

CHAPTER 211

GOVERNMENT - STATE

HOUSE BILL 08-1364

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also SENATOR(S) Windels, Schwartz, and Tupa.

AN ACT**CONCERNING INTERDEPARTMENTAL DATA PROTOCOLS.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Article 37.5 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

PART 7
INTERDEPARTMENTAL DATA PROTOCOL

24-37.5-701. Legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS THAT:

(a) EACH AGENCY OF THE STATE, THROUGH THE PROCESS OF PROVIDING GOVERNMENTAL SERVICES, COLLECTS A SIGNIFICANT AMOUNT OF DATA WITH REGARD TO PERSONS WHO HAVE INTERACTIONS WITH GOVERNMENTAL AGENCIES;

(b) CREATING CROSS-DEPARTMENTAL DATA INTEROPERABILITY AND PROTOCOLS USED BY ALL STATE EXECUTIVE BRANCH AGENCIES WILL SIGNIFICANTLY INCREASE THE EFFICIENCY OF STATE GOVERNMENT AND ENHANCE THE ABILITY OF MULTIPLE STATE AGENCIES TO EFFECTIVELY AND EFFICIENTLY PROVIDE SERVICES TO INDIVIDUALS WITHIN THE STATE;

(c) THE DATA COLLECTED THROUGH THE PROVISION OF GOVERNMENTAL SERVICES, IF APPROPRIATELY COLLECTED AND SYNTHESIZED, WILL PROVIDE VALUABLE INFORMATION TO GUIDE MEMBERS OF THE GENERAL ASSEMBLY AND PERSONS WITHIN THE STATE EXECUTIVE BRANCH AGENCIES IN FORMULATING STATE

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

POLICY AND IN DETERMINING THE EFFECTIVENESS OF STATE POLICIES;

(d) IT IS IMPERATIVE IN ESTABLISHING PROCEDURES AND PROTOCOLS FOR CROSS-DEPARTMENTAL DATA PROCESSING THAT THE STATE TAKE ALL POSSIBLE MEASURES TO ENSURE PERSONAL PRIVACY AND PROTECT PERSONAL INFORMATION FROM INTENTIONAL OR ACCIDENTAL RELEASE TO UNAUTHORIZED PERSONS AND FROM INTENTIONAL OR ACCIDENTAL USE FOR UNAUTHORIZED PURPOSES.

(2) THE GENERAL ASSEMBLY THEREFORE CONCLUDES THAT IT IS IN THE BEST INTERESTS OF THE STATE TO CREATE AN INTERDEPARTMENTAL DATA PROTOCOL TO ASSIST IN FORMULATING AND DETERMINING THE EFFECTIVENESS OF STATE POLICIES.

24-37.5-702. Definitions. AS USED IN THIS PART 7, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "CHIEF INFORMATION OFFICER" MEANS THE HEAD OF THE OFFICE OF INFORMATION TECHNOLOGY APPOINTED PURSUANT TO SECTION 24-37.5-103.

(2) "COUNCIL" MEANS THE DATA PROTOCOL DEVELOPMENT COUNCIL CONVENED PURSUANT TO SECTION 24-37.5-703.

(3) "DATA" MEANS UNIT RECORDS.

(4) "INTERDEPARTMENTAL DATA PROTOCOL" MEANS AN INTEROPERABLE, CROSS-DEPARTMENTAL DATA MANAGEMENT SYSTEM AND FILE SHARING PROCEDURE THAT PERMITS THE MERGING OF UNIT RECORDS FOR THE PURPOSES OF POLICY ANALYSIS AND DETERMINATION OF PROGRAM EFFECTIVENESS.

(5) "PERSONAL IDENTIFYING INFORMATION" MEANS A PERSON'S FIRST NAME OR FIRST INITIAL AND LAST NAME IN COMBINATION WITH HIS OR HER SOCIAL SECURITY NUMBER OR DRIVER'S LICENSE NUMBER OR IDENTIFICATION CARD NUMBER.

(6) "POLITICAL SUBDIVISION" MEANS A MUNICIPALITY, COUNTY, CITY AND COUNTY, TOWN, OR SCHOOL DISTRICT IN THIS STATE.

