



Robin M. Nichols

Bill Analysis
Legislative Service Commission

Sub. H.B. 106

125th General Assembly
(As Reported by H. Juvenile and Family Law)

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

BILL SUMMARY

- Requires the superintendent of a school district to request, in writing, that the Department of Youth Services (DYS) release to a designated school psychologist information regarding a child discharged or released from the Department's control just before requesting admission to school in the district.
- Requires DHS to provide certain records regarding a child discharged or released from an institution under its control within 14 days of receipt of a superintendent's request for the 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 DHS.

CONTENT AND OPERATION

Background

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 A child placed under the custody of DHS 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 for educating 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.

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

Request for records by superintendent

The bill provides that when a student who has just been discharged or released from the custody of DHS requests admission to a district's schools, the district's superintendent must request that DHS release the appropriate records to a specified school psychologist. The request must be in writing, and must include the name and address of the school psychologist. The bill requires that the superintendent request the records be sent only to the specified school psychologist determined as follows:

(1) If the school district employs only one school psychologist, that psychologist;

(2) If the district employs more than one school psychologist, and one reports directly to the superintendent, the psychologist that directly reports;

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) If the district employs more than one school psychologist, and more than one reports directly to the superintendent, the superintendent is to designate one of the psychologists who directly report;

(4) If the district employs more than one school psychologist but none of them report directly to the superintendent, the superintendent is to designate one of the school psychologists employed by the district;

(5) If the district does not employ a school psychologist, but receives a school psychologist's services from an educational service center or pursuant to a contract for such services, the superintendent is to designate a school psychologist.

The bill provides that the child cannot be admitted to school until the records have been received by the school psychologist named in the request. (R.C. 3313.672(A)(2).)

The school psychologist to whom the records are released must review them and make a recommendation to the superintendent regarding the child's school assignment. The superintendent must consider that recommendation when determining where the child should attend school. (R.C. 2152.18(D)(4).)

Release of records by DYS

Although the bill requires the superintendent to request that DYS provide records for any child DYS has released or discharged, DYS is required to provide records only if the child was released or discharged from an institution under its control. Under the bill, DYS must provide the following records regarding a child released or discharged from an institution under its control to the school psychologist named in the request: (1) the child's current individualized education program, if one was developed for the child, and (2) the child's unified case plan and clinical services summary. The unified case plan and clinical services summary are developed by the institution in which the child resided while in DYS custody. The bill requires that the unified case plan contain information regarding the child's behavior and progress while in the custody of DYS. DYS must provide the records within 14 days after receiving the superintendent's request. (R.C. 2152.18(D)(4).)

Privacy of records provided by DYS

Under the bill, records provided to the school psychologist by DYS can be released by the district only in accordance with various state laws and the federal *Family Educational Rights and Privacy Act*. Specifically, any release by the district must be in accordance with Ohio laws regarding the privacy of student

educational records,³ the privacy of records maintained by DYS regarding children in its custody, privileged communications, and the testimonial privileges. (R.C. 2152.18(D)(4).) The bill also provides that the records released will generally remain confidential and are not public records for purposes of R.C. 149.43 (Ohio's public records law). (R.C. 5139.05(D)(2).)

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, are having truancy problems, are experiencing academic failure, have a history of class disruption, or "are exhibiting other academic or behavioral problems."⁴ 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.⁵ 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.

³ *Both Ohio law and the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g, generally prohibit release without consent of a child's educational records to anyone other than school administrators, teachers, and law enforcement officials for certain specified educational and law enforcement purposes. Directory information, such as the 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), not in the bill.)*

⁴ R.C. 3313.533(A).

⁵ 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
Reported, H. Juvenile & Family Law	01-13-04	p. 1402

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