AN ACT

relating to the exchange of confidential information concerning certain juveniles.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (a), Section 37.084, Education Code, is amended to read as follows:

(a) A school district superintendent or the superintendent's designee shall [may] disclose information contained in a student's educational records to a juvenile service provider as required [justice agency, as that term is defined by Section 58.101, Family Code, if the disclosure is under an interagency agreement authorized] by Section 58.0051, Family Code.

SECTION 2. Subchapter A, Chapter 58, Family Code, is amended by amending Section 58.0051 and adding Section 58.0052 to read as follows:

Sec. 58.0051. INTERAGENCY SHARING OF EDUCATIONAL RECORDS.

(a) In this section:

(1) "Educational records" means records in the possession of a primary or secondary educational institution that contain information relating to a student, including information relating to the student's:

(A) identity;

(B) special needs;

(C) educational accommodations;
assessments or diagnostic test results;

(E) attendance records;

(F) disciplinary records;

(G) medical records; and

(H) psychological diagnoses.

(2) "Juvenile service provider" means a governmental entity that provides juvenile justice or prevention, medical, educational, or other support services to a juvenile. The term includes:

(A) a state or local juvenile justice agency as defined by Section 58.101;

(B) health and human services agencies, as defined by Section 531.001, Government Code, and the Health and Human Services Commission;

(C) the Department of Public Safety;

(D) the Texas Education Agency;

(E) an independent school district;

(F) a juvenile justice alternative education program;

(G) a charter school;

(H) a local mental health or mental retardation authority;

(I) a court with jurisdiction over juveniles;

(J) a district attorney's office;

(K) a county attorney's office; and

(L) a children's advocacy center established under Section 264.402.
(3) "Student" means a person who:

(A) is registered or in attendance at a primary or secondary educational institution; and

(B) is younger than 18 years of age.

(b) At the request of a juvenile service provider, an independent school district or a charter school shall disclose to the juvenile service provider confidential information contained in the student's educational records if the student has been:

(1) taken into custody under Section 52.01; or

(2) referred to a juvenile court for allegedly engaging in delinquent conduct or conduct indicating a need for supervision.

(c) An independent school district or charter school that discloses confidential information to a juvenile service provider under Subsection (b) may not destroy a record of the disclosed information before the seventh anniversary of the date the information is disclosed.

(d) An independent school district or charter school shall comply with a request under Subsection (b) regardless of whether other state law makes that information confidential.

(e) [Within each county, a district school superintendent and the juvenile probation department may enter into a written interagency agreement to share information about juvenile offenders. The agreement must specify the conditions under which summary criminal history information is to be made available to appropriate school personnel and the conditions under which school records are to be made available to appropriate juvenile justice]
(b) Information disclosed under this section by a school district must relate to the juvenile system's ability to serve, before adjudication, the student whose records are being released.

(e) A juvenile service provider that receives confidential [educational] information under this section shall:

(1) certify in writing that the juvenile service provider [institution or individual] receiving the confidential [personally identifiable] information has agreed not to disclose it to a third party, other than another juvenile service provider; and

(2) use the confidential information only to:

(A) verify the identity of a student involved in the juvenile justice system; and

(B) provide delinquency prevention or treatment services to the student [justice agency].

(f) A juvenile service provider may establish an internal protocol for sharing information with other juvenile service providers as necessary to efficiently and promptly disclose and accept the information. The protocol may specify the types of information that may be shared under this section without violating federal law, including any federal funding requirements. A juvenile service provider may enter into a memorandum of understanding with another juvenile service provider to share information according to the juvenile service provider's protocols. A juvenile service provider shall comply with this section regardless of whether the juvenile service provider
establishes an internal protocol or enters into a memorandum of understanding under this subsection unless compliance with this section violates federal law.

(g) This section does not affect the confidential status of the information being shared. The information may be released to a third party only as directed by a court order or as otherwise authorized by law. Personally identifiable information disclosed to a juvenile service provider under this section is not subject to disclosure to a third party under Chapter 552, Government Code.

(h) [Deleted]

A juvenile service provider that requests information under this section shall pay a fee to the disclosing juvenile service provider in the same amounts charged for the provision of public information under Subchapter F, Chapter 552, Government Code, unless:

(1) a memorandum of understanding between the requesting provider and the disclosing provider:

   (A) prohibits the payment of a fee;

   (B) provides for the waiver of a fee; or

   (C) provides an alternate method of assessing a fee;

(2) the disclosing provider waives the payment of the fee; or

(3) disclosure of the information is required by law other than this subchapter [justice agency that receives educational information under this section shall destroy all information when the child is no longer under the jurisdiction of a juvenile court.
The Texas Juvenile Probation Commission may, in conformity with Section 58.0072 of this code and Section 37.084, Education Code, enter into an interagency agreement to share educational information for research, audit, and analytical purposes with the:

[(1) Texas Education Agency;]
[(2) Texas Youth Commission; and]
[(3) Texas Department of Criminal Justice].

Sec. 58.0052. INTERAGENCY SHARING OF NONEDUCATIONAL RECORDS. (a) In this section:

(1) "Juvenile service provider" has the meaning assigned by Section 58.0051.

