

BILL ANALYSIS

Senate Research Center
77R8469 SRC-D

H.B. 2853
By: Bosse (Cain)
Administration
5/4/2001
Engrossed

DIGEST AND PURPOSE

During the interim between the 76th and 77th legislative sessions, the House Select Committee on Judicial Interpretations of Law (committee), aided by the legal division of the Texas Legislative Council (council), conducted a study on the decisions of Texas appellate courts over the preceding five years to identify decisions that, in the opinion of the committee, signaled problems with the implementation of legislative intent, identified statutes as unconstitutional, expressly suggested legislative action, found statutes to be conflicting, or found statutes to be ambiguous. In the committee's report to the 77th Legislature, the committee recommended that the council undertake a similar study each interim and report to the legislature. The 76th Legislature passed legislation providing for the collection and analysis by the council of statistical and demographic information and requiring state agencies to cooperate in the gathering of information and the production of reports. The legislation authorized council staff to obtain access for this purpose to information that is confidential under other law, including student-identifiable information subject to federal law governing student records. However, the attorney general issued an opinion stating that federal law does not permit access for this purpose. H.B. 2853 requires the council to conduct a continuing study of judicial decisions during each interim and conforms council access to student records to those uses authorized by federal law.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 323, Government Code, by adding Section 323.013, as follows:

Sec. 323.013. REVIEW OF JUDICIAL DECISIONS INTERPRETING STATUTES.

Requires the Texas Legislative Council to conduct a continuing study of judicial decisions and, before each legislative session, prepare and deliver to the appropriate standing committees of each house of the legislature a report identifying recent decisions in which courts have:

- clearly failed to implement legislative purposes;
- found two or more statutes to be in conflict;
- held a statute unconstitutional;
- expressly found a statute to be ambiguous;
- expressly suggested legislative action; or
- changed a common law doctrine.

SECTION 2. Amends Section 323.019(c), Government Code, to provide that for the purposes of

evaluating federally and state-supported education programs, or other appropriate purposes as authorized by, rather than the limited purpose of collecting and matching data subject to, 20 U.S.C. Section 1232g or other federal law governing education records, employees of the council are considered state school officials.

SECTION 3. Effective date: upon passage or the 91st day after the last day of the legislative session.