

Representative David N. Cox proposes to substitute the following bill:

PUBLIC SCHOOLS SURVEYS AMENDMENTS

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: Robert F. Montgomery

AN ACT RELATING TO PUBLIC EDUCATION; PROVIDING FOR THE CREATION OF A STATE STUDENT SURVEY REVIEW COMMITTEE; PROVIDING FOR COMMITTEE MEMBERSHIP; PROVIDING FOR COMMITTEE REVIEW OF SCHOOL SURVEYS THAT HAVE BEEN APPROVED BY THE LOCAL SCHOOL BOARD OF THE DISTRICT OR DISTRICTS TO BE SURVEYED; ~~h [CREATING A PRESUMPTION OF PARENTAL APPROVAL AS RELATED TO APPROVED SURVEYS IF CERTAIN CONDITIONS ARE MET;]~~ h AND h [REQUIRING] ALLOWING h THE SURVEYS TO BE DONE BY A COMMERCIAL POLLING BUSINESS.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

53A-13-302, as last amended by Chapter 318, Laws of Utah 1996

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **53A-13-302** is amended to read:

53A-13-302. Activities prohibited without prior written consent -- Validity of consent -- Qualifications.

(1) Policies adopted by a school district under Section 53A-13-301 shall include prohibitions on[:(+)] the administration to a student of any psychological or psychiatric examination, test, or treatment, or any survey, analysis, or evaluation without the prior written consent of the student's parent or legal guardian, h [or, as respects a survey, that the consent is presumed under Subsection (5)(c);] h in which the purpose or evident intended effect is to cause the student to reveal information, whether the information is personally identifiable or not, concerning

26 the student's or any family member's:

27 (a) political affiliations or, except as provided under Section 53A-13-101.1 or rules of the
28 State Board of Education, political philosophies;

29 (b) mental or psychological problems;

30 (c) sexual behavior, orientation, or attitudes;

31 (d) illegal, anti-social, self-incriminating, or demeaning behavior;

32 (e) critical appraisals of individuals with whom the student or family member has close
33 family relationships;

34 (f) religious affiliations or beliefs;

35 (g) legally recognized privileged and analogous relationships, such as those with lawyers,
36 medical personnel, or ministers; and

37 (h) income, except as required by law.

38 (2) The prohibitions under Subsection (1) shall also apply within the curriculum and other
39 school activities unless prior written consent of the student's parent or legal guardian has been
40 obtained.

41 (3) Written parental consent is valid only if a parent or legal guardian has been first given
42 written notice and a reasonable opportunity to obtain written information concerning:

43 (a) records or information, including information about relationships, that may be
44 examined or requested;

45 (b) the means by which the records or information shall be examined or reviewed;

46 (c) the means by which the information is to be obtained;

47 (d) the purposes for which the records or information are needed;

48 (e) the entities or persons, regardless of affiliation, who will have access to the personally
49 identifiable information; and

50 (f) a method by which a parent of a student can grant permission to access or examine the
51 personally identifiable information.

52 (4) (a) Except in response to a situation which a school employee reasonably believes to
53 be an emergency, or as authorized under Title 62A, Chapter 4a, Part 4, Child Abuse or Neglect
54 Reporting Requirements, or by order of a court, disclosure to a parent or legal guardian must be
55 given at least two weeks before information protected under this section is sought.

56 (b) Following disclosure, a parent or guardian may waive the two week minimum

57 notification period.

58 (c) Parental authorization shall be valid until the commencement of the subsequent school
59 year or until one of the following occurs:

60 (i) the child completes or withdraws from the course, activity, or program for which it was
61 granted; or

62 (ii) a written withdrawal of authorization is submitted to the school principal by the
63 authorizing parent or guardian.

64 (d) A general consent used to approve admission to school or involvement in special
65 education, remedial education, or a school activity does not constitute written consent under this
66 section.

67 (5) (a) (i) There is created the State Student Survey Review Committee, hereafter referred
68 to as the "committee," composed of 13 members appointed by the state superintendent of public
69 instruction.

70 (ii) The committee shall consist of parents, teachers, and school administrators.

71 (iii) At least seven members of the committee shall be parents of children in the public
72 education system, where neither the parent nor any member of the parent's household is employed
73 by the public education system.

74 (b) (i) At the request of the superintendent, the committee shall review a survey to be
75 conducted in a single school district or multiple school districts that has been approved by the local
76 school board of the district or districts in which the survey is to be conducted.

77 (ii) After review, the committee may approve, object to, or take no position with regard
78 to any proposed survey submitted to it.

79 (iii) The committee may not review surveys in which the purpose is to cause the student
80 to reveal information concerning the student's or any family member's sexual behavior, orientation,
81 or attitude.

82 (c) If a proposed survey has been approved by the committee, written parental consent is

82a **h NOT h**

83 presumed **h [and determined to have occurred if:**

84 ~~—— (i) the parent of a student has been notified in person, by telephone, or by mail of the~~
85 ~~proposed survey at least two weeks prior to its administration; and~~

86 ~~—— (ii) the parent has not denied approval or objected to the student's participation] AND MUST~~

86a **BE SECURED IN WRITING FROM THE PARENT OR LEGAL GUARDIAN h .**

87 (d) (i) A parent may file with the school of attendance at any time during the school year

88 a written consent or denial for the student to participate in or be excluded from surveys approved
89 by the committee.

90 (ii) The consent or denial is good only for the school year in which it is filed and may be
91 withdrawn by the parent at any time.

92 (6) (a) If a survey is conducted in whole or in part ~~h~~ [~~under the presumed parental consent~~
93 provision in Subsection (5)(c), it must be conducted] ~~h~~ by a commercial polling business.

94 (b) The polling business must certify that:

95 (i) all responses shall be used only for statistical purposes;

96 (ii) no information identified or identifiable with specific individuals shall be divulged to
97 any governmental or private entity; and

98 (iii) all information identified or identifiable with specific individuals shall be destroyed
99 within five working days of its collection.

100 [~~5~~] (7) This section does not limit the ability of a student under Section 53A-13-101.3
101 to spontaneously express sentiments or opinions otherwise protected against disclosure under this
102 section.

103 [~~6~~] (8) (a) If a school employee or agent believes that a situation exists which presents
104 a serious threat to the well-being of a student, that employee or agent shall notify the student's
105 parent or guardian without delay. If, however, the matter has been reported to the Division of
106 Child and Family Services within the Department of Human Services, it is the responsibility of the
107 division to notify the student's parent or guardian of any possible investigation, prior to the
108 student's return home from school.

109 (b) The division may be exempted from the notification requirements described in [this]
110 Subsection (8)(a) only if it determines that the student would be endangered by notification of his
111 parent or guardian, or if that notification is otherwise prohibited by state or federal law.