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Bill Analysis
Legislative Service Commission

H.B. 106

125th General Assembly
(As Introduced)

Reps. Williams, Otterman, McGregor, Hartnett, Hagan, Perry, Gilb, Koziura, Widowfield, Young, Boccieri, Willamowski

BILL SUMMARY

- Requires that upon a child's discharge or release from the custody of the Department of Youth Services, specified records pertaining to the child be released to the superintendent of the child's resident school district, and that the child may not be admitted to a school in the district until the superintendent receives those records.
- Specifies that a school district's policy on criteria for assignment of students to an alternative school may include assignment to such a school of any child released from the custody of the Department of Youth Services.

CONTENT AND OPERATION

Release of records when a child is discharged or released from the custody of the Department of Youth Services

(R.C. 2152.18(D)(4) and 5139.05(D)(2))

Under current law not changed by the bill, each child residing in the state who is between six and eighteen years old is "of compulsory school age" and must attend a public or nonpublic school that meets the minimum education standards set by the State Board of Education. In addition, each child who is at least five but under twenty-two years old may attend school in at least one school district in the state free of tuition to either the child or the child's parent. Generally, a child is entitled to attend school in the school district in which the child's parent resides, but in some cases the child may be entitled to attend school in the district in which

the child resides.¹ However, if a minor child commits any offense that would be a criminal offense if committed by an adult, the child may be adjudicated a delinquent child, and if that offense would be a felony if committed by an adult, the child might be placed under the custody of the Department of Youth Services (DYS).² If a child is placed under the custody of DHS, that child may be held in a residential institution operated by or for DHS and, in such case, will be required to attend a primary or secondary school operated by DHS. That department, then, is responsible to educate the child in accordance with rules adopted by the State Board of Education until the child is discharged or released from its custody. If the child is still of compulsory school age when discharged or released, the child must continue to attend a school that meets the minimum education standards.

The bill requires that when a child is discharged or released from DHS custody, certain documents be released immediately by DHS to the superintendent of the school district in which the child will be entitled to attend school. Those records are:

(1) A document stating the Revised Code section or sections the child violated and the degree of each violation for which the child was adjudicated a delinquent child;

(2) The warrant to convey the child to DHS;

(3) A copy of the juvenile court's journal entry ordering the commitment of the child to the legal custody of DHS;

(4) A copy of the arrest record pertaining to the act for which the child was adjudicated a delinquent child;

(5) The standard predisposition investigation report submitted to DHS by the juvenile court;³

¹ See R.C. 3313.64, 3313.65, and 3321.01, none in the bill. Note, a child might be excused from attendance at school for certain statutorily prescribed reasons including (among others) physical or mental incapacity or home instruction (R.C. 3321.04, not in the bill).

² See generally R.C. Chapter 2152.

³ Under R.C. 5139.04, not in the bill, DHS is required to develop a standard form for juvenile courts to use to report to DHS the results of predisposition investigations conducted by the courts.

(6) The child's disciplinary records for the period the child has been in the custody of DYS;

(7) The record of any mental, emotional, or psychological examination of the child that DYS has in its files;⁴

(8) The child's school transcript;⁵ and

(9) A summary of the institutional record of the child.

The bill specifies that these records are intended to be used by the school district superintendent in deciding the appropriate assignment of the child to a school in the district upon the child's discharge or release from the custody of DYS. It also specifies that the superintendent must keep the records confidential and may release them only as provided in state and federal law regarding the privacy of a student's educational records.⁶ The bill further specifies that the records are not public records for purposes of compelled disclosure under the Public Records Law, codified in R.C. 149.43.

Finally, the bill prescribes that within 14 days after discharging or releasing the child from an institution under its control, DYS must provide to the superintendent amended versions of the child's school transcript and institutional summary, if necessary to completely reflect the child's education while in the custody of DYS. In lieu of these updated records, DYS may provide a written statement that it is not necessary to provide amended versions.

⁴ Presumably, these records could be of examinations DYS conducted or of those conducted by someone else.

⁵ When a child is committed to the custody of DYS, the school which the child attended prior to being committed must submit the child's school transcript (R.C. 2152.18(D)(3)).

⁶ Both R.C. section 3319.321 (not in the bill) and the federal Family Educational Rights and Privacy Act, 20 U.S.C. 1232g, generally prohibit the unconsented release of a child's educational records to anyone other than school administrators and teachers and law enforcement officials for certain specified educational and law enforcement purposes. Directory information (such as name and address of a student) may be released to most persons for any purpose. State law, however, prohibits the release of even directory information for use in a profit-making plan or activity (R.C. 3319.321(A)).

Admission to school upon release

(R.C. 3313.672(A)(2))

Under current law, not changed by the bill, at the time a child seeks admission to a public or nonpublic school, the child or the child's parent or legal custodian must submit to the school's admission officials certain prescribed documents to prove the child's birth date. In addition, school officials are required to request transmission of the child's school records from the school the child most recently attended within 24 hours of admission to the school. The bill adds to these a requirement that if a child requesting admission in the child's resident school district has been discharged or released from the custody of DYS just prior to requesting admission to the school, the school may not admit that child until the records required to be released by DYS to the district superintendent have been received by the superintendent.

Assignment to alternative schools

(R.C. 3313.533(A)(1))

School district boards of education are authorized under current law, not changed in the bill, to establish alternative schools to serve students in grades K through 12 who are on suspension, who are having truancy problems, who are experiencing academic failure, who have a history of class disruption, or "who are exhibiting other academic or behavioral problems."⁷ In addition, the boards of the Big-Eight School Districts and the board of any school district with a "significantly substandard graduation rate" are *required* to establish at least one such alternative school for their respective districts.⁸ Each board that establishes an alternative school must develop and implement a plan for the school. The plan must include, among other things, the qualifications for assignment of students to the school, the criteria and procedures that will be used to return students to their regular schools, and procedures for evaluating the alternative school program and for reporting the results of the evaluation to the public.

The bill adds to the list of students who may be assigned to an alternative school those who have been discharged or released from the custody of DYS.

⁷ R.C. 3313.533(A).

⁸ R.C. 3313.534, *not in the bill*. *The Big-Eight School Districts are Akron, Canton, Cincinnati, Columbus, Cleveland, Dayton, Toledo, and Youngstown. The Department of Education is required to define "significantly substandard graduation rate."*

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	03-04-03	p. 206

h0106-i-125.doc/kl

