

BILL ANALYSIS

Senate Research Center
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S.B. 409
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In 1995, the Texas Legislature authorized the fingerprinting of juveniles referred for felony and misdemeanor conduct. Chapter 58 (Records; Juvenile Justice Information System), Family Code, and Chapter 411 (Department of Public Safety of the State of Texas), Government Code, permit the dissemination of this information to criminal justice agencies and other public entities. The personal information of juveniles has long received the protection of confidentiality, in order to permit juveniles to pursue lives as law-abiding adults. However, although the dissemination of fingerprints and other confidential information serves an important public safety purpose, it has undermined the expectation of confidentiality. Many who have successfully left the juvenile system behind have faced obstacles to employment, education, and housing. In particular, practitioners in the juvenile system have questioned the wisdom of disseminating information related to unadjudicated misdemeanor conduct.

In 2013, the 83rd Legislature passed S.B. 1769, creating an advisory committee composed of prosecutors, juvenile system administrators, advocates, and others from across Texas to study the fingerprinting of juveniles. This bill reflects the recommendations of the Texas Fingerprinting Advisory Committee.

S.B. 409 amends Section 58.106 of the Family Code to limit the dissemination of confidential information concerning juveniles who received pre-adjudication diversion or deferred prosecution, or whose charges were discharged, dropped, or found to be untrue. The change made by the bill permits this information to be shared only with criminal justice agencies, the Texas Juvenile Justice Department, and the Department of Family and Protective Services.

As proposed, S.B. 409 amends current law relating to the dissemination of confidential information contained in the juvenile justice information system.

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 the heading to Section 58.106, Family Code, to read as follows:

Sec. 58.106. DISSEMINATION OF CONFIDENTIAL INFORMATION IN JUVENILE JUSTICE INFORMATION SYSTEM.

SECTION 2. Amends Section 58.106, Family Code, by amending Subsections (a), (a-1), (b), and (c) and adding Subsection (a-2), as follows:

(a) Provides that, except as otherwise provided by this section, information contained in the juvenile justice information system is confidential information for the use of the Department of Public Safety of the State of Texas (DPS) and prohibits it from being disseminated by DPS except:

(1) Makes no change to this subdivision;

(2) to a criminal justice agency as defined by Section 411.082 (Definitions), Government Code, rather than a person or entity to which DPS may grant access to adult criminal history records as provided by Section 411.083, Government Code;

(3) to a noncriminal justice agency authorized by federal statute or federal executive order to receive juvenile justice record information;

(4) Makes no change to this subdivision;

(5) to the Texas Juvenile Justice Department (TJJD), rather than to the Texas Youth Commission and the Texas Juvenile Probation Commission for analytical purposes;

(6) to the office of independent ombudsman of TJJD, rather than the Texas Youth Commission;

(7) to a district, to a district, county, justice, or municipal court exercising jurisdiction over a juvenile, including a court exercising jurisdiction over a juvenile under Section 54.021 (County, Justice, or Municipal Court); and

(8) to the Department of Family and Protective Services (DFPS) as provided by Section 411.114 (Access to Criminal History Record Information: Department of Family and Protective Services), Government Code.

Makes nonsubstantive changes.

(a-1) Authorizes DPS to disseminate information contained in the juvenile justice information system to a noncriminal justice agency or entity not listed in Subsection (a) to which DPS is authorized to grant access to adult criminal history record information as provided by Section 411.083 (Dissemination of Criminal History Record Information), Government Code, only if the information does not relate to:

(1) a juvenile case processed and disposed of by law enforcement informally or through a first offender program as provided by Section 52.03 (Disposition Without Referral to Court) or 52.031 (First Offender Program);

(2) a deferred prosecution granted under Section 53.03 (Deferred Prosecution);

(3) a charge dropped or not pursued for reasons other than a lack of probable cause;

(4) a case pending final adjudication under Section 54.03 (Adjudication Hearing); or

(5) conduct found by the juvenile court to be "not true."

(a-2) Provides that information disseminated under Subsection (a) or (a-1) remains, after dissemination and may be disclosed by the recipient, only as provided by this title.

(b) Provides that Subsections (a) and (a-1) do not apply, rather than Subsection (a) does not apply, to a document maintained by a juvenile justice agency that is the source of information collected by DPS.

(c) Authorizes DPS, if necessary to protect the welfare of the community, to disseminate to the public the following information relating to a juvenile who has escaped from the custody of TJJD, rather than the Texas Youth Commission, or from another secure detention or correctional facility:

(1)-(3) Makes no change to these subdivisions;

(4) a description of the conduct for which the juvenile was committed to TJJD, rather than the Texas Youth Commission, or detained in the secure detention or correctional facility, including the level and degree of the alleged offense.

SECTION 3. Effective date: September 1, 2015.