

Second Regular Session  
Seventy-second General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 20-0929.01 Shelby Ross x4510

SENATE BILL 20-137

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SENATE SPONSORSHIP

Gardner,

HOUSE SPONSORSHIP

Buentello,

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Senate Committees  
Health & Human Services

House Committees

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A BILL FOR AN ACT

101 CONCERNING A VOLUNTARY WAIVER OF THE FEDERAL "FAMILY  
102 EDUCATIONAL RIGHTS AND PRIVACY ACT OF 1974" TO ALLOW  
103 SCHOOL PERSONNEL TO COMMUNICATE WITH BEHAVIORAL  
104 HEALTH CARE PROVIDERS ABOUT A STUDENT'S HEALTH  
105 RECORDS.

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Bill Summary

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

The bill requires the department of education (department) to make available on the department's website to all public schools a waiver form

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters or bold & italic numbers indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.

that a parent or legal guardian may use to waive for one school year the provisions of the federal "Family Educational Rights and Privacy Act of 1974" (FERPA), as necessary to allow school personnel to communicate with behavioral health care providers about a student's health records. The waiver form must include an explanation that signing the waiver is optional. The bill requires public schools to include the waiver form in the materials for pupil registration.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly  
3 finds and declares that:

4 (a) To most effectively assess and treat a student, it is important  
5 to facilitate communication, with parental consent, between the student's  
6 behavioral health care provider and school personnel; and

7 (b) Including a waiver form in the materials for pupil registration  
8 that allows a parent or legal guardian to consent to the communication  
9 between school personnel and behavioral health care providers is more  
10 efficient than requesting parental consent individually on a case-by-case  
11 basis throughout the year.

12 **SECTION 2.** In Colorado Revised Statutes, **add 22-2-106.7** as  
13 follows:

14 **22-2-106.7. State board - federal "Family Educational Rights**  
15 **and Privacy Act of 1974" waiver - behavioral health services.** ON OR  
16 BEFORE JULY 1, 2021, THE STATE BOARD SHALL MAKE AVAILABLE ON THE  
17 DEPARTMENT'S WEBSITE TO ALL PUBLIC SCHOOLS A FORM THAT A PARENT  
18 MAY USE TO WAIVE FOR ONE SCHOOL YEAR THE PROVISIONS OF THE  
19 FEDERAL "FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT OF 1974"  
20 (FERPA), 20 U.S.C. SEC. 1232g, AS NECESSARY TO ALLOW SCHOOL  
21 PERSONNEL TO COMMUNICATE WITH BEHAVIORAL HEALTH CARE  
22 PROVIDERS ABOUT A STUDENT'S HEALTH RECORDS. THE WAIVER FORM

1 MUST INCLUDE AN EXPLANATION THAT SIGNING THE WAIVER IS OPTIONAL.

2 **SECTION 3.** In Colorado Revised Statutes, **amend** 22-5-107 as  
3 follows:

4 **22-5-107. Duties of board of cooperative services.** In addition  
5 to any other duty required to be performed by law, the board of  
6 cooperative services ~~shall have~~ HAS the same duties as those for boards  
7 of education as set forth in section 22-32-109 (1)(a) to (1)(m), (1)(q),  
8 (1)(r), ~~and~~ (1)(pp), AND (1)(qq) and section 22-9-106.

9 **SECTION 4.** In Colorado Revised Statutes, 22-30.5-104, **add**  
10 (14) as follows:

11 **22-30.5-104. Charter school - requirements - authority - rules.**

12 (14) A CHARTER SCHOOL SHALL INCLUDE IN THE MATERIALS FOR PUPIL  
13 REGISTRATION A FORM THAT A PARENT MAY USE TO WAIVE FOR ONE  
14 SCHOOL YEAR THE PROVISIONS OF THE FEDERAL "FAMILY EDUCATIONAL  
15 RIGHTS AND PRIVACY ACT OF 1974" (FERPA), 20 U.S.C. SEC. 1232g, AS  
16 NECESSARY TO ALLOW SCHOOL PERSONNEL TO COMMUNICATE WITH  
17 BEHAVIORAL HEALTH CARE PROVIDERS ABOUT A STUDENT'S HEALTH  
18 RECORDS. THE WAIVER FORM MUST INCLUDE AN EXPLANATION THAT  
19 SIGNING THE WAIVER IS OPTIONAL. THE CHARTER SCHOOL MUST COLLECT  
20 THE SIGNED WAIVER FORMS ANNUALLY AT THE BEGINNING OF EACH  
21 SCHOOL YEAR. EACH CHARTER SCHOOL MAY DEVELOP THE WAIVER FORM  
22 DESCRIBED IN THIS SUBSECTION (14) OR USE THE WAIVER FORM POSTED ON  
23 THE DEPARTMENT'S WEBSITE PURSUANT TO SECTION 22-2-106.7.

