

By: Madden

H.B. No. 3385

A BILL TO BE ENTITLED

AN ACT

relating to the exchange of confidential information among certain governmental entities concerning certain juveniles.

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

SECTION 1. Section 37.084(a), Education Code, is amended to read as follows:

(a) A school district superintendent or the superintendent's designee shall ~~[may]~~ disclose information contained in a student's educational records to a juvenile service provider as required ~~[justice agency, as that term is defined by Section 58.101, Family Code, if the disclosure is under an interagency agreement authorized]~~ by Section 58.0051, Family Code.

SECTION 2. Subchapter A, Chapter 58, Family Code, is amended by amending Section 58.0051 and adding Section 58.0052 to read as follows:

Sec. 58.0051. INTERAGENCY SHARING OF EDUCATIONAL RECORDS.

(a) In this section:

(1) "Educational records" means records in the possession of a primary or secondary educational institution that contain information relating to a student, including information relating to the student's:

(A) identity;

(B) special needs;

(C) educational accommodations;

1                   (D) assessment or diagnostic test results;

2                   (E) attendance records;

3                   (F) disciplinary records;

4                   (G) medical records; and

5                   (H) psychological diagnoses.

6                   (2) "Juvenile service provider" means a governmental  
7 entity that provides juvenile justice, or prevention, medical,  
8 educational, or other support services to a juvenile. The term  
9 includes:

10                   (A) a state or local juvenile justice agency as  
11 defined by Section 58.101;

12                   (B) health and human services agencies, as  
13 defined by Section 531.001, Government Code, and the Health and  
14 Human Services Commission;

15                   (C) the department of public safety;

16                   (D) the Texas Education Agency;

17                   (E) an independent school district;

18                   (F) a juvenile justice alternative education  
19 program;

20                   (G) a charter school;

21                   (H) a local mental health or mental retardation  
22 authority;

23                   (I) a court with jurisdiction over juveniles;

24                   (J) a district attorney's office;

25                   (K) a county attorney's office; and

26                   (L) a children's advocacy center established  
27 under Section 264.402.

1           (3) "Student" means a person who:

2                   (A) is registered or in attendance at a primary  
3 or secondary educational institution; and

4                   (B) is younger than 18 years of age.

5           (b) At the request of a juvenile service provider, an  
6 independent school district or a charter school shall disclose to  
7 the juvenile service provider confidential information contained  
8 in the student's educational records if the student has been:

9                   (1) taken into custody under Section 52.01; or

10                   (2) referred to a juvenile court for allegedly  
11 engaging in delinquent conduct or conduct indicating a need for  
12 supervision.

13           (c) An independent school district or charter school that  
14 discloses confidential information to a juvenile service provider  
15 under Subsection (b) may not destroy a record of the disclosed  
16 information before the seventh anniversary of the date the  
17 information is disclosed.

18           (d) An independent school district or charter school shall  
19 comply with a request under Subsection (b) regardless of whether  
20 other state law makes that information confidential.

21           ~~(e) [Within each county, a district school superintendent~~  
22 ~~and the juvenile probation department may enter into a written~~  
23 ~~interagency agreement to share information about juvenile~~  
24 ~~offenders. The agreement must specify the conditions under which~~  
25 ~~summary criminal history information is to be made available to~~  
26 ~~appropriate school personnel and the conditions under which school~~  
27 ~~records are to be made available to appropriate juvenile justice~~

1 ~~agencies.~~

2 ~~[(b) Information disclosed under this section by a school~~  
3 ~~district must relate to the juvenile system's ability to serve,~~  
4 ~~before adjudication, the student whose records are being released.~~

5 ~~[(c)]~~ A juvenile service provider that ~~[justice agency~~  
6 ~~official who]~~ receives confidential ~~[educational]~~ information  
7 under this section shall:

8 (1) certify in writing that the juvenile service  
9 provider ~~[institution or individual]~~ receiving the confidential  
10 ~~[personally identifiable]~~ information has agreed not to disclose it  
11 to a third party, other than another juvenile service provider; and

12 (2) use the confidential information only to:

13 (A) verify the identity of a student involved in  
14 the juvenile justice system; and

15 (B) provide delinquency prevention or treatment  
16 services to the student ~~[justice agency].~~

17 (f) A juvenile service provider may establish an internal  
18 protocol for sharing information with other juvenile service  
19 providers as necessary to efficiently and promptly disclose and  
20 accept the information. The protocol may specify the types of  
21 information that may be shared under this section without violating  
22 federal law, including any federal funding requirements. A  
23 juvenile service provider may enter into a memorandum of  
24 understanding with another juvenile service provider to share  
25 information according to the juvenile service provider's  
26 protocols. A juvenile service provider shall comply with this  
27 section regardless of whether the juvenile service provider

1 establishes an internal protocol or enters into a memorandum of  
2 understanding under this subsection unless compliance with this  
3 section violates federal law.

4 (g) This section does not affect the confidential status of  
5 the information being shared. The information may be released to a  
6 third party only as directed by a court order or as otherwise  
7 authorized by law. Personally identifiable information disclosed  
8 to a juvenile service provider under this section is not subject to  
9 disclosure to a third party under Chapter 552, Government Code.

10 (h) [~~(d)~~] A juvenile service provider that requests  
11 information under this section shall pay a fee to the disclosing  
12 juvenile service provider for the reasonable costs associated with  
13 the disclosure of the information [~~justice agency that receives~~  
14 ~~educational information under this section shall destroy all~~  
15 ~~information when the child is no longer under the jurisdiction of a~~  
16 ~~juvenile court.~~

17 [~~(c) The Texas Juvenile Probation Commission may, in~~  
18 ~~conformity with Section 58.0072 of this code and Section 37.084,~~  
19 ~~Education Code, enter into an interagency agreement to share~~  
20 ~~educational information for research, audit, and analytical~~  
21 ~~purposes with the:~~

22 [~~(1) Texas Education Agency,~~

23 [~~(2) Texas Youth Commission, and~~

24 [~~(3) Texas Department of Criminal Justice].~~

25 Sec. 58.0052. INTERAGENCY SHARING OF NONEDUCATIONAL  
26 RECORDS. (a) In this section:

27 (1) "Juvenile service provider" has the meaning

1 assigned by Section 58.0051.

2 (2) "Multi-system youth" means a person who:

3 (A) is younger than 19 years of age; and

4 (B) has received services from two or more  
5 juvenile service providers.

6 (3) "Personal health information" means personally  
7 identifiable information regarding a multi-system youth's physical  
8 or mental health or the provision of or payment for health care  
9 services, including case management services, to a multi-system  
10 youth. The term does not include clinical psychological notes or  
11 substance abuse treatment information.

12 (b) At the request of a juvenile service provider, another  
13 juvenile service provider shall disclose to that provider a  
14 multi-system youth's personal health information or a history of  
15 governmental services provided to the multi-system youth,  
16 including:

17 (1) identity;

18 (2) medical records;

19 (3) assessment results;

20 (4) special needs;

21 (5) program placements; and

22 (6) psychological diagnoses.

23 (c) A juvenile service provider may disclose personally  
24 identifiable information under this section only for the purposes  
25 of:

26 (1) identifying a multi-system youth;

27 (2) coordinating and monitoring care for a

1 multi-system youth; and

2 (3) improving the quality of juvenile services  
3 provided to a multi-system youth.

4 (d) To the extent that this section conflicts with another  
5 law of this state with respect to confidential information held by a  
6 governmental agency, this section controls.

7 (e) A juvenile service provider may establish an internal  
8 protocol for sharing information with other juvenile service  
9 providers as necessary to efficiently and promptly disclose and  
10 accept the information. The protocol may specify the types of  
11 information that may be shared under this section without violating  
12 federal law, including any federal funding requirements. A  
13 juvenile service provider may enter into a memorandum of  
14 understanding with another juvenile service provider to share  
15 information according to the juvenile service provider's  
16 protocols. A juvenile service provider shall comply with this  
17 section regardless of whether the juvenile service provider  
18 establishes an internal protocol or enters into a memorandum of  
19 understanding under this subsection unless compliance with this  
20 section violates federal law.

21 (f) This section does not affect the confidential status of  
22 the information being shared. The information may be released to a  
23 third party only as directed by a court order or as otherwise  
24 authorized by law. Personally identifiable information disclosed  
25 to a juvenile service provider under this section is not subject to  
26 disclosure to a third party under Chapter 552, Government Code.

27 (g) This section does not affect the authority of a

1 governmental agency to disclose to a third party for research  
2 purposes information that is not personally identifiable as  
3 provided by the governmental agency's protocol.

4 (h) A juvenile service provider that requests information  
5 under this section shall pay a fee to the disclosing juvenile  
6 service provider for the reasonable costs associated with the  
7 disclosure of the information.

8 SECTION 3. Section 264.408(a), Family Code, is amended to  
9 read as follows:

10 (a) The files, reports, records, communications, and  
11 working papers used or developed in providing services under this  
12 chapter are confidential and not subject to public release under  
13 Chapter 552, Government Code, and may only be disclosed for  
14 purposes consistent with this chapter. Disclosure may be to:

15 (1) the department, department employees, law  
16 enforcement agencies, prosecuting attorneys, medical  
17 professionals, and other state or local agencies that provide  
18 services to children and families; and

19 (2) the attorney for the child who is the subject of  
20 the records and a court-appointed volunteer advocate appointed for  
21 the child under Section 107.031.

22 SECTION 4. Section 181.002(b), Health and Safety Code, is  
23 amended to read as follows:

24 (b) To the extent that this chapter conflicts with another  
25 law, other than Section 58.0052, Family Code, with respect to  
26 protected health information collected by a governmental body or  
27 unit, this chapter controls.



1           SECTION 5. This Act takes effect immediately if it receives  
2 a vote of two-thirds of all the members elected to each house, as  
3 provided by Section 39, Article III, Texas Constitution. If this  
4 Act does not receive the vote necessary for immediate effect, this  
5 Act takes effect September 1, 2011.