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S.B. No. 1106

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. Subsection (a), Section 37.084, 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 in the same amounts charged for the
13 provision of public information under Subchapter F, Chapter 552,
14 Government Code, unless:

15 (1) a memorandum of understanding between the
16 requesting provider and the disclosing provider:

- 17 (A) prohibits the payment of a fee;
18 (B) provides for the waiver of a fee; or
19 (C) provides an alternate method of assessing a
20 fee;

21 (2) the disclosing provider waives the payment of the
22 fee; or

23 (3) disclosure of the information is required by law
24 other than this subchapter [~~justice agency that receives~~
25 educational information under this section shall destroy all
26 information when the child is no longer under the jurisdiction of a
27 juvenile court.

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

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

7 ~~[(2) Texas Youth Commission; and~~

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

9 Sec. 58.0052. INTERAGENCY SHARING OF NONEDUCATIONAL
10 RECORDS. (a) In this section:

11 (1) "Juvenile service provider" has the meaning
12 assigned by Section 58.0051.

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

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

15 (B) has received services from two or more
16 juvenile service providers.

17 (3) "Personal health information" means personally
18 identifiable information regarding a multi-system youth's physical
19 or mental health or the provision of or payment for health care
20 services, including case management services, to a multi-system
21 youth. The term does not include clinical psychological notes or
22 substance abuse treatment information.

23 (b) At the request of a juvenile service provider, another
24 juvenile service provider shall disclose to that provider a
25 multi-system youth's personal health information or a history of
26 governmental services provided to the multi-system youth,
27 including:

- 1 (1) identity;
- 2 (2) medical records;
- 3 (3) assessment results;
- 4 (4) special needs;
- 5 (5) program placements; and
- 6 (6) psychological diagnoses.

7 (c) A juvenile service provider may disclose personally
8 identifiable information under this section only for the purposes
9 of:

- 10 (1) identifying a multi-system youth;
- 11 (2) coordinating and monitoring care for a
12 multi-system youth; and
- 13 (3) improving the quality of juvenile services
14 provided to a multi-system youth.

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

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

1 section regardless of whether the juvenile service provider
2 establishes an internal protocol or enters into a memorandum of
3 understanding under this subsection unless compliance with this
4 section violates federal law.

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

11 (g) This section does not affect the authority of a
12 governmental agency to disclose to a third party for research
13 purposes information that is not personally identifiable as
14 provided by the governmental agency's protocol.

15 (h) A juvenile service provider that requests information
16 under this section shall pay a fee to the disclosing juvenile
17 service provider in the same amounts charged for the provision of
18 public information under Subchapter F, Chapter 552, Government
19 Code, unless:

20 (1) a memorandum of understanding between the
21 requesting provider and the disclosing provider:

22 (A) prohibits the payment of a fee;

23 (B) provides for the waiver of a fee; or

24 (C) provides an alternate method of assessing a
25 fee;

26 (2) the disclosing provider waives the payment of the
27 fee; or

1 (3) disclosure of the information is required by law
2 other than this subchapter.

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

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

10 (1) the department, department employees, law
11 enforcement agencies, prosecuting attorneys, medical
12 professionals, and other state or local agencies that provide
13 services to children and families; and

14 (2) the attorney for the child who is the subject of
15 the records and a court-appointed volunteer advocate appointed for
16 the child under Section 107.031.

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

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

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