24 **SECTION 5.** In Colorado Revised Statutes, 22-30.5-505, **add**  
25 (3.7) as follows:

26 **22-30.5-505. State charter school institute - institute board -**  
27 **appointment - powers and duties - rules.** (3.7) THE INSTITUTE BOARD

1 SHALL INCLUDE IN THE MATERIALS FOR PUPIL REGISTRATION A FORM THAT  
2 A PARENT MAY USE TO WAIVE FOR ONE SCHOOL YEAR THE PROVISIONS OF  
3 THE FEDERAL "FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT OF  
4 1974" (FERPA), 20 U.S.C. SEC. 1232g, AS NECESSARY TO ALLOW SCHOOL  
5 PERSONNEL TO COMMUNICATE WITH BEHAVIORAL HEALTH CARE  
6 PROVIDERS ABOUT A STUDENT'S HEALTH RECORDS. THE WAIVER FORM  
7 MUST INCLUDE AN EXPLANATION THAT SIGNING THE WAIVER IS OPTIONAL.  
8 THE INSTITUTE BOARD MUST COLLECT THE SIGNED WAIVER FORMS  
9 ANNUALLY AT THE BEGINNING OF EACH SCHOOL YEAR. THE INSTITUTE  
10 BOARD MAY DEVELOP THE WAIVER FORM DESCRIBED IN THIS SUBSECTION  
11 (3.7) OR USE THE WAIVER FORM POSTED ON THE DEPARTMENT'S WEBSITE  
12 PURSUANT TO SECTION 22-2-106.7.

13 **SECTION 6.** In Colorado Revised Statutes, 22-32-109, **add**  
14 (1)(qq) as follows:

15 **22-32-109. Board of education - specific duties.** (1) In addition  
16 to any other duty required to be performed by law, each board of  
17 education shall have and perform the following specific duties:

18 (qq) TO INCLUDE IN THE MATERIALS FOR PUPIL REGISTRATION A  
19 FORM THAT A PARENT MAY USE TO WAIVE FOR ONE SCHOOL YEAR THE  
20 PROVISIONS OF THE FEDERAL "FAMILY EDUCATIONAL RIGHTS AND  
21 PRIVACY ACT OF 1974" (FERPA), 20 U.S.C. SEC. 1232g, AS NECESSARY  
22 TO ALLOW SCHOOL PERSONNEL TO COMMUNICATE WITH BEHAVIORAL  
23 HEALTH CARE PROVIDERS ABOUT A STUDENT'S HEALTH RECORDS. THE  
24 WAIVER FORM MUST INCLUDE AN EXPLANATION THAT SIGNING THE  
25 WAIVER IS OPTIONAL. EACH SCHOOL DISTRICT MUST COLLECT THE SIGNED  
26 WAIVER FORMS ANNUALLY AT THE BEGINNING OF EACH SCHOOL YEAR.  
27 EACH SCHOOL DISTRICT MAY DEVELOP THE WAIVER FORM DESCRIBED IN

1 THIS SUBSECTION (1)(qq) OR USE THE WAIVER FORM POSTED ON THE  
2 DEPARTMENT OF EDUCATION'S WEBSITE PURSUANT TO SECTION  
3 22-2-106.7.

4 **SECTION 7. Act subject to petition - effective date.** This act  
5 takes effect at 12:01 a.m. on the day following the expiration of the  
6 ninety-day period after final adjournment of the general assembly (August  
7 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a  
8 referendum petition is filed pursuant to section 1 (3) of article V of the  
9 state constitution against this act or an item, section, or part of this act  
10 within such period, then the act, item, section, or part will not take effect  
11 unless approved by the people at the general election to be held in  
12 November 2020 and, in such case, will take effect on the date of the  
13 official declaration of the vote thereon by the governor.