

BILL ANALYSIS

C.S.H.B. 3705
By: White
Juvenile Justice & Family Issues
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that some entities are using local juvenile justice information systems in ways that may exceed statutory authority. C.S.H.B. 3705 seeks to protect information contained in such a system, while also making information sharing more efficient.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3705 amends the Family Code to include among the authorized components of a local juvenile justice information system case management for juveniles in a juvenile facility, defined by the bill as a facility that serves juveniles under a juvenile court's jurisdiction and is operated as a holdover facility, a pre-adjudication detention facility, a nonsecure facility, or a post-adjudication secure correctional facility. The bill repeals a statutory provision specifying that membership in a regional juvenile justice information system is determined by the regional juvenile board committee from among partner agencies that have applied for membership. The bill, for purposes of a local juvenile justice information system, renames a governmental placement facility as a governmental juvenile facility and removes the condition that a service provider or facility be a governmental service provider or facility in order to be considered a partner agency.

C.S.H.B. 3705 repeals the prohibition against the collection of, for inclusion in a local juvenile justice information system, information obtained for the purpose of diagnosis, examination, evaluation, or treatment or for making a referral for treatment of a child by a public or private agency or institution providing supervision of a child by arrangement of the juvenile court or having custody of the child under order of the juvenile court. The bill instead includes such information among the information authorized to be included in a local juvenile justice information system. The bill limits the entities that may access such information to the juvenile court and court clerk, the county juvenile probation department, a governmental juvenile facility that is a partner agency, and a private juvenile facility that is a partner agency, except that a private facility's access is limited to information that relates to a child detained or placed in the custody of the facility. The bill includes among the entities with Level 3 access to information in a local juvenile justice information system a private juvenile facility that is a partner agency, except the access is limited to information that relates to a child detained or placed in the custody of the facility.

C.S.H.B. 3705 increases from 128-bit to 2048-bit the required minimum level of encryption of

any access to information in a local juvenile information system performed by browser software.

C.S.H.B. 3705 repeals Sections 58.303(d) and 58.304(d), Family Code.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3705 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 58.301, Family Code, is amended read as follows:

Sec. 58.301. DEFINITIONS. In this subchapter:

(1) "County juvenile board" means a juvenile board created under Chapter 152, Human Resources Code.

(2) "Governmental placement facility" means a juvenile residential placement facility operated by a unit of government.

(3) "Governmental service provider" means a juvenile justice service provider operated by a unit of government.

(4) "Juvenile facility" means a facility that serves juveniles under juvenile court jurisdiction and that is operated as a holdover facility, a pre-adjudication detention facility, a non-secure facility, or a post-adjudication secure correctional facility.

(5) "Local juvenile justice information system" means a county or multicounty computerized database of information concerning children, with data entry and access by the partner agencies that are members of the system.

~~(5)~~(6) "Partner agency" means a governmental service provider or governmental placement facility that is authorized by this subchapter to be a member of a local juvenile justice information system or that has applied to be a member of a local juvenile justice information system and has been approved by the county juvenile board or regional juvenile board committee as a member of the system. The term includes governmental

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 58.301, Family Code, is amended by amending Subdivisions (2) and (5) and adding Subdivision (2-a) to read as follows:

(2) "Juvenile facility" means a facility that:
(A) serves juveniles under a juvenile court's jurisdiction; and

(B) is operated as a holdover facility, a pre-adjudication detention facility, a nonsecure facility, or a post-adjudication secure correctional facility.

(2-a) "Governmental juvenile ~~[placement]~~ facility" means a juvenile ~~[residential placement]~~ facility operated by a unit of government.

(5) "Partner agency" means a ~~[governmental]~~ service provider or juvenile ~~[governmental placement]~~ facility that is authorized by this subchapter to be a member of a local juvenile justice information system or that has applied to be a member of a local juvenile justice information system and has been approved by the county juvenile board or regional juvenile board committee as a member of the system.

juvenile facilities.

~~(6)~~(7) "Regional juvenile board committee" means a committee that is composed of two members from each county juvenile board in a region that comprises a multicounty local juvenile information system.

