

COMMITTEE BILL ANALYSIS

Bill: Senate Bill 411

Printer's No.: 397

Sponsor: Senator Browne

Prepared by: Gregg Warner

Synopsis: This bill amends the Juvenile Act, Chapter 63 of the Judicial Code, Title 42 of the Pennsylvania Consolidated Statutes, to provide for county interagency sharing of juvenile records.

Summary:

Application of legislation to certain children

This legislation applies to the contents of county agency, drug and alcohol, mental health, and education records regarding a child who:

- Is the subject of an open child protective services or general protective services investigation.
- Is alleged to be dependent.
- Has been accepted for service by a county agency.
- Has been placed under supervision pursuant to an informal adjustment or consent decree.
- Has been found to have committed a delinquent act.
- Has been found to be dependent or delinquent.

Records subject to certain limitations

The records may be provided, upon request, to the county agency, court or juvenile probation department subject to:

- The Juvenile Act.
- Section 5944 of the Judicial Code, the law making communications to psychiatrists or licensed psychologists confidential.

- 1990 Act 148, known as the Confidentiality of HIV-Related Information Act.
- 1976 Act 143, known as the Mental Health Procedures Act.
- 1970 Act 10, the law permitting in certain cases consent by minors to medical, dental and health services.
- Federal law, including the Health Insurance Portability and Accountability Act of 1996.

Use of records

The county agency, court or juvenile probation department shall, in accordance with the procedures established by this legislation, use the information contained in the records in the furtherance of the disposition under the Juvenile Act of the child who is the subject of the records. The records may also be used in furtherance of efforts to identify and provides services to children who are determined to be at risk of child abuse, parental neglect or initial or additional delinquent behavior. Unless prohibited by one of the enumerated laws, the information may be shared with other agencies if there is a specific need to do so. The information shall be shared for the limited purposes described in the interagency information sharing agreement or upon court order or the written consent of the parent or guardian of the child who is the subject of the records.

Interagency information sharing agreements

Subject to the approval of the court and the requirements of the enumerated laws, an interagency information sharing agreement may be developed in each county between the county agency, juvenile probation department, local law enforcement agencies, mental health agencies, drug and alcohol agencies, local school districts, and other agencies as deemed appropriate. An agreement shall be signed by the chief executive officers of the agencies as well as the public defender's office and guardian ad litem in each county and shall be submitted to the court for approval.

The interagency information sharing agreement shall do all of the following:

- Provide that the information will be shared to enhance the coordination of case management services to and the supervision of children; and to identify children who may be at risk of child abuse, parental neglect or delinquent behavior, and to provide services to these children and their families.
- Provide that, whenever possible, the preferred method of obtaining authorization to share confidential information shall be upon the written informed consent of the person authorized by law to consent.
- Set forth the specific activities in which the signatories and their representatives will engage in furtherance of the purposes of the agreement.
- Prohibit the release of information shared under the agreement with other parties unless otherwise permitted by statute.

Effective date

This act takes effect in 60 days.

Background: According to the sponsor, “This legislation would authorize information sharing agreements to reduce juvenile crime. In some counties, collaborative arrangements have been informally developed for information sharing between law enforcement agencies, juvenile probation authorities, school districts, and county agencies supervising children and youth, drug and alcohol dependency, and mental health/mental retardation services. These county agencies often have information about many of the same individuals or families, but because of confidentiality concerns, are unable to legally and officially transmit information about at-risk persons or families.

Such a program has worked well in Lehigh County under the acronym of SHOCAP – Serious Habitual Offender Comprehensive Action Plan. The underlying premise of this pilot program is to facilitate the distribution of information between all relevant agencies to try to prevent both further victimization and/or criminal conduct of individuals in a family. I believe that each county would benefit tremendously from enacting this team approach. Through early intervention, each county would be able to reduce potential demands on the social service networks and possible involvement with the criminal justice system.

Under this legislation, this information-sharing approach would only be possible if the president judge of each county issues an order allowing the relevant agencies to suspend confidentiality concerns for the purposes of information-sharing or as a consequence of any action taken as developed from the initial transmission of the traditionally confidential information.”

Legislative history

Last session this legislation was introduced as Senate Bill 531. The Senate passed Senate Bill 531 by a vote of 49 to 0. The House Judiciary Committee reported Senate Bill 531 to the floor but the House of Representatives re-referred the bill to the House Appropriations Committee and no further action was taken.