



House of Representatives

General Assembly

File No. 546

January Session, 2017

Substitute House Bill No. 7154

House of Representatives, April 12, 2017

The Committee on Education reported through REP. FLEISCHMANN of the 18th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING STUDENTS' RIGHT TO PRIVACY IN THEIR PERSONAL MOBILE ELECTRONIC DEVICES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1 Section 1. (NEW) (*Effective July 1, 2017*) (a) As used in this section:
- 2 (1) "Mobile electronic device" means any hand-held or other
3 portable electronic equipment capable of providing data
4 communication between two or more individuals, including, but not
5 limited to, a text messaging device, a paging device, a personal digital
6 assistant, a laptop computer, equipment that is capable of playing a
7 video game or a digital video disk or equipment on which digital
8 images are taken or transmitted; and
- 9 (2) "School employee" means: (A) A teacher, substitute teacher,
10 school administrator, school superintendent, guidance counselor,
11 psychologist, social worker, nurse, physician, school paraprofessional
12 or coach employed by a local or regional board of education or a

13 private elementary, middle or high school or working in a public or
14 private elementary, middle or high school; or (B) any other person
15 who, in the performance of his or her duties, has regular contact with
16 students and who provides services to or on behalf of students
17 enrolled in (i) a public elementary, middle or high school, pursuant to
18 a contract with the local or regional board of education, or (ii) a private
19 elementary, middle or high school, pursuant to a contract with the
20 supervisory agent of such private school.

21 (b) No school employee may take custody of a student's personal
22 mobile electronic device for purposes of accessing any data or other
23 content stored upon or accessible from such device, or compel a
24 student to produce, display, share or provide access to any data or
25 other content stored upon or accessible from such device, except a
26 school employee may take custody of a student's personal mobile
27 electronic device if (1) such device is located on school property, and
28 (2) the school employee has a reasonable suspicion that a student (A)
29 has violated or is violating an educational policy and that such device
30 contains evidence of the suspected violation, or (B) poses a risk of
31 imminent personal injury to such student or others. Upon taking
32 custody of a student's personal mobile electronic device, the school
33 employee shall immediately turn over such device to a school
34 administrator.

35 (c) A school administrator may conduct a search of a student's
36 personal mobile electronic device seized pursuant to subsection (b) of
37 this section. Any such search shall (1) be strictly limited to finding
38 evidence of the suspected policy violation or to prevent imminent
39 personal injury to such student or others, and (2) immediately cease
40 upon (A) finding sufficient evidence or no evidence of the suspected
41 violation, or (B) preventing such imminent personal injury to such
42 student or others. Immediately after searching such device, the school
43 employee shall report, in writing, to the principal the reasonable
44 suspicion that gave rise to the search. Not later than twenty-four hours
45 after the completion of the search, the principal shall notify the student
46 and the parent or guardian of the student of the suspected violation

47 and what data was accessed from such device during the search of
48 such device. The principal shall provide a copy of the report detailing
49 the reasonable suspicion that gave rise to the search.

50 (d) No school administrator shall copy, share or transfer any data or
51 any information accessed on a student's personal mobile electronic
52 device during a search of such device that is unrelated to the suspected
53 violation of an educational policy or risk of imminent personal injury
54 to such student or others.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2017	New section

Statement of Legislative Commissioners:

In Section 1(d), "school employee" was changed to "school administrator" to conform with the provisions of Subsec. (c).

ED *Joint Favorable Subst. -LCO*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note***State Impact:*** None***Municipal Impact:*** None***Explanation***

The bill establishes procedural standards for when a school administrator can conduct a search on a student's personal mobile electronic device. Since the new standards are procedural in nature, there are no costs to local and regional school districts.

The Out Years***State Impact:*** None***Municipal Impact:*** None

OLR Bill Analysis

sHB 7154

AN ACT CONCERNING STUDENTS' RIGHT TO PRIVACY IN THEIR PERSONAL MOBILE ELECTRONIC DEVICES.

SUMMARY

This bill creates a standard for determining when a school administrator can conduct a search of a student's personal mobile electronic device to access data or other content stored on or accessed from the device. Current case law holds that student searches by school administrators are subject to the Fourth Amendment and that reasonable cause is required before a student or the student's personal effects can be searched (see BACKGROUND).

It bans an employee from taking custody of a student's personal device in order to search it or to compel a student to provide access to it unless the device is on school property and the school employee has a reasonable suspicion that the student:

1. has violated an educational policy and the device contains evidence of the suspected violation or
2. poses a risk of imminent personal injury to him or herself or others.

The bill limits the search to finding evidence of the suspected violation or risk of imminent personal injury and requires other steps, including notification to the student and the student's parents within 24 hours of the search.

The bill applies to public and private schools.

EFFECTIVE DATE: July 1, 2017

DEFINITIONS

The bill includes the following definitions:

1. “mobile electronic device” means any hand-held or other portable electronic equipment capable of providing data communication between individuals, including, but not limited to, a text messaging device, a paging device, a personal digital assistant, a laptop computer, equipment capable of playing a video game or a DVD or equipment on which digital images are taken or transmitted; and
2. “school employee” means (a) a teacher or substitute teacher, school administrator or superintendent, guidance counselor, psychologist, social worker, nurse, physician, school paraprofessional, or coach employed by a local or regional board of education or a private school or working in a public or private school; or (b) any other person who, in the performance of his or her duties, has regular contact with students and who provides services to or on behalf of students enrolled in a public or private school, under a contract with the local or regional board of education or with the supervisory agent of a private school, respectively.

SEARCH CONDITIONS AND PROCEDURES

Under the bill, when a school employee takes custody of a student’s personal device because of reasonable suspicion that the student violated education policy or poses a risk of imminent personal injury, the employee must immediately turn the device over to a school administrator.

The school administrator must follow certain steps to conduct the search. Under the bill, the search is strictly limited to (1) finding evidence of the suspected policy violation or (2) preventing imminent personal injury to the student or others. It must immediately cease upon (1) finding sufficient evidence or no evidence of the suspected violation or (2) preventing imminent personal injury.

Also, immediately after searching the device, the school employee must report, in writing, to the principal the reasonable suspicion that gave rise to the search. No later than 24 hours after the search, the principal must notify the student and the student’s parent or guardian of the suspected violation and what data was accessed from the device during the search. The principal must provide a copy of the report detailing the reasonable suspicion that gave rise to the search to the student’s parent or guardian.

The bill bans school employees from copying, sharing, or transferring any data or any information accessed on a student's personal device during a search that is unrelated to the suspected policy violation or risk of imminent personal injury.

BACKGROUND

Student Searches Supreme Court Case

In *New Jersey v. T.L.O.*, 469 U.S. 325 (1985) the court ruled that school administrators must have reasonable grounds at the start of the search to conduct it. Furthermore, the search must be reasonable in scope and not excessive intrusive in light of the student’s age or sex. The search has to be clearly related to the reasonable grounds or suspicion.

COMMITTEE ACTION

Education Committee

Joint Favorable

Yea 31 Nay 0 (03/24/2017)