

1-1 By: Harris, Huffman S.B. No. 1106
1-2 (In the Senate - Filed March 2, 2011; March 16, 2011, read
1-3 first time and referred to Committee on Jurisprudence;
1-4 March 31, 2011, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 7, Nays 0; March 31, 2011,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1106 By: Harris

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

1-10 relating to the exchange of confidential information among certain
1-11 governmental entities concerning certain juveniles.

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

1-13 SECTION 1. Subsection (a), Section 37.084, Education Code,
1-14 is amended to read as follows:

1-15 (a) A school district superintendent or the
1-16 superintendent's designee shall ~~may~~ disclose information
1-17 contained in a student's educational records to a juvenile service
1-18 provider as required ~~[justice agency, as that term is defined by~~
1-19 ~~Section 58.101, Family Code, if the disclosure is under an~~
1-20 ~~interagency agreement authorized]~~ by Section 58.0051, Family Code.

1-21 SECTION 2. Subchapter A, Chapter 58, Family Code, is
1-22 amended by amending Section 58.0051 and adding Section 58.0052 to
1-23 read as follows:

1-24 Sec. 58.0051. INTERAGENCY SHARING OF EDUCATIONAL RECORDS.

1-25 (a) In this section:

1-26 (1) "Educational records" means records in the
1-27 possession of a primary or secondary educational institution that
1-28 contain information relating to a student, including information
1-29 relating to the student's:

- 1-30 (A) identity;
- 1-31 (B) special needs;
- 1-32 (C) educational accommodations;
- 1-33 (D) assessment or diagnostic test results;
- 1-34 (E) attendance records;
- 1-35 (F) disciplinary records;
- 1-36 (G) medical records; and
- 1-37 (H) psychological diagnoses.

1-38 (2) "Juvenile service provider" means a governmental
1-39 entity that provides juvenile justice or prevention, medical,
1-40 educational, or other support services to a juvenile. The term
1-41 includes:

- 1-42 (A) a state or local juvenile justice agency as
1-43 defined by Section 58.101;
- 1-44 (B) health and human services agencies, as
1-45 defined by Section 531.001, Government Code, and the Health and
1-46 Human Services Commission;
- 1-47 (C) the Department of Public Safety;
- 1-48 (D) the Texas Education Agency;
- 1-49 (E) an independent school district;
- 1-50 (F) a juvenile justice alternative education
1-51 program;
- 1-52 (G) a charter school;
- 1-53 (H) a local mental health or mental retardation
1-54 authority;
- 1-55 (I) a court with jurisdiction over juveniles;
- 1-56 (J) a district attorney's office;
- 1-57 (K) a county attorney's office; and
- 1-58 (L) a children's advocacy center established
1-59 under Section 264.402.

1-60 (3) "Student" means a person who:

- 1-61 (A) is registered or in attendance at a primary
1-62 or secondary educational institution; and
- 1-63 (B) is younger than 18 years of age.

2-1 (b) At the request of a juvenile service provider, an
 2-2 independent school district or a charter school shall disclose to
 2-3 the juvenile service provider confidential information contained
 2-4 in the student's educational records if the student has been:

2-5 (1) taken into custody under Section 52.01; or
 2-6 (2) referred to a juvenile court for allegedly
 2-7 engaging in delinquent conduct or conduct indicating a need for
 2-8 supervision.

2-9 (c) An independent school district or charter school that
 2-10 discloses confidential information to a juvenile service provider
 2-11 under Subsection (b) may not destroy a record of the disclosed
 2-12 information before the seventh anniversary of the date the
 2-13 information is disclosed.

2-14 (d) An independent school district or charter school shall
 2-15 comply with a request under Subsection (b) regardless of whether
 2-16 other state law makes that information confidential.

2-17 (e) [Within each county, a district school superintendent
 2-18 and the juvenile probation department may enter into a written
 2-19 interagency agreement to share information about juvenile
 2-20 offenders. The agreement must specify the conditions under which
 2-21 summary criminal history information is to be made available to
 2-22 appropriate school personnel and the conditions under which school
 2-23 records are to be made available to appropriate juvenile justice
 2-24 agencies.