SECTION 2. Section 58.303, Family Code, is amended read as follows:

Sec. 58.303. LOCAL JUVENILE JUSTICE INFORMATION SYSTEM. (a) Juvenile justice agencies in a county or region of this state may jointly create and maintain a local juvenile justice information system to aid in processing the cases of children under this code, to facilitate the delivery of services to children in the juvenile justice system, and to aid in the early identification of at-risk and delinquent children.

(b) A local juvenile justice information system may contain the following components:

- (1) case management resources for juvenile courts, court clerks, prosecuting attorneys, and county juvenile probation departments;
- (2) reporting systems to fulfill statutory requirements for reporting in the juvenile justice system;
- (3) service provider directories and indexes of agencies providing services to children;
- (4) victim-witness notices required under Chapter 57;
- (5) electronic filing of complaints or petitions, court orders, and other documents filed with the court, including documents containing electronic signatures;
- (6) electronic offense and intake processing;
- (7) case docket management and calendaring;
- (8) communications by email or other electronic communications between partner agencies;
- (9) reporting of charges filed, adjudications and dispositions of juveniles by municipal and justice courts and the juvenile court, and transfers of cases to the juvenile court as authorized or required by Section 51.08;
- (10) reporting to schools under Article 15.27, Code of Criminal Procedure, by law enforcement agencies, prosecuting attorneys, and juvenile courts;
- (11) records of adjudications and dispositions, including probation conditions ordered by the juvenile court; ~~and~~
- (12) warrant management and confirmation capabilities; and

SECTION 2. Section 58.303(b), Family Code, is amended to read as follows:

(b) A local juvenile justice information system may contain the following components:

- (1) case management resources for juvenile courts, court clerks, prosecuting attorneys, and county juvenile probation departments;
- (2) reporting systems to fulfill statutory requirements for reporting in the juvenile justice system;
- (3) service provider directories and indexes of agencies providing services to children;
- (4) victim-witness notices required under Chapter 57;
- (5) electronic filing of complaints or petitions, court orders, and other documents filed with the court, including documents containing electronic signatures;
- (6) electronic offense and intake processing;
- (7) case docket management and calendaring;
- (8) communications by email or other electronic communications between partner agencies;
- (9) reporting of charges filed, adjudications and dispositions of juveniles by municipal and justice courts and the juvenile court, and transfers of cases to the juvenile court as authorized or required by Section 51.08;
- (10) reporting to schools under Article 15.27, Code of Criminal Procedure, by law enforcement agencies, prosecuting attorneys, and juvenile courts;
- (11) records of adjudications and dispositions, including probation conditions ordered by the juvenile court; ~~[and]~~
- (12) warrant management and confirmation capabilities; and

(13) management of juveniles in juvenile facilities.

~~(c) Expired.~~

~~(d) Membership in a local juvenile justice information system is determined by this subchapter. Membership in a regional juvenile justice information system is determined by the regional juvenile board committee from among partner agencies that have applied for membership.~~

SECTION 3. Section 58.304, Family Code, is amended read as follows:

Sec. 58.304. TYPES OF INFORMATION CONTAINED IN A LOCAL JUVENILE INFORMATION SYSTEM.

(a) ~~Subject to Subsection (d), a~~ A local juvenile justice information system must consist of:

(1) information relating to all referrals to the juvenile court of any type, including referrals for conduct indicating a need for supervision and delinquent conduct; and

(2) information relating to:

(A) the juvenile;

(B) the intake or referral of the juvenile into the juvenile justice system for any offense or conduct;

(C) the detention of the juvenile;

(D) the prosecution of the juvenile;

(E) the disposition of the juvenile's case, including the name and description of any program to which the juvenile is referred; and

(F) the probation, placement, or commitment of the juvenile.

(b) To the extent possible and subject to ~~Subsections~~ Subsection (a) ~~and (d)~~, the local juvenile justice information system may include the following information for each juvenile taken into custody, detained, or referred under this title:

(1) the juvenile's name, including other names by which the juvenile is known;

(2) the juvenile's date and place of birth;

(3) the juvenile's physical description, including sex, weight, height, race, ethnicity, eye color, hair color, scars, marks, and tattoos;

(4) the juvenile's state identification number and other identifying information;

(5) the juvenile's fingerprints and photograph;

(6) the juvenile's last known residential address, including the census tract number designation for the address;

(7) the name, address, and phone number of

(13) case management for juveniles in juvenile facilities.

