

House Research Act Summary

CHAPTER: 352

SESSION: 2002 Regular Session

TOPIC: Data Sharing

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Overview

The act combines HF 2618/SF3379, which require public employees and officials to report theft of public funds to law enforcement officials and HF 1149/SF357, which establish additional parameters for sharing data on students involved with the juvenile justice system.

- 1 **Law enforcement.** Amends the state auditor statute. Specifies that the auditor may share not public data relating to an audit with law enforcement agencies, despite contrary provisions in chapter 13, or other statutes classifying government data.
- 2 **Access to data.** Specifies that it is not a violation of chapter 13 or other laws classifying government data for any government entity to give the state auditor not public data for the purpose of an audit or to comply with a current mandatory reporting law.
- 3 **Uses of data.** Adds a cross reference to the pupil fair dismissal act in the education code allowing school officials to share data on juveniles.
- 4 **Access by the juvenile justice system.** (b) Allows school officials to disclose the existence of non-directory information about a student related to the use of a controlled substance, assaultive or threatening conduct, possession or use of weapons, theft or property damage.
(c) Directs a principal who receives a request to disclose information under paragraph (b) to notify the student's parent or guardian by certified mail. Allows a parent 10 days to object to disclosing the information. Precludes a principal from disclosing the information when a parent objects and requires the principal to inform the juvenile justice system of the objection.
(d) Does not require a principal to create data or provide data protected by a court order. Limits a principal to disclosing whether the data exist. Prohibits a principal from disclosing actual data. Requires a principal to respond to a data request within 14 days if the student's parent does not object.
(f) Limits the liability of school employees who comply in good faith with this section.

(g) Requires a person who receives shared data but is not a member of the juvenile justice system to treat the data according to data practices laws governing a governmental entity.

(h) Imposes a penalty on a member of the juvenile justice system who falsely certifies a data request.

- 5 **Forms.** Contains a data request form with "yes or no" responses that a member of the juvenile justice system must use when asking whether a school maintains certain private data under section 4. The information the form provides allows a member of the juvenile justice system to seek a court order to obtain the student data.
- 6 **Dissemination of data to law enforcement.** Allows a governmental entity to disseminate private personnel data or confidential data on employees to law enforcement agencies when reporting a crime or an alleged crime committed by an employee or when assisting law enforcement officials investigating a crime committed or allegedly committed by an employee.
- 7 **Protection of identities.** Protects the identity of mandated reporters reporting to the state auditor or legislative auditor.
- 8 **Education records.** (c) Directs a principal after one year to remove from a student's educational record and destroy a probable cause notice if the principal does not receive a copy of a disposition or court order related to the offense described in the notice.
(d) Requires a principal who receives a probable cause notice or a disposition or court order to include a copy of that data in a student's educational records when transmitting the records to another school to which the student is transferring unless the data must be destroyed under paragraph (c) or section 9.
- 9 **Receipt of records; sharing.** Defines school to include public school, nonpublic school that elects to comply with this section and charter school; excepts home schools. Establishes a process applicable to the school superintendent, the school principal and other school officials for receiving and disseminating information on a student received from a law enforcement agency. Requires a principal to destroy the information when a county attorney decides not to proceed with a petition, the student is directed into a diversion or mediation program, or a juvenile court decides not to issue a disposition order.
- 10 **State and local requirements.** Requires charter schools to comply with the provisions governing the transmittal of education data and the process for receiving, disseminating and retaining law enforcement information on a student.
- 11 **Disposition order; copy to school.** Amends a cross reference. Directs the criminal and juvenile justice information policy group to provide the legislature by 1/15/03 with copies of the forms and procedures it develops. Expands the definition of school to include charter schools.
- 12 **Peace officer records of children.** Requires the head of a law enforcement agency or a designee to ensure that information about a juvenile is transmitted to the juvenile's school. Strikes language directing the law enforcement agency to destroy information about the juvenile. Expands the definition of school to include charter schools.
- 13 **Definitions.** Includes a member of a charter commission within the definition of public employee under the criminal code governing public officers and employees.
- 14 **State auditor.** Requires a public employee or public officer of a political subdivision or charter commission to promptly report theft of public funds to law enforcement officials. Under current law, the reporting is made to the state auditor and, under a separate subdivision, to the legislative auditor. No penalty is provided for failure to report. Specifies that when making a report under this law, an individual must include information related to the incident, including data that are not public.

