS OR OTHER INFORMATION  
27 THAT ALLOWS PHYSICAL OR ONLINE CONTACT, DISCIPLINE RECORDS, TEST RESULTS,  
28 SPECIAL EDUCATION DATA, JUVENILE DEPENDENCY RECORDS, GRADES, EVALUATIONS,  
29 CRIMINAL RECORDS, MEDICAL RECORDS, HEALTH RECORDS, SOCIAL SECURITY NUMBER,  
30 BIOMETRIC INFORMATION, DISABILITIES, SOCIOECONOMIC INFORMATION, FOOD  
31 PURCHASES, POLITICAL AFFILIATIONS, RELIGIOUS INFORMATION, TEXT MESSAGES,  
32 DOCUMENTS, STUDENT IDENTIFIERS, SEARCH ACTIVITY, PHOTOS, VOICE RECORDINGS  
33 OR GEOGRAPHIC INFORMATION.

34 2. "INTERACTIVE COMPUTER SERVICE" HAS THE SAME MEANING PRESCRIBED  
35 IN 47 UNITED STATES CODE SECTION 230.

36 3. "OPERATOR" MEANS, TO THE EXTENT THAT IT IS BEING OPERATED IN  
37 THIS CAPACITY, THE OPERATOR OF AN INTERNET WEBSITE, ONLINE SERVICE, ONLINE  
38 APPLICATION OR MOBILE APPLICATION WITH ACTUAL KNOWLEDGE THAT THE SITE,  
39 SERVICE OR APPLICATION IS USED PRIMARILY FOR SCHOOL PURPOSES AND WAS  
40 DESIGNED AND MARKETED FOR SCHOOL PURPOSES.

41 4. "SCHOOL PURPOSES" MEANS PURPOSES THAT ARE DIRECTED BY OR  
42 CUSTOMARILY TAKE PLACE AT THE DIRECTION OF A PUBLIC SCHOOL OR TEACHER OR  
43 THAT AID IN THE ADMINISTRATION OF SCHOOL ACTIVITIES, INCLUDING INSTRUCTION  
44 IN THE CLASSROOM, INSTRUCTION AT HOME, ADMINISTRATIVE ACTIVITIES AND

1 COLLABORATION BETWEEN STUDENTS, SCHOOL PERSONNEL OR PARENTS, OR THAT ARE  
2 OTHERWISE FOR THE USE AND BENEFIT OF THE SCHOOL.

3 5. "SERVICE PROVIDER" MEANS A PERSON OR ENTITY THAT PROVIDES A  
4 SERVICE THAT ENABLES USERS TO ACCESS CONTENT, INFORMATION, E-MAIL OR OTHER  
5 SERVICES OFFERED OVER THE INTERNET OR A COMPUTER NETWORK.

6 6. "TARGETED ADVERTISING" MEANS ADVERTISEMENTS THAT ARE PRESENTED  
7 TO A STUDENT AND THAT ARE SELECTED BASED ON INFORMATION OBTAINED OR  
8 INFERRED OVER TIME FROM THAT STUDENT'S ONLINE BEHAVIOR, USAGE OF  
9 APPLICATIONS OR COVERED INFORMATION. TARGETED ADVERTISING DOES NOT  
10 INCLUDE ADVERTISING TO A STUDENT AT AN ONLINE LOCATION BASED ON THAT  
11 STUDENT'S CURRENT VISIT TO THAT LOCATION OR IN RESPONSE TO THAT STUDENT'S  
12 REQUEST FOR INFORMATION OR FEEDBACK IF THERE IS NO RETENTION OF THAT  
13 STUDENT'S ONLINE ACTIVITIES OR REQUESTS OVER TIME FOR THE PURPOSE OF  
14 TARGETING SUBSEQUENT ADVERTISEMENTS.

**APPROVED BY THE GOVERNOR APRIL 21, 2017.**

**FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 21, 2017.**

Passed the House April 17, 2017,

Passed the Senate February 22, 2017,

by the following vote: 53 Ayes,

by the following vote: 28 Ayes,

5 Nays, 1 Not Voting

2 Nays, 0 Not Voting

[Signature]  
Speaker of the House

[Signature]  
President of the Senate

[Signature]  
Chief Clerk of the House

[Signature]  
Secretary of the Senate

~~EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR~~

~~This Bill was received by the Governor this~~

~~\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,~~

~~at \_\_\_\_\_ o'clock \_\_\_\_\_ M.~~

~~\_\_\_\_\_  
Secretary to the Governor~~

~~Approved this \_\_\_\_\_ day of~~

~~\_\_\_\_\_, 20\_\_\_\_,~~

~~at \_\_\_\_\_ o'clock \_\_\_\_\_ M.~~

~~\_\_\_\_\_  
Governor of Arizona~~

~~EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE~~

~~This Bill was received by the Secretary of State~~

~~this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,~~

~~at \_\_\_\_\_ o'clock \_\_\_\_\_ M.~~

~~\_\_\_\_\_  
Secretary of State~~

S.B. 1314

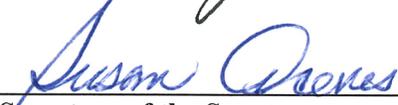
SENATE CONCURS IN HOUSE  
AMENDMENTS AND FINAL PASSAGE

Passed the Senate April 19, 2017

by the following vote: 25 Ayes,

3 Nays, 2 Not Voting

  
\_\_\_\_\_  
President of the Senate

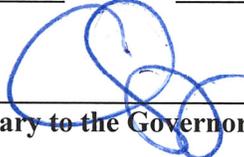
  
\_\_\_\_\_  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill received by the Governor this

19<sup>th</sup> day of April, 2017

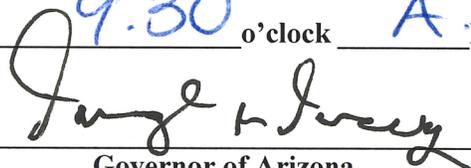
at 11:15 o'clock A. M.

  
\_\_\_\_\_  
Secretary to the Governor

Approved this 21<sup>st</sup> day of

April, 2017

at 9:30 o'clock A. M.

  
\_\_\_\_\_  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 21 day of April, 2017

at 2:46 o'clock P. M.

  
\_\_\_\_\_  
Secretary of State