No equivalent provision. (*But see SECTION 7 below.*)

SECTION 3. Sections 58.304(a) and (b), Family Code, are amended to read as follows:

(a) A ~~[Subject to Subsection (d), a]~~ local juvenile justice information system must consist of:

(1) information relating to all referrals to the juvenile court of any type, including referrals for conduct indicating a need for supervision and delinquent conduct; and

(2) information relating to:

(A) the juvenile;

(B) the intake or referral of the juvenile into the juvenile justice system for any offense or conduct;

(C) the detention of the juvenile;

(D) the prosecution of the juvenile;

(E) the disposition of the juvenile's case, including the name and description of any program to which the juvenile is referred; and

(F) the probation, placement, or commitment of the juvenile.

(b) To the extent possible and subject to Subsection (a) ~~[Subsections (a) and (d)]~~, the local juvenile justice information system may include the following information for each juvenile taken into custody, detained, or referred under this title:

(1) the juvenile's name, including other names by which the juvenile is known;

(2) the juvenile's date and place of birth;

(3) the juvenile's physical description, including sex, weight, height, race, ethnicity, eye color, hair color, scars, marks, and tattoos;

(4) the juvenile's state identification number and other identifying information;

(5) the juvenile's fingerprints and photograph;

(6) the juvenile's last known residential address, including the census tract number designation for the address;

(7) the name, address, and phone number of

the juvenile's parent, guardian, or custodian;
(8) the name and identifying number of the agency that took into custody or detained the juvenile;

(9) each date of custody or detention;

(10) a detailed description of the conduct for which the juvenile was taken into custody, detained, or referred, including the level and degree of the alleged offense;

(11) the name and identifying number of the juvenile intake agency or juvenile probation office;

(12) each disposition by the juvenile intake agency or juvenile probation office;

(13) the date of disposition by the juvenile intake agency or juvenile probation office;

(14) the name and identifying number of the prosecutor's office;

(15) each disposition by the prosecutor;

(16) the date of disposition by the prosecutor;

(17) the name and identifying number of the court;

(18) each disposition by the court, including information concerning custody of a juvenile by a juvenile justice agency or county juvenile probation department;

(19) the date of disposition by the court;

(20) any commitment or release under supervision by the Texas Juvenile Justice Department, including the date of the commitment or release;

(21) information concerning each appellate proceeding; ~~and~~

(22) electronic copies of all documents filed with the court; and

(23) information obtained for the purpose of diagnosis, examination, evaluation, or treatment or for making a referral for treatment of a child by a public or private agency or institution providing supervision of a child by arrangement of the juvenile court or having custody of the child under order of the juvenile court.

(c) If the Department of Public Safety assigns a state identification number for the juvenile, the identification number shall be entered in the local juvenile information system.

~~(d) Information obtained for the purpose of diagnosis, examination, evaluation, or treatment or for making a referral for treatment of a child by a public or private agency or institution providing supervision of a child by arrangement of the juvenile court or having custody of the child under order of the juvenile court may not be~~

the juvenile's parent, guardian, or custodian;
(8) the name and identifying number of the agency that took into custody or detained the juvenile;

(9) each date of custody or detention;

(10) a detailed description of the conduct for which the juvenile was taken into custody, detained, or referred, including the level and degree of the alleged offense;

(11) the name and identifying number of the juvenile intake agency or juvenile probation office;

(12) each disposition by the juvenile intake agency or juvenile probation office;

(13) the date of disposition by the juvenile intake agency or juvenile probation office;

(14) the name and identifying number of the prosecutor's office;

(15) each disposition by the prosecutor;

(16) the date of disposition by the prosecutor;

(17) the name and identifying number of the court;

(18) each disposition by the court, including information concerning custody of a juvenile by a juvenile justice agency or county juvenile probation department;

(19) the date of disposition by the court;

(20) any commitment or release under supervision by the Texas Juvenile Justice Department, including the date of the commitment or release;

(21) information concerning each appellate proceeding; ~~and~~

(22) electronic copies of all documents filed with the court; and

(23) information obtained for the purpose of diagnosis, examination, evaluation, treatment, or referral for treatment of a child by a public or private agency or institution providing supervision of a child by arrangement of the juvenile court or having custody of the child under order of the juvenile court.