(7) "STATE AGENCY" MEANS EACH PRINCIPAL DEPARTMENT WITHIN THE EXECUTIVE BRANCH, INCLUDING EACH BOARD, DIVISION, UNIT, OFFICE, OR OTHER SUBDIVISION WITHIN EACH DEPARTMENT, EACH OFFICE OR AGENCY WITHIN THE GOVERNOR'S OFFICE, EACH STATE-SUPPORTED INSTITUTION OF HIGHER EDUCATION, AND EACH LOCAL DISTRICT JUNIOR COLLEGE; EXCEPT THAT "STATE AGENCY" SHALL NOT INCLUDE ANY DEPARTMENT, AGENCY, BOARD, DIVISION, UNIT, OFFICE, OR OTHER SUBDIVISION OF A DEPARTMENT THAT DOES NOT COLLECT UNIT RECORDS.

24-37.5-703. Data protocol development council - convening. ON OR BEFORE SEPTEMBER 1, 2008, THE CHIEF INFORMATION OFFICER SHALL CONVENE THE DATA PROTOCOL DEVELOPMENT COUNCIL TO ASSIST IN DESIGNING AND IMPLEMENTING THE INTERDEPARTMENTAL DATA PROTOCOL. THE COUNCIL SHALL CONSIST OF NO MORE THAN TWO REPRESENTATIVES FROM EACH STATE AGENCY WHO HAVE RESPONSIBILITY FOR THE COMMUNICATION AND INFORMATION RESOURCES AND COMMUNICATION AND INFORMATION RESOURCES TECHNOLOGIES WITHIN THE STATE AGENCY. THE CHIEF INFORMATION OFFICER MAY INCLUDE ADDITIONAL PERSONS ON

THE COUNCIL IF HE OR SHE DETERMINES ADDITIONAL PERSONS ARE NECESSARY TO FULLY REPRESENT ALL OF THE STATE AGENCIES. THE COUNCIL SHALL MEET AS OFTEN AS NECESSARY AT THE CALL OF THE CHIEF INFORMATION OFFICER TO COMPLETE THE DUTIES SPECIFIED IN THIS PART 7.

24-37.5-704. Interdepartmental data protocol - contents. (1) THE CHIEF INFORMATION OFFICER, WORKING WITH THE COUNCIL, SHALL CREATE THE INTERDEPARTMENTAL DATA PROTOCOL, WHICH AT A MINIMUM SHALL INCLUDE PROTOCOLS AND PROCEDURES TO BE USED BY STATE AGENCIES IN DATA PROCESSING, INCLUDING BUT NOT LIMITED TO COLLECTING, STORING, MANIPULATING, SHARING, RETRIEVING, AND RELEASING DATA. IN DESIGNING THE INTERDEPARTMENTAL DATA PROTOCOL, THE CHIEF INFORMATION OFFICER AND THE COUNCIL SHALL ESTABLISH TIME LINES BY WHICH THE STATE AGENCIES SHALL IMPLEMENT THE INTERDEPARTMENTAL DATA PROTOCOL.

(2) THE INTERDEPARTMENTAL DATA PROTOCOL SHALL BE DESIGNED TO ENABLE EACH STATE AGENCY TO ACCURATELY AND EFFICIENTLY COLLECT AND SHARE DATA WITH THE OTHER STATE AGENCIES. AT A MINIMUM, THE INTERDEPARTMENTAL DATA PROTOCOL SHALL BE DESIGNED TO ENSURE THAT DATA COLLECTED BY DIFFERENT STATE AGENCIES CAN BE MATCHED AND DISCREPANCIES IN THE DATA PROCESSING RECONCILED TO ACCURATELY IDENTIFY DATA PERTAINING TO THE SAME RECORD WITHOUT ALLOWING ANY PERMANENT SHARING OF PERSONAL IDENTIFYING INFORMATION AMONG STATE AGENCIES WITHOUT EXPRESS AUTHORIZATION FROM THE EXECUTIVE DIRECTORS OF THE ORIGINATING AND RECEIVING STATE AGENCIES.

