

## **BILL ANALYSIS**

C.S.H.B. 4096  
By: Howard  
Public Education  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

School systems and postsecondary institutions spend considerable time negotiating interpretations of the federal Family Educational Rights and Privacy Act of 1974 (FERPA) to enact local data sharing agreements to support students in postsecondary enrollment and success. These agreements can take months for legal teams to finalize, slowing access to support for students and families. School systems and postsecondary institutions often spend time and resources overseeing multiple data sharing agreements and there are suggestions these resources could be better invested in actionable student supports. Interested parties contend that strong, uniform data-sharing agreements would provide personalized and proactive student supports, given that adults supporting the same student would have timely access to the same accurate information. C.S.H.B. 4096 seeks to address this issue by requiring the Texas Education Agency, the Texas Higher Education Coordinating Board, and the Texas Workforce Commission to develop and make available model FERPA-compliant data-sharing agreements for voluntary use by school systems and postsecondary institutions.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 4096 amends the Education Code to require the Texas Education Agency (TEA), the Texas Higher Education Coordinating Board (THECB), and the Texas Workforce Commission (TWC) jointly to develop and make available the following model data-sharing agreements for sharing information subject to the federal Family Educational Rights and Privacy Act of 1974 (FERPA) for purposes of the evaluation of the electronic student records system and improved support of students and workforce preparation participants:

- a model data-sharing agreement for public schools and public and private institutions of higher education to share that information with entities authorized to receive that information for use in ongoing system evaluation and improvement purposes or whose employees or contractors are school officials for purposes of FERPA; and
- a model data-sharing agreement for reciprocal sharing of that information between:
  - public schools;
  - public or private institutions of higher education;
  - state and local workforce entities; and

- o entities authorized to receive that information for use in ongoing system evaluation and improvement purposes or whose employees or contractors are school officials for purposes of the act.

### **EFFECTIVE DATE**

September 1, 2021.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 4096 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The original required TEA and the THECB to jointly develop and make available a model data-sharing agreement that may be used for sharing student information between public schools, public and private postsecondary educational institutions, and community organizations that support students pursuing higher education. The substitute instead requires TEA, the THECB, and the TWC to jointly develop and make available two model-sharing agreements, one for sharing information for purposes of system evaluation and improved support of students and workforce preparation participants and the other for the reciprocal sharing of that information between public schools, public or private institutions of higher education, state and local workforce entities, and entities authorized to receive the information.

The substitute does not include the original's explicit requirements for a model data-sharing agreement to comply with any state law relating to the privacy of student information and to protect the confidentiality of student information shared under the agreement. Whereas the original required the model data-sharing agreement under its provisions to comply with federal law regarding the confidentiality of student information, including FERPA, the substitute makes its requirements for the model data-sharing agreements subject to that act.

The substitute does not include the original's requirement for TEA and the THECB to develop and make available a model agreement for use beginning with the 2021-2022 school year.

The substitute changes the bill's effective date from on passage or September 1, 2021, if the bill does not receive the necessary vote for immediate effect to September 1, 2021.