

- SUBJECT:** Requiring juvenile service providers to share certain information
- COMMITTEE:** Corrections — favorable, without amendment
- VOTE:** 7 ayes — Madden, Allen, Cain, Marquez, Perry, White, Workman
0 nays
2 absent — Hunter, Parker
- SENATE VOTE:** On final passage, April 14 — 31-0, on Local and Uncontested Calendar
- WITNESSES:** *(On House companion, HB 3385:)*
For — Amanda Jones, Harris Commissioners Court; Joel Levine, Harris County Juvenile Information Sharing Workgroup; *(Registered, but did not testify:* Harry Holmes, Harris County Health Care Alliance; Craig Pardue, Dallas County; Kevin Petroff, Harris County District Attorney’s Office)

Against — None

On — Ed Sinclair, Legislative Budget Board
- DIGEST:** SB 1106 would require juvenile service providers to share certain education, health, and government services history records about specific juveniles with other juvenile service providers.

Juvenile service providers would be defined as governmental entities that provided juvenile justice or prevention, medical, educational, or other support services to juveniles, including:
- state and local juvenile justice agencies;
 - health and human service agencies;
 - the Department of Public Safety;
 - the Texas Education Agency;
 - independent school districts;
 - juvenile justice alternative education programs;
 - charter schools;
 - local mental health or mental retardation authorities;

- courts;
- district and county attorneys offices; and
- children's advocacy centers.

Educational records. Upon request of a juvenile service provider, independent school districts and charter schools would have to disclose to juvenile service providers certain confidential information in a student's educational record if the student had been taken into custody or referred to a juvenile court for allegedly engaging in conduct that was delinquent or indicated a need for supervision.

Educational records would be defined as a student's primary or secondary school records, including information about his or her identity, special needs, educational accommodations, assessment and diagnostic test results, attendance and disciplinary records, medical records, and psychological diagnoses.

School districts and charter schools would have to comply with a request regardless of whether other laws made the information confidential. For seven years after disclosure, school districts and charter schools that disclosed confidential information to a juvenile service provider would be prohibited from destroying the information.

Juvenile service providers that received confidential information would have to certify that they agreed not to disclose it to another party, except for another juvenile service provider. Providers also would have to certify that they would use the confidential information only to verify the identity of a student involved in the juvenile justice system and to provide delinquency prevention or treatment services to the student.

The bill would eliminate current authority for school district superintendants and juvenile probation departments to enter into agreements to share information about juvenile offenders. It also would eliminate current authorization for the Texas Juvenile Probation Commission to enter into interagency agreements to share information for research, audit, and analytical purposes with certain state agencies.

Noneducational records. Upon request of a juvenile service provider, other juvenile service providers would have to disclose certain information about "multi-system youths," defined as persons younger than 19 who had received services from two or more juvenile service providers.

Service providers would have to share a multi-system youth's personal health information or history of received government services, including information about his or her identity, medical records, assessment results, special needs, program placements, and psychological diagnosis.

Juvenile service providers could disclose personally identifiable information only to identify a multi-system youth, coordinate and monitor care for a multi-system youth, and improve the quality of services given to the youth. SB 1106 would control over other laws relating to the confidentiality of this information.

SB 1106 would not affect the authority of government agencies to disclose to third parties information used for research that was not personally identifiable, as provided by an agency's protocol.

Internal protocols, confidentiality, and fees. Juvenile service providers would be authorized to establish internal protocols for sharing information with other juvenile service providers and to enter into memoranda of understanding with other providers to share information. Juvenile service providers would be required to comply with SB 1106 regardless of whether they had established an internal protocol or entered into a memorandum of understanding, unless compliance would violate federal law.

Juvenile service providers requesting information would be required to pay a fee to the service provider that disclosed the information as provided under the Government Code's Public Information Act, unless the providers had a memorandum of understanding about the fee, the provider waived the fee, or the disclosure of the information was required by another law.

