

114TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To amend the Family Educational Rights and Privacy Act of 1974 to ensure  
privacy during litigation.

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IN THE SENATE OF THE UNITED STATES

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\_\_\_\_\_ introduced the following bill; which was read twice  
and referred to the Committee on \_\_\_\_\_

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**A BILL**

To amend the Family Educational Rights and Privacy Act  
of 1974 to ensure privacy during litigation.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Campus Litigation Pri-  
5       vacy Act of 2015”.

6       **SEC. 2. AMENDMENTS TO FERPA.**

7       Section 444(b) of the General Education Provisions  
8       Act (20 U.S.C. 1232g(b), commonly known as the ‘Family  
9       Educational Rights and Privacy Act of 1974’) is amend-  
10      ed—

1           (1) by redesignating paragraphs (2) through  
2           (7) as paragraphs (3) through (8), respectively; and

3           (2) by inserting after paragraph (1) the fol-  
4           lowing:

5           “(2)(A) Subject to subparagraph (B), an attor-  
6           ney representing an institution in litigation involving  
7           a student shall not be determined to have a ‘legiti-  
8           mate educational interest’, as such term is used in  
9           this section, with respect to the education records  
10          (including medical records) of such student, unless  
11          the litigation relates directly to the medical treat-  
12          ment of the student or the payment for that treat-  
13          ment.

14          “(B) Notwithstanding subparagraph (A), such  
15          an attorney may have a legitimate educational inter-  
16          est with respect to accessing the minimum necessary  
17          education records (including medical records) of a  
18          student if the attorney—

19                 “(i) has a court order for such informa-  
20                 tion;

21                 “(ii) has written consent from the student  
22                 to access such information; or

23                 “(iii) provides satisfactory assurances to  
24                 an impartial individual who is designated by the

1 institution, in a written statement and accom-  
2 panied by documentation, that—

3 “(I) the attorney has made a good  
4 faith attempt to provide written notice to  
5 the student (or, if the student’s location is  
6 unknown, to mail a notice to the student’s  
7 last known address);

8 “(II) the notice included sufficient in-  
9 formation about the litigation or pro-  
10 ceeding in which the education records (in-  
11 cluding medical records) is requested to  
12 permit the student to raise an objection to  
13 the court or administrative tribunal;

14 “(III) the time for the student to  
15 raise objections to the court or administra-  
16 tive tribunal has elapsed, and—

17 “(aa) no objections were filed; or

18 “(bb) all objections filed by the  
19 student have been resolved by the  
20 court or the administrative tribunal  
21 and the disclosures being sought are  
22 consistent with such resolution; and

23 “(IV) the attorney agrees—

24 “(aa) not to use or disclose the  
25 education records (including medical

1 records) for any purpose other than  
2 the litigation or proceeding for which  
3 such information was requested; and  
4 “(bb) to return to the institution  
5 or destroy the education records (in-  
6 cluding medical records and including  
7 all copies made) at the end of the liti-  
8 gation or proceeding.”.