

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 481 Session of
2007

INTRODUCED BY BROWNE, BOSCOLA, ERICKSON, FERLO, FOLMER,
RAFFERTY, ORIE, EARLL, REGOLA, RHOADES, C. WILLIAMS, COSTA
AND O'PAKE, MARCH 15, 2007

SENATOR GREENLEAF, JUDICIARY, AS AMENDED, JUNE 10, 2008

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, providing for interagency
3 information sharing.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Title 42 of the Pennsylvania Consolidated
7 Statutes is amended by adding a section to read:

8 § 6352.2. Interagency information sharing.

9 ~~(a) General rule. Notwithstanding any other provision of~~ <—
10 ~~law with the exception of 18 Pa.C.S. Ch. 91 (relating to~~
11 ~~criminal history record information), and pursuant to the~~
12 ~~provisions of this chapter and all relevant Federal law, the~~
13 ~~contents of law enforcement, county agency, drug and alcohol,~~
14 ~~mental health and education records regarding a child who has~~
15 ~~been accepted for service by a county agency or who is alleged~~
16 ~~or who has been found to be dependent or delinquent shall be~~
17 ~~provided, upon request, to the county agency, court or juvenile~~
18 ~~probation department or district attorney.~~

~~(b) Sharing of information. The county agency, court or juvenile probation department shall use the information contained in the records to effect, or in furtherance of, a disposition under this chapter of the child who is the subject of such records. Unless otherwise prohibited by this chapter, the information may be shared among authorized representatives of the county agency, court and juvenile probation department in furtherance of a disposition under this chapter of the child, or in furtherance of efforts to identify and provide early intervention services to children who are determined to be at risk of child abuse, parental neglect, or initial or more serious delinquent behavior. The information may likewise be shared with other agencies or entities for the purposes set forth in this section pursuant to an interagency information sharing agreement developed under subsection (c), or upon order of court or the written consent of the parent or guardian of the child who is the subject of such records.~~

(A) GENERAL RULE.--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, WHO IS ALLEGED TO BE DEPENDENT, WHO HAS BEEN ACCEPTED FOR SERVICE BY A COUNTY AGENCY, WHO HAS BEEN PLACED UNDER SUPERVISION PURSUANT TO AN INFORMAL ADJUSTMENT OR CONSENT DECREE, WHO HAS BEEN FOUND TO HAVE COMMITTED A DELINQUENT ACT OR WHO HAS BEEN FOUND TO BE DEPENDENT OR DELINQUENT SHALL BE PROVIDED, UPON REQUEST, TO THE COUNTY AGENCY, COURT OR JUVENILE PROBATION DEPARTMENT, PURSUANT TO AND EXCEPT AS PROHIBITED BY THE FOLLOWING:

(1) THIS CHAPTER.

(2) SECTION 5944 (RELATING TO CONFIDENTIAL

1 COMMUNICATIONS TO PSYCHIATRISTS OR LICENSED PSYCHOLOGISTS).

2 (3) THE ACT OF NOVEMBER 29, 1990 (P.L.585, NO.148),
3 KNOWN AS THE CONFIDENTIALITY OF HIV-RELATED INFORMATION ACT.

4 (4) THE ACT OF JULY 9, 1976 (P.L.817, NO.143), KNOWN AS
5 THE MENTAL HEALTH PROCEDURES ACT.

6 (5) THE ACT OF FEBRUARY 13, 1970 (P.L.19, NO.10),
7 ENTITLED "AN ACT ENABLING CERTAIN MINORS TO CONSENT TO
8 MEDICAL, DENTAL AND HEALTH SERVICES, DECLARING CONSENT
9 UNNECESSARY UNDER CERTAIN CIRCUMSTANCES."

