

SUBJECT: Allowing juvenile justice authorities and schools to share student information

COMMITTEE: Juvenile Justice and Family Issues — committee substitute recommended

VOTE: 8 ayes — Goodman, Pickett, Isett, P. King, Morrison, Naishtat, E. Reyna, Truitt

0 nays

1 absent — A. Reyna

WITNESSES: For — None

Against — None

On — Nancy Arrigona, Criminal Justice Policy Council; Sarah Webster, Texas Department of Protective and Regulatory Services

BACKGROUND: The disclosure of public elementary and secondary school students' records is governed by the federal Family Educational Rights and Privacy Act (FERPA), 20 USC sec. 1232g. In general, FERPA allows the release of student records only with parental permission, with certain exceptions. One exception allows the release of records without parental permission to state and local officials or authorities if a state has a law authorizing the disclosure. The exception allows student information to be disclosed if the reporting or disclosure concerns the juvenile justice system's and the school system's ability to serve the student effectively before adjudication, and if it is certified in writing to the school that the information will not be disclosed to any other party except as allowed under state law without the prior consent of the student's parents. Texas Government Code, sec. 552.026 does not require the release of educational records except in conformity with FERPA.

Under Family Code, sec. 58.007, juvenile court records, juvenile probation department records, and prosecutors' records are open only to court officials, probation officers, juvenile justice agencies, attorneys to the proceedings, agencies or institutions that have court-ordered supervision or custody of the child, and, with permission of the juvenile court, others with legitimate interest in the court proceedings. Code of Criminal Procedure, art. 15.27

establishes that law enforcement agencies, prosecutors, and probation and parole officers must notify school superintendents of juvenile arrests and referrals to the juvenile justice system.

**DIGEST:**

CSHB 1749 would allow school superintendents and local juvenile probation departments to enter into written agreements to share information about juvenile offenders. School district superintendents could disclose information in a student's educational records to juvenile justice agencies under one of these agreements. An agreement would have to specify the conditions under which summary criminal history information would be made available to school personnel and the conditions under which school records would be made available to juvenile justice authorities. The release of student-level information would have to conform with FERPA.

Information disclosed by a school district would have to relate to the juvenile justice system's ability to serve a student before adjudication. Juvenile justice officials who get educational information would have to certify in writing that they have agreed not to disclose personally identifiable information to a third party other than another juvenile justice agency. Juvenile justice agencies receiving educational information would have to destroy all information when the child was no longer under court jurisdiction.

CSHB 1749 would authorize the commissioner of education to enter into agreements to share educational information for research and analytical purposes with the Texas Juvenile Probation Commission, the Texas Youth Commission, the Texas Department of Criminal Justice, and the Criminal Justice Policy Council.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house.

**SUPPORTERS  
SAY:**

CSHB 1749 would allow the sharing of some educational information — under specified narrow circumstances — without parental consent to help schools and juvenile justice agencies better serve juveniles involved in the juvenile justice system. This could help address the serious problems of juvenile crime and violence on school campuses.

The bill would establish the state authorization needed for local areas to use FERPA's exception for the juvenile justice system, but it would not require

information-sharing agreements. However, if a school and juvenile probation department agreed to share information about juveniles before adjudication, they would have to do so within the narrow parameters set by FERPA. Schools and juvenile probation departments would have to have specific, written agreements. The shared information would have to deal with the juvenile justice system's ability to serve a youth. Persons receiving the information would have to agree to keep it confidential, except for release to other juvenile justice agencies, and the information would have to be destroyed when a child was no longer under the court's jurisdiction.

This sharing of information could facilitate better services by both schools and juvenile probation departments. For example, a local juvenile probation department could contact the school of a 14-year-old arrested for assault, and the school could release attendance, academic performance, or other information. This could help the juvenile justice agency know if the youth was behind in studies or had been a disciplinary problem. In turn, the school could learn more about the alleged offense and perhaps could counsel the student or decide that the student should be placed in classes separate from another youth. Sharing this kind of information could help schools identify youths at risk for delinquent behavior before the youths become deeply involved in the juvenile justice system.

Allowing the education commissioner to share information for research and analytical purposes with youth and adult criminal justice and research agencies could help the state to study juvenile offenders more effectively and to develop programs and plans to reduce delinquency.

**OPPONENTS  
SAY:**

Government agencies should not share information about youths without their parents' consent. Currently, schools can share information with juvenile justice agencies if parents consent, and there is no need to change this arrangement. Allowing currently confidential educational information about juveniles to be shared among governmental agencies without parental permission might not be in the best interest of the youths.

HB 1749  
House Research Organization  
page 4

OTHER  
OPPONENTS  
SAY:

CSHB 1749 should include a requirement that school districts and juvenile agencies keep records of other entities that are given access to a child's information to keep track of the dissemination of this confidential information.

NOTES:

The original bill would have authorized the Department of Public Safety to disseminate information in its juvenile justice information system, under certain circumstances, to the Department of Protective and Regulatory Services and to the principal or assistant principal of a public elementary or secondary school.