(3) IN CREATING THE PROTOCOLS AND PROCEDURES INCLUDED IN THE INTERDEPARTMENTAL DATA PROTOCOL BY WHICH STATE AGENCIES MAY SHARE DATA AND BY WHICH A STATE AGENCY MAY RELEASE DATA TO A POLITICAL SUBDIVISION OR TO A NONGOVERNMENTAL ENTITY OR AN INDIVIDUAL, THE COUNCIL SHALL, AT A MINIMUM:

(a) ESTABLISH THE CIRCUMSTANCES UNDER WHICH AND THE REASONS FOR WHICH A STATE AGENCY MAY SHARE INFORMATION WITH ANOTHER STATE AGENCY, WITH A POLITICAL SUBDIVISION, OR WITH A NONGOVERNMENTAL ENTITY OR AN INDIVIDUAL;

(b) ESTABLISH THE FORMAT IN WHICH A STATE AGENCY MAY RELEASE DATA TO A POLITICAL SUBDIVISION, A NONGOVERNMENTAL ENTITY, OR AN INDIVIDUAL;

(c) ENSURE COMPLIANCE WITH ALL STATE AND FEDERAL LAWS AND REGULATIONS CONCERNING THE PRIVACY OF INFORMATION, INCLUDING BUT NOT LIMITED TO THE FEDERAL "FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT OF 1974", 20 U.S.C. SEC. 1232g, AND THE FEDERAL "HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996", 42 U.S.C. SEC. 1320d TO 1320d-8; AND

(d) ENSURE THAT A STATE AGENCY DOES NOT PERMANENTLY SHARE PERSONAL IDENTIFYING INFORMATION WITH ANOTHER STATE AGENCY WITHOUT EXPRESS AUTHORIZATION FROM THE EXECUTIVE DIRECTORS OF THE ORIGINATING AND RECEIVING STATE AGENCIES OR WITH A POLITICAL SUBDIVISION, A NONGOVERNMENTAL ENTITY, OR AN INDIVIDUAL, OTHER THAN THE INDIVIDUAL WHO IS THE SUBJECT OF THE INFORMATION.

(4) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, THE INTERDEPARTMENTAL DATA PROTOCOL SHALL NOT NULLIFY ANY MEMORANDA OF UNDERSTANDING EXISTING AS OF JANUARY 1, 2008, NOR PROHIBIT THE CREATION OF MEMORANDA OF UNDERSTANDING AFTER SAID DATE, BETWEEN OR AMONG STATE AGENCIES CONCERNING DATA SHARING OR ANY OTHER DATA SHARING PRACTICES.

(5) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, THE INTERDEPARTMENTAL DATA PROTOCOL SHALL NOT PROHIBIT THE RELEASE TO OR SHARING OF DATA WITH NONGOVERNMENTAL ENTITIES OR INDIVIDUALS IF THE RELEASE OR SHARING IS OTHERWISE REQUIRED, PERMITTED, OR ALLOWED BY THE PROVISIONS OF PART 2 OF ARTICLE 72 OF THIS TITLE OR OTHER STATE OR FEDERAL LAW, OR IF THE RELEASE OR SHARING OCCURS PURSUANT TO CONTRACT OR OTHER AGREEMENT WITH A STATE AGENCY.

24-37.5-705. Data sharing - authorization. (1) WITH THE IMPLEMENTATION OF THE INTERDEPARTMENTAL DATA PROTOCOL, EXCEPT AS SPECIFICALLY PROHIBITED BY STATUTE, EACH STATE AGENCY IS AUTHORIZED, IN ACCORDANCE WITH THE PROVISIONS OF THE INTERDEPARTMENTAL DATA PROTOCOL, TO SHARE WITH THE FOLLOWING ENTITIES DATA COLLECTED IN THE COURSE OF PERFORMING ITS POWERS AND DUTIES:

- (a) OTHER STATE AGENCIES;
- (b) AGENCIES WITHIN THE LEGISLATIVE AND JUDICIAL DEPARTMENTS;
- (c) POLITICAL SUBDIVISIONS; AND
- (d) NONGOVERNMENTAL ENTITIES AND INDIVIDUALS.

24-37.5-706. Interdepartmental data protocol cash fund - created. (1) THE CHIEF INFORMATION OFFICER IS AUTHORIZED TO SEEK AND ACCEPT GIFTS, GRANTS, OR DONATIONS FROM PRIVATE OR PUBLIC SOURCES FOR THE PURPOSES OF THIS PART 7. ALL PRIVATE AND PUBLIC FUNDS RECEIVED THROUGH GIFTS, GRANTS, OR DONATIONS SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE INTERDEPARTMENTAL DATA PROTOCOL CASH FUND, WHICH FUND IS HEREBY CREATED AND REFERRED TO IN THIS SECTION AS THE "FUND". THE MONEYS IN THE FUND ARE CONTINUOUSLY APPROPRIATED TO THE OFFICE OF INFORMATION TECHNOLOGY FOR THE DIRECT AND INDIRECT COSTS ASSOCIATED WITH THE IMPLEMENTATION OF THIS PART 7. THE CHIEF INFORMATION OFFICER AND THE OFFICE OF INFORMATION TECHNOLOGY SHALL NOT BE REQUIRED TO IMPLEMENT THE PROVISIONS OF THIS PART 7 UNTIL SUCH TIME AS AT LEAST ONE HUNDRED THIRTEEN THOUSAND FIVE HUNDRED DOLLARS ARE CREDITED TO THE FUND. IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE PROVISIONS OF THIS PART 7 BE IMPLEMENTED WITHOUT THE USE OF STATE MONEYS.

(2) ANY MONEYS IN THE FUND NOT EXPENDED FOR THE PURPOSE OF THIS PART 7 MAY BE INVESTED BY THE STATE TREASURER AS PROVIDED BY LAW. ALL INTEREST AND INCOME DERIVED FROM THE INVESTMENT AND DEPOSIT OF MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND. ANY UNEXPENDED AND UNENCUMBERED MONEYS REMAINING IN THE FUND AT THE END OF A FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND

OR ANOTHER FUND.

24-37.5-707. Interdepartmental data protocol - report. THE CHIEF INFORMATION OFFICER SHALL SUBMIT TO THE GOVERNOR AND THE STATE, VETERANS, AND MILITARY AFFAIRS COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE SENATE, OR ANY SUCCESSOR COMMITTEES, A REPORT ON OR BEFORE MARCH 1, 2009, CONCERNING DEVELOPMENT AND IMPLEMENTATION OF THE INTERDEPARTMENTAL DATA PROTOCOL.

SECTION 2. Part 1 of article 2 of title 22, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

22-2-134. Unique student identifier - early childhood education - rules.

(1) ON OR BEFORE SEPTEMBER 1, 2008, THE COMMISSIONER, IN COOPERATION WITH THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HUMAN SERVICES, SHALL CONVENE A WORKING GROUP TO REVIEW THE ISSUES PERTAINING TO THE ASSIGNMENT OF A UNIQUELY IDENTIFYING STUDENT NUMBER TO CHILDREN WHO RECEIVE STATE-SUBSIDIZED OR FEDERALLY SUBSIDIZED EARLY CHILDHOOD EDUCATION SERVICES, INCLUDING BUT NOT LIMITED TO SERVICES PROVIDED THROUGH THE CHILD CARE DEVELOPMENT BLOCK GRANT AND HEAD START. IN CONVENING THE WORKING GROUP, THE COMMISSIONER AND THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HUMAN SERVICES SHALL INCLUDE REPRESENTATIVES FROM THE DEPARTMENT OF EDUCATION AND THE DEPARTMENT OF HUMAN SERVICES AND REPRESENTATIVES OF SCHOOL DISTRICTS AND OTHER INTERESTED STAKEHOLDERS.

(2) THE WORKING GROUP SHALL ADOPT PROTOCOLS BY WHICH THE DEPARTMENT OF EDUCATION, THE DEPARTMENT OF HUMAN SERVICES, SCHOOL DISTRICTS, CHARTER SCHOOLS, THE EARLY CHILDHOOD COUNCILS, AS DESCRIBED IN SECTION 26-6.5-103.3, C.R.S., AND THE EARLY CHILDHOOD CARE AND EDUCATION COUNCILS, AS DEFINED IN SECTION 26-6.5-101.5 (6), C.R.S., SHALL COOPERATE IN ASSIGNING THE UNIQUELY IDENTIFYING STUDENT NUMBERS. THE WORKING GROUP SHALL ALSO CONSIDER METHODS BY WHICH TO ENCOURAGE AND FACILITATE THE ASSIGNMENT OF UNIQUELY IDENTIFYING STUDENT NUMBERS TO STUDENTS WHO ARE RECEIVING EARLY CHILDHOOD EDUCATION SERVICES THAT ARE NOT SUBSIDIZED BY STATE OR FEDERAL FUNDING.