No equivalent provision. (*But see SECTION 7 below.*)

~~collected under Subsection (a) or (b).~~

SECTION 4. Section 58.305, Family Code, is amended.

SECTION 5. Section 58.306, Family Code, is amended read as follows:

Sec. 58.306. ACCESS TO INFORMATION; LEVELS. (a) This section describes the level of access to information to which each partner agency in a local juvenile justice information system is entitled.

(b) Information is at Access Level 1 if the information relates to a child:

(1) who:

(A) a school official has reasonable grounds to believe has committed an offense for which a report is required under Section 37.015, Education Code; or

(B) has been expelled, the expulsion of which is required to be reported under Section 52.041; and

(2) who has not been charged with a fineable only offense, a status offense, or delinquent conduct.

(c) Information is at Access Level 2 if the information relates to a child who:

(1) is alleged in a justice or municipal court to have committed a fineable only offense, municipal ordinance violation, or status offense; and

(2) has not been charged with delinquent conduct or conduct indicating a need for supervision.

(d) Information is at Access Level 3 if the information relates to a child who is alleged to have engaged in delinquent conduct or conduct indicating a need for supervision.

(e) Information is at Access Level 4 if the information is obtained for the purpose of diagnosis, examination, evaluation, or treatment or for making a referral for treatment of a child by a public or private agency or institution providing supervision of a child by arrangement of the juvenile court or having custody of the child under order of the juvenile court.

(f) Level 1 Access is by public school districts in the county or region served by the local juvenile justice information system.

~~(f)~~(g) Level 2 Access is by:

(1) justice of the peace courts that process juvenile cases; and

(2) municipal courts that process juvenile

SECTION 4. Substantially the same as introduced version.

SECTION 5. Section 58.306, Family Code, is amended by amending Subsections (e), (f), and (g) and adding Subsection (i) to read as follows:

(e) Except as provided by Subsection (i), Level 1 Access is by public school districts in the county or region served by the local juvenile justice information system.

(f) Except as provided by Subsection (i), Level 2 Access is by:

(1) justice of the peace courts that process juvenile cases; and

(2) municipal courts that process juvenile

cases.

~~(g)~~(h) Level 3 Access is by:

- (1) the juvenile court and court clerk;
 - (2) the prosecuting attorney;
 - (3) the county juvenile probation department;
 - (4) law enforcement agencies;
 - (5) governmental service providers that are partner agencies; and
 - (6) ~~governmental placement juvenile facilities that are partner agencies.~~
- Private juvenile facilities may access only information pertaining to juveniles detained or placed within the respective facilities.

(i) Level 4 Access is by:

- (1) the juvenile court and court clerk;
- (2) the county juvenile probation department; and
- (3) juvenile facilities.

Private juvenile facilities may access only information pertaining to juveniles detained or placed within the respective facilities.

~~(h)~~(i) Access for Level 1 agencies is only to information at Level 1. Access for Level 2 agencies is only to information at Levels 1 and 2. Access for Level 3 agencies is to information at Levels 1, 2, and 3.

SECTION 6. Section 58.307(e), Family Code, is amended.

No equivalent provision. *(But see SECTIONS 2 and 3 above.)*

SECTION 7. This Act takes effect September 1, 2017.

cases.

(g) Except as provided by Subsection (i), Level 3 Access is by:

- (1) the juvenile court and court clerk;
- (2) the prosecuting attorney;
- (3) the county juvenile probation department;
- (4) law enforcement agencies;
- (5) governmental service providers that are partner agencies; ~~and~~
- (6) ~~governmental juvenile [placement] facilities that are partner agencies; and~~
- (7) a private juvenile facility that is a partner agency, except the access is limited to information that relates to a child detained or placed in the custody of the facility.

(i) Information described by Section 58.304(b)(23) may be accessed only by:

- (1) the juvenile court and court clerk;
- (2) the county juvenile probation department;
- (3) a governmental juvenile facility that is a partner agency; and
- (4) a private juvenile facility that is a partner agency, except the access is limited to information that relates to a child detained or placed in the custody of the facility.

SECTION 6. Substantially the same as introduced version.

SECTION 7. The following provisions of the Family Code are repealed:

- (1) Section 58.303(d); and
- (2) Section 58.304(d).

SECTION 8. Same as introduced version.