

1-1 By: Wentworth S.B. No. 861
1-2 (In the Senate - Filed February 16, 2009; March 9, 2009,
1-3 read first time and referred to Committee on Jurisprudence;
1-4 April 6, 2009, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 5, Nays 0; April 6, 2009,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 861 By: Wentworth

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the exchange of information among certain governmental
1-11 entities concerning at-risk youth.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 51.01, Family Code, is amended to read as
1-14 follows:

1-15 Sec. 51.01. PURPOSE AND INTERPRETATION. This title shall
1-16 be construed to effectuate the following public purposes:

1-17 (1) to provide for the protection of the public and
1-18 public safety;

1-19 (2) consistent with the protection of the public and
1-20 public safety:

1-21 (A) to promote the concept of punishment for
1-22 criminal acts;

1-23 (B) to remove, where appropriate, the taint of
1-24 criminality from children committing certain unlawful acts; and

1-25 (C) to provide treatment, training, and
1-26 rehabilitation that emphasizes the accountability and
1-27 responsibility of both the parent and the child for the child's
1-28 conduct;

1-29 (3) to provide for the care, the protection, and the
1-30 wholesome moral, mental, and physical development of children
1-31 coming within its provisions;

1-32 (4) to protect the welfare of the community and to
1-33 control the commission of unlawful acts by children;

1-34 (5) to identify at-risk behaviors and prevent the
1-35 commission of unlawful acts by children;

1-36 (6) to achieve the foregoing purposes through
1-37 interagency information sharing to the full extent allowed by
1-38 federal law;

1-39 (7) to achieve the foregoing purposes in a family
1-40 environment whenever possible, separating the child from the
1-41 child's parents only when necessary for the child's welfare or in
1-42 the interest of public safety and when a child is removed from the
1-43 child's family, to give the child the care that should be provided
1-44 by parents; and

1-45 (8) ~~[(6)]~~ to provide a simple judicial procedure
1-46 through which the provisions of this title are executed and
1-47 enforced and in which the parties are assured a fair hearing and
1-48 their constitutional and other legal rights recognized and
1-49 enforced.

1-50 SECTION 2. Subchapter A, Chapter 58, Family Code, is
1-51 amended by adding Section 58.0052 to read as follows:

1-52 Sec. 58.0052. EXCHANGE OF INFORMATION CONCERNING AT-RISK
1-53 YOUTH. (a) In this section:

1-54 (1) "Agency" means any of the following entities, a
1-55 person with an agency relationship with any of the following
1-56 entities, or a person who contracts with any of the following
1-57 entities:

1-58 (A) the Texas Youth Commission;

1-59 (B) the Texas Juvenile Probation Commission;

1-60 (C) the Department of Family and Protective
1-61 Services;

1-62 (D) a juvenile probation department;

1-63 (E) a local mental health or mental retardation
1-64 authority;

1-65 (F) a municipal or county health department;

(G) a hospital district;
 (H) a county department that provides services to
 at-risk youth or their families; or
 (I) a children's advocacy center established
 under Section 264.402.

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

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

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

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

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

(E) has received or is receiving services from a
 mental health or mental retardation authority or from child
 protective services under Subtitle E, Title 5;

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

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

(b) An agency shall:

(1) at the request of another agency for specific
 information, disclose to the other agency personally identifiable
 information relating to an at-risk youth, including identity;
 needs; treatment, social, criminal, and vocational history;
 probation or supervision status and compliance with the conditions
 of probation or supervision; and medical and mental health history,
 if the disclosure serves the purpose provided under Subsection (d);
 and

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

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

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

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

(f) This section does not affect the confidential status of
 the information being shared. The information may be released to a
 third party as directed by a court order or as otherwise authorized
 by law. Personally identifiable information disclosed under this
 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.

SECTION 3. This Act takes effect immediately if it receives
 a vote of two-thirds of all the members elected to each house, as
 provided by Section 39, Article III, Texas Constitution. If this
 Act does not receive the vote necessary for immediate effect, this
 Act takes effect September 1, 2009.

* * * * *