(3) ON OR BEFORE FEBRUARY 1, 2009, THE COMMISSIONER SHALL REPORT TO THE HEAD OF THE OFFICE OF INFORMATION TECHNOLOGY THE FINDINGS AND PROTOCOLS ADOPTED BY THE WORKING GROUP. THE HEAD OF THE OFFICE OF INFORMATION TECHNOLOGY SHALL INCORPORATE THE FINDINGS AND PROTOCOLS OF THE WORKING GROUP INTO THE REPORT MADE TO THE GOVERNOR AND THE STATE, VETERANS, AND MILITARY AFFAIRS COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE SENATE, OR ANY SUCCESSOR COMMITTEES, PURSUANT TO SECTION 24-37.5-707, C.R.S.

(4) FOLLOWING ADOPTION OF THE PROTOCOLS, THE STATE BOARD OF EDUCATION SHALL PROMULGATE RULES PURSUANT TO THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, C.R.S., AS NECESSARY FOR THE ASSIGNMENT OF UNIQUELY IDENTIFYING STUDENT NUMBERS TO STUDENTS RECEIVING EARLY CHILDHOOD EDUCATION SERVICES. THE STATE BOARD SHALL COLLABORATE

WITH THE STATE BOARD OF HUMAN SERVICES IN PROMULGATING RULES AS PROVIDED IN THIS SUBSECTION (4) TO ENSURE THAT THEY DO NOT CONFLICT WITH ANY RULES PROMULGATED BY THE STATE BOARD OF HUMAN SERVICES PURSUANT TO SECTION 26-6-121, C.R.S.

SECTION 3. Part 1 of article 6 of title 26, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

26-6-121. Preschools - unique student identifying numbers - rules. (1) ON OR BEFORE SEPTEMBER 1, 2008, THE EXECUTIVE DIRECTOR, IN COOPERATION WITH THE COMMISSIONER OF EDUCATION, SHALL CONVENE A WORKING GROUP, AS DESCRIBED IN SECTION 22-2-134, C.R.S., TO REVIEW THE ISSUES PERTAINING TO THE ASSIGNMENT OF A UNIQUELY IDENTIFYING STUDENT NUMBER TO CHILDREN WHO RECEIVE STATE-SUBSIDIZED OR FEDERALLY SUBSIDIZED EARLY CHILDHOOD EDUCATION SERVICES, INCLUDING BUT NOT LIMITED TO SERVICES PROVIDED THROUGH THE CHILD CARE DEVELOPMENT BLOCK GRANT AND HEAD START.

(2) THE WORKING GROUP SHALL ADOPT PROTOCOLS BY WHICH THE DEPARTMENT OF EDUCATION, THE DEPARTMENT OF HUMAN SERVICES, SCHOOL DISTRICTS, CHARTER SCHOOLS, THE EARLY CHILDHOOD COUNCILS, AS DESCRIBED IN SECTION 26-6.5-103.3, AND THE EARLY CHILDHOOD CARE AND EDUCATION COUNCILS, AS DEFINED IN SECTION 26-6.5-101.5 (6), SHALL COOPERATE IN ASSIGNING THE UNIQUELY IDENTIFYING STUDENT NUMBERS. THE WORKING GROUP SHALL ALSO CONSIDER METHODS BY WHICH TO ENCOURAGE AND FACILITATE THE ASSIGNMENT OF UNIQUELY IDENTIFYING STUDENT NUMBERS TO STUDENTS WHO ARE RECEIVING EARLY CHILDHOOD EDUCATION SERVICES THAT ARE NOT SUBSIDIZED BY STATE OR FEDERAL FUNDING.

(3) FOLLOWING ADOPTION OF THE PROTOCOLS, THE STATE BOARD SHALL PROMULGATE RULES PURSUANT TO THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, C.R.S., AS NECESSARY FOR THE ASSIGNMENT OF UNIQUELY IDENTIFYING STUDENT NUMBERS TO STUDENTS RECEIVING EARLY CHILDHOOD EDUCATION SERVICES. THE STATE BOARD SHALL COLLABORATE WITH THE STATE BOARD OF EDUCATION IN PROMULGATING ANY NECESSARY RULES TO ENSURE THAT THEY DO NOT CONFLICT WITH ANY RULES PROMULGATED BY THE STATE BOARD OF EDUCATION PURSUANT TO SECTION 22-2-134, C.R.S.

SECTION 4. No appropriation. The general assembly has determined that this act can be implemented within existing appropriations, and therefore no separate appropriation of state moneys is necessary to carry out the purposes of this act.

SECTION 5. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, (August 6, 2008, if adjournment sine die is on May 7, 2008); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: May 14, 2008