

BILL ANALYSIS

C.S.H.B. 4046
By: Alvarado
Higher Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Generally, interested parties note, state public information law provides access to public information, with the exception of information considered confidential. The parties suggest that while one type of excepted information is student records at an educational institution funded wholly or partly by state revenue, the law does not define what constitutes a student record. The parties also suggest that a gap in coverage exists under certain federal privacy law with regard to an individual who applies for enrollment at an institution but does not enroll and attend. This gap, the parties continue, creates a serious privacy concern for many prospective students who are deserving of well-defined laws that protect their constitutional right to privacy. C.S.H.B. 4046 seeks to address these issues as they relate to confidentiality of student records.

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. 4046 amends the Government Code to define "student record," for purposes of statutory provisions excepting information in a student record at an educational institution funded wholly or partly by state revenue from being made publicly available under state public information law, as information that constitutes education records as that term is defined by the federal Family Educational Rights and Privacy Act of 1974 or information in a record of an applicant for admission to an educational institution, including a transfer applicant. The bill makes information in a student record at an educational institution funded wholly or partly by state revenue confidential and specifies that such confidentiality and the exception of such information from public availability under state public information law does not prohibit the disclosure or provision of information included in an education record if the disclosure or provision is authorized by federal law. The bill authorizes an educational institution to redact such confidential information in a student record from information disclosed as public information under state public information law without requesting a decision from the attorney general. The bill requires an educational institution funded wholly or partly by state revenue, if an applicant for admission to the institution or a parent or legal guardian of a minor applicant to the institution requests information in the applicant's record, to disclose any information that is related to the applicant's admission application and was provided to the institution by the applicant.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 4046 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 552.114, Government Code, is amended to read as follows:

Sec. 552.114. EXCEPTION: CONFIDENTIALITY OF STUDENT RECORDS.

(a) Information that constitutes education records as that term is defined by the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g(a)(4))

is confidential and excepted from the requirements of Section 552.021 if it is maintained by an educational institution funded wholly or partly by state revenue. This subsection does not prohibit the disclosure or provision of information included in an education record if the disclosure or provision is authorized by 20 U.S.C. Section 1232g or other federal law.

(b) Information other than information covered by Subsection (a) is excepted from the requirements of Section 552.021 if it is information in a student record at an educational institution funded wholly or partly by state revenue or in a record of an applicant for admission to the institution, including a transfer applicant, except as provided by Subsection (c).

(c) ~~(b)~~ A record covered by ~~under~~ Subsection (b) ~~(a)~~ shall be made available on the request of:

- (1) educational institution personnel;
- (2) the student involved or the student's parent, legal guardian, or spouse; or
- (3) a person conducting a child abuse investigation required by Subchapter D,

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 552.114, Government Code, is amended to read as follows:

Sec. 552.114. EXCEPTION: CONFIDENTIALITY OF STUDENT RECORDS. (a) In this section, "student record" means:

(1) information that constitutes education records as that term is defined by the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g(a)(4)); or

(2) information in a record of an applicant for admission to an educational institution, including a transfer applicant.

(b) Information is confidential and excepted from the requirements of Section 552.021 if it is information in a student record at an educational institution funded wholly or partly by state revenue. This subsection does not prohibit the disclosure or provision of information included in an education record if the disclosure or provision is authorized by 20 U.S.C. Section 1232g or other federal law.

See Subsections (a)(2) and (b) above.

(c) ~~(b)~~ A record covered by ~~under~~ Subsection (b) ~~(a)~~ shall be made available on the request of:

- (1) educational institution personnel;
- (2) the student involved or the student's parent, legal guardian, or spouse; or
- (3) a person conducting a child abuse investigation required by Subchapter D,

Chapter 261, Family Code.

No equivalent provision.

No equivalent provision.

SECTION 2. This Act takes effect September 1, 2015.

Chapter 261, Family Code.

(d) Except as provided by Subsection (e), an educational institution may redact information covered under Subsection (b) from information disclosed under Section 552.021 without requesting a decision from the attorney general.

(e) If an applicant for admission to an educational institution described by Subsection (b) or a parent or legal guardian of a minor applicant to an educational institution described by Subsection (b) requests information in the record of the applicant, the educational institution shall disclose any information that:

(1) is related to the applicant's application for admission; and

(2) was provided to the educational institution by the applicant.

SECTION 2. Same as introduced version.