2-25 [~~(b)~~ Information disclosed under this section by a school
 2-26 district must relate to the juvenile system's ability to serve,
 2-27 before adjudication, the student whose records are being released.

2-28 [~~(e)~~ A juvenile service provider that [justice agency
 2-29 official who] receives confidential [educational] information
 2-30 under this section shall:

2-31 (1) certify in writing that the juvenile service
 2-32 provider [institution or individual] receiving the confidential
 2-33 [personally identifiable] information has agreed not to disclose it
 2-34 to a third party, other than another juvenile service provider; and

2-35 (2) use the confidential information only to:
 2-36 (A) verify the identity of a student involved in
 2-37 the juvenile justice system; and
 2-38 (B) provide delinquency prevention or treatment
 2-39 services to the student [justice agency].

2-40 (f) A juvenile service provider may establish an internal
 2-41 protocol for sharing information with other juvenile service
 2-42 providers as necessary to efficiently and promptly disclose and
 2-43 accept the information. The protocol may specify the types of
 2-44 information that may be shared under this section without violating
 2-45 federal law, including any federal funding requirements. A
 2-46 juvenile service provider may enter into a memorandum of
 2-47 understanding with another juvenile service provider to share
 2-48 information according to the juvenile service provider's
 2-49 protocols. A juvenile service provider shall comply with this
 2-50 section regardless of whether the juvenile service provider
 2-51 establishes an internal protocol or enters into a memorandum of
 2-52 understanding under this subsection unless compliance with this
 2-53 section violates federal law.

2-54 (g) This section does not affect the confidential status of
 2-55 the information being shared. The information may be released to a
 2-56 third party only as directed by a court order or as otherwise
 2-57 authorized by law. Personally identifiable information disclosed
 2-58 to a juvenile service provider under this section is not subject to
 2-59 disclosure to a third party under Chapter 552, Government Code.

2-60 (h) [~~(d)~~] A juvenile service provider that requests
 2-61 information under this section shall pay a fee to the disclosing
 2-62 juvenile service provider in the same amounts charged for the
 2-63 provision of public information under Subchapter F, Chapter 552,
 2-64 Government Code, unless:

2-65 (1) a memorandum of understanding between the
 2-66 requesting provider and the disclosing provider:

2-67 (A) prohibits the payment of a fee;
 2-68 (B) provides for the waiver of a fee; or
 2-69 (C) provides an alternate method of assessing a

