



2020 South Dakota Legislature

House Bill 1285

Introduced by: **Representative** Randolph

1 **An Act to require parental permission and website posting of student survey**
 2 **instruments.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1.** That § 13-3-51.2 be AMENDED:

5 **13-3-51.2. Information not subject to survey, analysis, or evaluation**
 6 **without consent.**

7 No elementary ~~school~~ or secondary school student shall be required to submit to a
 8 survey, analysis, or evaluation ~~that~~, or complete a questionnaire or similar instrument,
 9 without having on file written parental permission for that explicitly identified instrument,
 10 if that instrument seeks or reveals information concerning:

- 11 (1) Political affiliations or beliefs of the student or the student's parent;
- 12 (2) Mental or psychological problems or aspects of the student or the student's family;
- 13 (3) Sex behavior or attitudes of the student or the student's family;
- 14 (4) Illegal, anti-social, self-incriminating, or demeaning behavior;
- 15 (5) Critical appraisals of other individuals with whom respondents have close family
 16 relationships;
- 17 (6) Legally recognized privileged or analogous relationships, such as those of lawyers,
 18 physicians, and ministers;
- 19 (7) Religious practices, affiliations, or beliefs of the student or student's parent;
- 20 (8) Personal or family gun ownership; or
- 21 (9) Income ~~{, other than that required by law to determine eligibility for participation~~
 22 ~~in a program or for receiving financial assistance under such program};~~
 23 ~~without the prior consent of the student (if the student is an adult or emancipated~~
 24 ~~minor), or in the case of an unemancipated minor, without the prior written consent of~~
 25 ~~the parent.~~

1 The ~~list of information listed in subdivisions (1) to (9), inclusive, this section~~ is not
2 ~~an exclusive list. The~~ and may be expanded by the secretary of the Department of
3 Education ~~may add to the list of information in subdivisions (1) to (9), inclusive, to include~~
4 other data, facts, or information ~~that is~~ of a similar nature that a student may likewise not
5 be required to disclose.

6 The term, parent, for purposes of this section, includes a legal guardian or other
7 person standing in loco parentis, as established by written consent, a written agreement,
8 or a court order.

9 Nothing in this section is intended to supersede or modify any other state law or
10 any provision in 20 U.S.C. § 1232h or 34 C.F.R. Part 98, as amended to January 1, 2014.

11 At least seven days before submitting a survey, analysis, evaluation, questionnaire,
12 or similar instrument to any student, the principal of the school shall post the instrument
13 to the school or school district website, in a conspicuous location, and shall provide for the
14 instrument to remain accessible on the website for a period of five years.