SB 1106 would not affect the confidential status of the information being shared. It could be released to a third party only under court order or as authorized by law. Personally identifiable information disclosed to a juvenile service provider would not be subject to disclosure to a third party under the Government Code's Public Information Act.

The bill would expand the current authority for certain information to be shared by the Department of Family and Protective Services to include local agencies that provided services to family and children. These

provisions would control over requirements in the Medical Records Privacy Act.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2011.

**SUPPORTERS
SAY:**

SB 1106 is needed to ensure that juvenile service providers share information about a narrowly defined set of juveniles in order to guarantee the most appropriate and effective services. The information-sharing would improve the coordination and quality of services to Texas' children, so that services could be provided efficiently to make the best use of taxpayer dollars. SB 1106 was one of the recommendations from the Legislative Budget Board's January 2011 *Texas At-Risk Youth Services Project* report.

In some cases, current law does not authorize the sharing of the educational and health information described by the bill and in other cases, it is common for sharing not to occur even though it may be permitted by statute. Sometimes juvenile service providers choose not to share information because the laws are permissive. Some entities do not have the resources to handle information requests quickly, and some entities are concerned about the liability for sharing information. When information on these juveniles is not shared, services and treatments can be duplicated, inappropriate, or not provided, and this can be inefficient and costly.

SB 1106 would address this problem by mandating the sharing of information about a narrowly drawn set of juveniles for limited purposes. Making information-sharing mandatory would most effectively ensure that it occurred and that juveniles received services properly tailored to their situations.

SB 1106 would limit information-sharing to when it was in the best interests of state and local entities and the youth. Education records could be shared only about juveniles taken into custody or referred to a juvenile court. Noneducational records could be shared only about those younger than 19 who received services from two or more juvenile service providers. The state has a compelling interest in ensuring that appropriate services are provided to these youths most efficiently and effectively.

SB 1106 could help when a juvenile detention center receives a child and needs the youth's educational records. In some cases, it has taken up to 30 days to get those records, without which the juvenile most likely will not receive the most appropriate educational services. In other cases, youths have been adjudicated by courts before their mental health records were shared, forcing courts to make decisions with inadequate information. The bill also would help when Child Protective Services was seeking a child but did not know where he or she was enrolled.

SB 1106 would carefully balance the needs of governmental entities providing services to juveniles with privacy for juveniles and their families. It would limit the sharing of information to the specific entities defined as juvenile service providers. Concerns that unnecessary information would be shared are unfounded, because the service providers would not have an interest in obtaining information that was not related to a youth's current situation. The bill also states that it would not affect the confidentiality status of the information and would allow release to a third party only under court order or as authorized by another law.

SB 1106 would not violate federal or state privacy laws. In some areas, state laws may be more restrictive than federal laws, which have been revised to aid interdisciplinary collaboration. Mandating sharing through legislation would alleviate the fears of some service providers that sharing the information could raise liability issues.

The bill also would ensure that agencies providing information were not forced to bear the costs of the information-sharing. Providers could enter into agreements about fees or work under provisions in the Public Information Act.

**OPPONENTS
SAY:**

Any information-sharing about youths – even among juvenile service providers – should not occur without explicit parental consent. In some cases, it could be inappropriate to share information held by the entities listed in SB 1106, even if a child was involved in the juvenile justice system or with two of the service providers listed in the bill. For example, a student's action in school that resulted in a referral to a juvenile court could be completely unrelated to an inquiry by another agency about the care of the child years before.

Some information, even if held by a government agency, should remain private. Sharing of information easily can lead to unintentional spreading of that information, especially with electronic records.

**OTHER
OPPONENTS
SAY:**

Parents and juveniles should be given a way to express complaints about the sharing of a juvenile's information if an entity did not follow the law or used the information improperly.

NOTES:

The companion bill, HB 3385 by Madden, was considered in a public hearing by the House Corrections Committee on April 6 and left pending.