3-1 fee;
 3-2 (2) the disclosing provider waives the payment of the
 3-3 fee; or
 3-4 (3) disclosure of the information is required by law
 3-5 other than this subchapter [justice agency that receives
 3-6 educational information under this section shall destroy all
 3-7 information when the child is no longer under the jurisdiction of a
 3-8 juvenile court.
 3-9 [(e) The Texas Juvenile Probation Commission may, in
 3-10 conformity with Section 58.0072 of this code and Section 37.084,
 3-11 Education Code, enter into an interagency agreement to share
 3-12 educational information for research, audit, and analytical
 3-13 purposes with the:
 3-14 [(1) Texas Education Agency,
 3-15 [(2) Texas Youth Commission; and
 3-16 [(3) Texas Department of Criminal Justice].
 3-17 Sec. 58.0052. INTERAGENCY SHARING OF NONEDUCATIONAL
 3-18 RECORDS. (a) In this section:
 3-19 (1) "Juvenile service provider" has the meaning
 3-20 assigned by Section 58.0051.
 3-21 (2) "Multi-system youth" means a person who:
 3-22 (A) is younger than 19 years of age; and
 3-23 (B) has received services from two or more
 3-24 juvenile service providers.
 3-25 (3) "Personal health information" means personally
 3-26 identifiable information regarding a multi-system youth's physical
 3-27 or mental health or the provision of or payment for health care
 3-28 services, including case management services, to a multi-system
 3-29 youth. The term does not include clinical psychological notes or
 3-30 substance abuse treatment information.
 3-31 (b) At the request of a juvenile service provider, another
 3-32 juvenile service provider shall disclose to that provider a
 3-33 multi-system youth's personal health information or a history of
 3-34 governmental services provided to the multi-system youth,
 3-35 including:
 3-36 (1) identity;
 3-37 (2) medical records;
 3-38 (3) assessment results;
 3-39 (4) special needs;
 3-40 (5) program placements; and
 3-41 (6) psychological diagnoses.
 3-42 (c) A juvenile service provider may disclose personally
 3-43 identifiable information under this section only for the purposes
 3-44 of:
 3-45 (1) identifying a multi-system youth;
 3-46 (2) coordinating and monitoring care for a
 3-47 multi-system youth; and
 3-48 (3) improving the quality of juvenile services
 3-49 provided to a multi-system youth.
 3-50 (d) To the extent that this section conflicts with another
 3-51 law of this state with respect to confidential information held by a
 3-52 governmental agency, this section controls.
 3-53 (e) A juvenile service provider may establish an internal
 3-54 protocol for sharing information with other juvenile service
 3-55 providers as necessary to efficiently and promptly disclose and
 3-56 accept the information. The protocol may specify the types of
 3-57 information that may be shared under this section without violating
 3-58 federal law, including any federal funding requirements. A
 3-59 juvenile service provider may enter into a memorandum of
 3-60 understanding with another juvenile service provider to share
 3-61 information according to the juvenile service provider's
 3-62 protocols. A juvenile service provider shall comply with this
 3-63 section regardless of whether the juvenile service provider
 3-64 establishes an internal protocol or enters into a memorandum of
 3-65 understanding under this subsection unless compliance with this
 3-66 section violates federal law.
 3-67 (f) This section does not affect the confidential status of
 3-68 the information being shared. The information may be released to a
 3-69 third party only as directed by a court order or as otherwise

4-1 authorized by law. Personally identifiable information disclosed
4-2 to a juvenile service provider under this section is not subject to
4-3 disclosure to a third party under Chapter 552, Government Code.

4-4 (g) This section does not affect the authority of a
4-5 governmental agency to disclose to a third party for research
4-6 purposes information that is not personally identifiable as
4-7 provided by the governmental agency's protocol.

4-8 (h) A juvenile service provider that requests information
4-9 under this section shall pay a fee to the disclosing juvenile
4-10 service provider in the same amounts charged for the provision of
4-11 public information under Subchapter F, Chapter 552, Government
4-12 Code, unless:

4-13 (1) a memorandum of understanding between the
4-14 requesting provider and the disclosing provider:

4-15 (A) prohibits the payment of a fee;

4-16 (B) provides for the waiver of a fee; or

4-17 (C) provides an alternate method of assessing a
4-18 fee;

4-19 (2) the disclosing provider waives the payment of the
4-20 fee; or

4-21 (3) disclosure of the information is required by law
4-22 other than this subchapter.

4-23 SECTION 3. Subsection (a), Section 264.408, Family Code, is
4-24 amended to read as follows:

4-25 (a) The files, reports, records, communications, and
4-26 working papers used or developed in providing services under this
4-27 chapter are confidential and not subject to public release under
4-28 Chapter 552, Government Code, and may only be disclosed for
4-29 purposes consistent with this chapter. Disclosure may be to:

4-30 (1) the department, department employees, law
4-31 enforcement agencies, prosecuting attorneys, medical
4-32 professionals, and other state or local agencies that provide
4-33 services to children and families; and

4-34 (2) the attorney for the child who is the subject of
4-35 the records and a court-appointed volunteer advocate appointed for
4-36 the child under Section 107.031.

4-37 SECTION 4. Subsection (b), Section 181.002, Health and
4-38 Safety Code, is amended to read as follows:

4-39 (b) To the extent that this chapter conflicts with another
4-40 law, other than Section 58.0052, Family Code, with respect to
4-41 protected health information collected by a governmental body or
4-42 unit, this chapter controls.

4-43 SECTION 5. This Act takes effect immediately if it receives
4-44 a vote of two-thirds of all the members elected to each house, as
4-45 provided by Section 39, Article III, Texas Constitution. If this
4-46 Act does not receive the vote necessary for immediate effect, this
4-47 Act takes effect September 1, 2011.

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