SENATE, No. 440



STATE OF NEW JERSEY

217th LEGISLATURE



PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

Sponsored by:

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SYNOPSIS

 Prohibits cloud computing service providers from disclosing data collected from public, private, or charter schools.

CURRENT VERSION OF TEXT

 Introduced Pending Technical Review by Legislative Counsel.



An Act concerning cloud computing service provider contracts with public, private, or charter schools and supplementing Title 18A of the New Jersey Statutes.

 Be It Enacted by the Senate and General Assembly of the State of New Jersey:

 1. As used in P.L. , c. (C. ) (pending before the Legislature as this bill):

 "Charter school" means a school established pursuant to P.L.1995, c.426 (C.18A:36A-1 et seq.).

 “Cloud computing service” means a service that enables on-demand self-service network access to a shared pool of configurable computer resources to provide a school’s student, teacher, or staff member account-based productivity applications such as electronic mail, document storage, and document editing, which can be rapidly provisioned and released with minimal management effort or cloud computing service provider interaction.

 “Cloud computing service provider” means an entity, other than an educational institution, that operates a cloud computing service.

 “Educational record” means an official record, file, or data, in any medium or format, directly related to a student as provided by a student in the course of the student’s use of the cloud computing service, or provided and maintained by the school, including, but not limited to, records encompassing all the material kept in the student's cumulative folder, such as general identifying data, electronic mail addresses, records of attendance, records of academic work, records of achievement, results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs.

 “Private school” shall have the same meaning as provided in N.J.S.18A:1-1.

 “Process” or “processing” means to use, access, manipulate, scan, modify, transform, disclose, store, transmit, transfer, retain, aggregate, or dispose of educational records.

 “Public school” shall have the same meaning as provided in N.J.S.18A:1-1.

 “School” means a charter, private, or public school.

 2. a. A cloud computing service provider to a school in this State shall not disclose an educational record collected or maintained by the cloud computing service provider to any person other than a student, teacher, or staff member of the school. A cloud computing service provider shall process or monitor an educational record solely to provide the cloud computing service to the school and to maintain the integrity of the cloud computing service.

 b. A cloud computing service provider to a school shall certify in writing to the school that it shall comply with the terms and conditions set forth in this section.

 3. A cloud computing service provider who discloses or willfully permits the disclosure of information contained in an educational record in violation of section 2 of P.L. , c. (C. ) (pending before the Legislature as this bill), or any rule or regulation adopted pursuant thereto, shall be subject to a civil penalty of not more than $5,000 for a first offense and not more than $10,000 for any subsequent offense. Each disclosure or willful permission of a disclosure of an educational record of an individual student shall constitute a separate and distinct offense. The penalty shall be collected and enforced in a civil action in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The Superior Court shall have jurisdiction to enforce the provisions of the "Penalty Enforcement Law of 1999" pursuant to this section.

 4. The Commissioner of the Department of Education shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary to effectuate the purposes of P.L. , c. (C. ) (pending before the Legislature as this bill).

 5. This act shall take effect immediately, but shall remain inoperative for 180 days following the date of enactment.

STATEMENT

 This bill prohibits cloud computing service providers from disclosing an educational record collected or maintained by the cloud computing service provider to any person other than a student, teacher, or staff member of the school. A cloud computing service is to process or monitor educational records solely to provide the cloud computing service to the public, private, or charter school, and to maintain the integrity of the cloud computing service.

 A cloud computing service provider to a school is to certify in writing to the school that it is to comply with the terms and conditions set forth in the bill.

 A violator shall be subject to a civil penalty of not more than $5,000 for a first offense and not more than $10,000 for any subsequent offense. The Superior Court is to have jurisdiction to enforce the provisions of the bill.