HOUSE
RESEARCH
ORGANIZATION bill analysis   4/27/2021

HB 363 (2nd reading)
VanDeaver
(CSHB 363 by Dutton)

SUBJECT: Restricting vendor use of personally identifiable student information

COMMITTEE: Public Education — committee substitute recommended

VOTE: 12 ayes — Dutton, Lozano, Allen, Allison, K. Bell, Bernal, Buckley, Huberty, K. King, Meza, Talarico, VanDeaver

0 nays

1 absent — M. González

WITNESSES: For — Jennifer Bergland, Texas Computer Education Association; Laurie Vondersaar; (*Registered, but did not testify*: Steven Aleman, Disability Rights Texas; Charles Gaines, Raise Your Hand Texas; Grover Campbell, TASB; Dena Donaldson, Texas AFT; Barry Haenisch, Texas Association of Community Schools; Amy Beneski, Texas Association of School Administrators; Pamela McPeters, Texas Classroom Teachers Association; Kristin McGuire, Texas Council of Administrators of Special Education; Mark Terry, Texas Elementary Principals and Supervisors Association; Suzi Kennon, Texas PTA; Dee Carney, Texas School Alliance; Laura Atlas Kravitz, Texas State Teachers Association)

Against — None

On — Servando Esparza, TechNet; (*Registered, but did not testify*: Eric Marin, and Melody Parrish, Texas Education Agency; Charlotte Hopper)

BACKGROUND: Education Code sec. 32.155 requires an operator to maintain reasonable security procedures designed to protect any covered student information from unauthorized access, deletion, use, modification, or disclosure. Sec. 32.151(3) defines "operator" to include the operator of a website, online service, online application, or mobile application who has actual knowledge that the website, online service, online application, or mobile application is used primarily for a school purpose and was designed and marketed for a school purpose.

DIGEST: CSHB 363 would require an operator that had been approved or had a product approved by the Texas Education Agency (TEA) that possessed any covered information to use the unique identifier established by the Texas Student Data System or a successor system to mask all personally identifiable student information. The operator would have to adhere to a state-required student data sharing agreement that included an established unique identifier standard for all operators as prescribed by TEA.

In addition to including the unique identifier in releasing information, an operator could include any other data field identified by TEA or a school district, charter school, regional education service center, or other local education agency as necessary for the information being released to be useful. Any of the school entities could require an operator that contracted directly with the entity to adhere to a state-required student data sharing agreement that included the use of an established unique identifier standard for all operators as prescribed by TEA.

A national assessment provider who received covered information from a student or from a school district or campus on behalf of a student would not be required to comply with the bill's unique identifier requirement or the student data sharing agreement if the provider received the information solely to provide access to:

- employment, educational scholarships, financial aid, or postsecondary educational opportunities; or
- educational resources for middle school, junior high school, or high school students.

The commissioner of education could adopt rules to administer the bill.

The bill would take effect September 1, 2023.

SUPPORTERS   CSHB 363 would protect student data that vendors receive by requiring
SAY: them to use a state-issued unique identifier to mask the data. The bill would place control of student data back into the hands of school districts and prohibit vendors who lacked capacity to mask the data from getting

access to it.

Currently, vendors can access more personal student data than they need in order to provide their technology services. By limiting access, the bill would help keep student information safe from cyber threats.

The bill would have no cost to the state or school districts and would not burden districts with additional work to de-mask data. Without the bill, districts will continue to face difficulties defining and enforcing what student data is appropriate to share with vendors of educational applications.

The bill's effective date of September 1, 2023, would give school districts and vendors sufficient time to implement the changes. Concerns that certain vendors of off-the-shelf services such as cloud storage would have to take on an additional role of managing unique student identifiers could be addressed during the Texas Education Agency rulemaking process.

CRITICS
SAY:

CSHB 363 would require vendors to adopt the Texas Student Data System unique identifier even for off-the-shelf services such as cloud storage or data storage. This would be an additional role for these vendors that would be better left to school districts to manage.