(2) "Multi-system youth" means a person who:

(A) is younger than 19 years of age; and
(B) has received services from two or more juvenile service providers.

(3) "Personal health information" means personally identifiable information regarding a multi-system youth's physical or mental health or the provision of or payment for health care services, including case management services, to a multi-system youth. The term does not include clinical psychological notes or substance abuse treatment information.

(b) At the request of a juvenile service provider, another juvenile service provider shall disclose to that provider a multi-system youth's personal health information or a history of governmental services provided to the multi-system youth, including:
(1) identity;
(2) medical records;
(3) assessment results;
(4) special needs;
(5) program placements; and
(6) psychological diagnoses.

(c) A juvenile service provider may disclose personally identifiable information under this section only for the purposes of:

(1) identifying a multi-system youth;
(2) coordinating and monitoring care for a multi-system youth; and
(3) improving the quality of juvenile services provided to a multi-system youth.

(d) To the extent that this section conflicts with another law of this state with respect to confidential information held by a governmental agency, this section controls.

(e) A juvenile service provider may establish an internal protocol for sharing information with other juvenile service providers as necessary to efficiently and promptly disclose and accept the information. The protocol may specify the types of information that may be shared under this section without violating federal law, including any federal funding requirements. A juvenile service provider may enter into a memorandum of understanding with another juvenile service provider to share information according to the juvenile service provider's protocols. A juvenile service provider shall comply with this
section regardless of whether the juvenile service provider establishes an internal protocol or enters into a memorandum of understanding under this subsection unless compliance with this section violates federal law.

(f) This section does not affect the confidential status of the information being shared. The information may be released to a third party only as directed by a court order or as otherwise authorized by law. Personally identifiable information disclosed to a juvenile service provider under this section is not subject to disclosure to a third party under Chapter 552, Government Code.

(g) This section does not affect the authority of a governmental agency to disclose to a third party for research purposes information that is not personally identifiable as provided by the governmental agency's protocol.

(h) A juvenile service provider that requests information under this section shall pay a fee to the disclosing juvenile service provider in the same amounts charged for the provision of public information under Subchapter F, Chapter 552, Government Code, unless:

(1) a memorandum of understanding between the requesting provider and the disclosing provider:

(A) prohibits the payment of a fee;

(B) provides for the waiver of a fee; or

(C) provides an alternate method of assessing a fee;

(2) the disclosing provider waives the payment of the fee; or
(3) disclosure of the information is required by law other than this subchapter.

SECTION 3. Subsection (a), Section 58.106, Family Code, is amended to read as follows:

(a) Except as otherwise provided by this section, information contained in the juvenile justice information system is confidential information for the use of the department and may not be disseminated by the department except:

(1) with the permission of the juvenile offender, to military personnel of this state or the United States;

(2) to a person or entity to which the department may grant access to adult criminal history records as provided by Section 411.083, Government Code;

(3) to a juvenile justice agency;

(4) to the Texas Youth Commission and the Texas Juvenile Probation Commission for analytical purposes; and

(5) to the office of independent ombudsman of the Texas Youth Commission; and

(6) to a county, justice, or municipal court exercising jurisdiction over a juvenile.

SECTION 4. Section 264.408, Family Code, is amended by amending Subsection (a) and adding Subsection (d-1) to read as follows:

(a) The files, reports, records, communications, and working papers used or developed in providing services under this chapter are confidential and not subject to public release under Chapter 552, Government Code, and may only be disclosed for
purposes consistent with this chapter. Disclosure may be to:

(1) the department, department employees, law enforcement agencies, prosecuting attorneys, medical professionals, and other state or local agencies that provide services to children and families; and

(2) the attorney for the child who is the subject of the records and a court-appointed volunteer advocate appointed for the child under Section 107.031.

(d-1) A videotaped interview described by Subsection (d) is subject to production under Article 39.14, Code of Criminal Procedure, and Rule 615, Texas Rules of Evidence. A court shall deny any request by a defendant to copy, photograph, duplicate, or otherwise reproduce a videotape of an interview described by Subsection (d), provided that the prosecuting attorney makes the videotape reasonably available to the defendant in the same manner as property or material may be made available to defendants, attorneys, and expert witnesses under Article 39.15(d), Code of Criminal Procedure.

SECTION 5. Subsection (b), Section 181.002, Health and Safety Code, is amended to read as follows:

(b) To the extent that this chapter conflicts with another law, other than Section 58.0052, Family Code, with respect to protected health information collected by a governmental body or unit, this chapter controls.

SECTION 6. The changes in law made by Section 264.408, Family Code, as amended by this Act, apply to a criminal action for which the information or indictment was filed on or after the
effective date of this Act. A criminal action for which the information or indictment was filed before the effective date of this Act is covered by the law in effect on the date the information or indictment was filed, and the former law is continued in effect for that purpose.

SECTION 7. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2011.
President of the Senate

I hereby certify that S.B. No. 1106 passed the Senate on April 14, 2011, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendments on May 23, 2011, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1106 passed the House, with amendments, on May 18, 2011, by the following vote: Yeas 128, Nays 0, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor