

By: Wentworth, et al.

S.B. No. 861

Substitute the following for S.B. No. 861:

By: Alonzo

C.S.S.B. No. 861

A BILL TO BE ENTITLED

AN ACT

relating to the exchange of information among certain governmental entities concerning at-risk youth.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 51.01, Family Code, is amended to read as follows:

Sec. 51.01. PURPOSE AND INTERPRETATION. This title shall be construed to effectuate the following public purposes:

(1) to provide for the protection of the public and public safety;

(2) consistent with the protection of the public and public safety:

(A) to promote the concept of punishment for criminal acts;

(B) to remove, where appropriate, the taint of criminality from children committing certain unlawful acts; and

(C) to provide treatment, training, and rehabilitation that emphasizes the accountability and responsibility of both the parent and the child for the child's conduct;

(3) to provide for the care, the protection, and the wholesome moral, mental, and physical development of children coming within its provisions;

(4) to protect the welfare of the community and to

1 control the commission of unlawful acts by children;

2 (5) to identify at-risk behaviors and prevent the  
3 commission of unlawful acts by children;

4 (6) to achieve the foregoing purposes through  
5 interagency information sharing to the full extent allowed by  
6 federal law;

7 (7) to achieve the foregoing purposes in a family  
8 environment whenever possible, separating the child from the  
9 child's parents only when necessary for the child's welfare or in  
10 the interest of public safety and when a child is removed from the  
11 child's family, to give the child the care that should be provided  
12 by parents; and

13 (8) [~~(6)~~] to provide a simple judicial procedure  
14 through which the provisions of this title are executed and  
15 enforced and in which the parties are assured a fair hearing and  
16 their constitutional and other legal rights recognized and  
17 enforced.

18 SECTION 2. The heading to Section 58.0051, Family Code, is  
19 amended to read as follows:

20 Sec. 58.0051. INTERAGENCY SHARING OF RECORDS IN CERTAIN  
21 COUNTIES.

22 SECTION 3. Section 58.0051(a), Family Code, is amended to  
23 read as follows:

24 (a) Within each county with a population of less than  
25 650,000, a district school superintendent and the juvenile  
26 probation department may enter into a written interagency agreement  
27 to share information about juvenile offenders. The agreement must

1 specify the conditions under which summary criminal history  
2 information is to be made available to appropriate school personnel  
3 and the conditions under which school records are to be made  
4 available to appropriate juvenile justice agencies.

5 SECTION 4. Subchapter A, Chapter 58, Family Code, is  
6 amended by adding Sections 58.0052 and 58.0053 to read as follows:

7 Sec. 58.0052. EXCHANGE OF INFORMATION CONCERNING AT-RISK  
8 YOUTH IN CERTAIN COUNTIES. (a) In this section:

9 (1) "Agency" means any of the following entities, a  
10 person with an agency relationship with any of the following  
11 entities, or a person who contracts with any of the following  
12 entities:

13 (A) the Texas Youth Commission;  
14 (B) the Texas Juvenile Probation Commission;  
15 (C) the Department of Family and Protective  
16 Services;

17 (D) a juvenile probation department;  
18 (E) a local mental health or mental retardation  
19 authority;

20 (F) a municipal or county health department;  
21 (G) a hospital district;  
22 (H) a county department that provides services to  
23 at-risk youth or their families; or

24 (I) a children's advocacy center established  
25 under Section 264.402.

26 (2) "At-risk youth" means a person who is under 18  
27 years of age and:

1           (A) has been taken into custody under Section  
2 52.01;

3           (B) has been referred to a juvenile court for  
4 allegedly engaging in delinquent conduct or conduct indicating a  
5 need for supervision;

6           (C) is likely to engage in delinquent conduct  
7 based on one or more prior referrals to a court for having engaged  
8 in delinquent conduct or conduct indicating a need for supervision;

9           (D) is in the custody of the Texas Youth  
10 Commission or is under any form of juvenile probation or juvenile  
11 court supervision;

12           (E) has received or is receiving services from a  
13 mental health or mental retardation authority or the Department of  
14 Family and Protective Services;

15           (F) has six or more absences from school in a  
16 six-month period that have not been excused by a school official; or

17           (G) has been removed six or more times from a  
18 classroom by a teacher under Section 37.002, Education Code, during  
19 a six-month period.

20           (b) This section applies only to information relating to an  
21 at-risk youth who is a resident of, or is receiving agency services  
22 in, a county with a population of 650,000 or more.

23           (c) An agency shall:

24           (1) at the request of another agency for specific  
25 information, disclose to the other agency personally identifiable  
26 information relating to an at-risk youth, including identity,  
27 needs, treatment, social, criminal, and vocational history,

1 probation or supervision status and compliance with the conditions  
2 of probation or supervision, and medical and mental health history,  
3 if the disclosure serves the purpose provided under Subsection (e);  
4 and

5 (2) accept information relating to an at-risk youth  
6 that is sent to the agency for the purpose provided under Subsection  
7 (e).

8 (d) An agency shall comply with Subsection (c) regardless of  
9 whether other state law makes that information confidential.

10 (e) An agency shall use information provided to the agency  
11 under this section only to identify at-risk youth, to assist the  
12 agency in providing services, or for research purposes.

13 (f) An agency may establish an internal protocol for sharing  
14 information with other agencies as necessary to efficiently and  
15 promptly disclose and accept the information. The protocol may  
16 specify the types of information that may be shared under this  
17 section without violating federal law, including any federal  
18 funding requirements. An agency may enter into a memorandum of  
19 understanding with another agency to share information according to  
20 the agencies' protocols. An agency shall comply with this section  
21 regardless of whether the agency establishes an internal protocol  
22 or enters into a memorandum of understanding under this subsection.

23 (g) This section does not affect the confidential status of  
24 the information being shared. The information may be released to a  
25 third party as directed by a court order or as otherwise authorized  
26 by law. Personally identifiable information disclosed under this  
27 section is not subject to disclosure to a third party under Chapter

552, Government Code. Information that is not personally identifiable may be disclosed to a third party for research purposes as provided by an agency's protocol.

Sec. 58.0053. EXCHANGE OF INFORMATION CONCERNING AT-RISK YOUTH IN CERTAIN COUNTIES; EDUCATIONAL RECORDS. (a) In this section:

(1) "Agency" has the meaning assigned by Section 58.0052(a).

(2) "At-risk youth" has the meaning assigned by Section 58.0052(a).

(3) "Juvenile justice system agency" means an agency that has custody or control over juvenile offenders or an entity that supports the juvenile justice function by providing preventive, medical, educational, or other services, including:

(A) the Texas Education Agency;

(B) an independent school district;

(C) a charter school;

(D) the Department of Family and Protective Services;

(E) a local mental health or mental retardation authority;

(F) a county department that provides services to at-risk youth or their families; and

(G) a children's advocacy center established under Section 264.402.

(b) This section applies only to information relating to an at-risk youth who is a resident of, or is receiving juvenile justice

1 system agency services in, a county with a population of 650,000 or  
2 more.

3 (c) At the request of a juvenile justice system agency, an  
4 agency shall disclose to the juvenile justice system agency  
5 personally identifiable information relating to an at-risk youth's  
6 educational records, identity, special needs, treatment,  
7 behavioral problems, attendance, medical and mental health  
8 information, aptitude or diagnostic tests, and referrals, if the  
9 disclosure serves the purpose provided under Subsection (e)(2).

10 (d) An agency shall comply with a request under Subsection  
11 (c) regardless of whether other state law makes that information  
12 confidential.

13 (e) A juvenile justice system agency that receives  
14 information under this section shall:

15 (1) certify in writing that the agency will not  
16 disclose confidential information received under this section to a  
17 third party, other than another juvenile justice system agency; and

18 (2) use information only to identify an at-risk youth  
19 and to assist the agency in providing prevention and early  
20 intervention services to the youth before adjudication of the  
21 youth.

22 (f) An agency that shares information under this section is  
23 subject to Sections 58.0052(f) and (g).

24 SECTION 5. This Act takes effect immediately if it receives  
25 a vote of two-thirds of all the members elected to each house, as  
26 provided by Section 39, Article III, Texas Constitution. If this  
27 Act does not receive the vote necessary for immediate effect, this

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1 Act takes effect September 1, 2009.