10 (6) FEDERAL LAW, INCLUDING THE HEALTH INSURANCE
11 PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (PUBLIC LAW 104-
12 191, 110 STAT. 1936) AND THE PROCEDURES, LIMITATIONS AND
13 CRITERIA SET FORTH IN REGULATIONS ADOPTED BY THE DEPARTMENT
14 OF HEALTH AND HUMAN SERVICES RELATING TO THE CONFIDENTIALITY
15 OF DRUG AND ALCOHOL RECORDS.

16 (B) SHARING OF INFORMATION.--

17 (1) THE COUNTY AGENCY, COURT OR JUVENILE PROBATION
18 DEPARTMENT SHALL, IN ACCORDANCE WITH THE PROCEDURES
19 ESTABLISHED UNDER THIS SECTION, USE THE INFORMATION CONTAINED
20 IN THE RECORDS IN FURTHERANCE OF A DISPOSITION UNDER THIS
21 CHAPTER OF THE CHILD WHO IS THE SUBJECT OF THE RECORDS.
22 UNLESS OTHERWISE PROHIBITED BY THIS CHAPTER OR BY THE
23 STATUTES OR REGULATIONS LISTED UNDER SUBSECTION (A)(2), (3),
24 (4), (5) AND (6), THE INFORMATION CONTAINED IN THE RECORDS
25 MAY, NOTWITHSTANDING ANY OTHER PROVISION OF LAW, BE SHARED
26 AMONG AUTHORIZED REPRESENTATIVES OF THE COUNTY AGENCY, COURT
27 AND JUVENILE PROBATION DEPARTMENT IN FURTHERANCE OF A
28 DISPOSITION UNDER THIS CHAPTER OF THE CHILD, OR, IF NO CHILD-
29 SPECIFIC OR OTHER CONFIDENTIAL INFORMATION IS DISCLOSED, IN
30 FURTHERANCE OF EFFORTS TO IDENTIFY AND PROVIDE SERVICES TO

1 CHILDREN WHO ARE DETERMINED TO BE AT RISK OF CHILD ABUSE,
2 PARENTAL NEGLECT OR INITIAL OR ADDITIONAL DELINQUENT
3 BEHAVIOR.

4 (2) UNLESS OTHERWISE PROHIBITED UNDER THIS CHAPTER OR BY
5 THE STATUTES OR REGULATIONS LISTED UNDER SUBSECTION (A)(2),
6 (3), (4), (5) AND (6), THE INFORMATION UNDER PARAGRAPH (1)
7 MAY ALSO BE SHARED WITH OTHER AGENCIES OR ENTITIES IF THERE
8 IS A SPECIFIC NEED TO DO SO. THE INFORMATION SHALL BE SHARED
9 FOR THE LIMITED PURPOSES SET FORTH UNDER THIS SECTION
10 PURSUANT TO AN INTERAGENCY INFORMATION-SHARING AGREEMENT
11 DEVELOPED UNDER SUBSECTION (C) OR UPON ORDER OF COURT OR THE
12 WRITTEN CONSENT OF THE PARENT OR GUARDIAN OF THE CHILD WHO IS
13 THE SUBJECT OF THE RECORDS OR ANY PERSON OTHERWISE HAVING THE
14 AUTHORITY TO CONSENT TO THE SHARING OF THE INFORMATION.

15 (c) Interagency information sharing agreements.--

16 (1) Subject to approval of the court and the
17 requirements of ~~18 Pa.C.S. Ch. 91~~ THIS CHAPTER AND THE <—
18 STATUTES AND REGULATIONS LISTED UNDER SUBSECTION (A)(2), (3),
19 (4), (5) AND (6), an interagency information sharing
20 agreement may be developed in each county between the county
21 agency, juvenile probation department, local law enforcement
22 agencies, mental health agencies, drug and alcohol agencies,
23 local school districts, and other agencies and entities as
24 deemed appropriate, to enhance the coordination of case
25 management services to and the supervision of children who
26 have been accepted for service by a county agency, ~~or who~~ <—
27 ~~have been alleged or~~ WHO ARE BEING SUPERVISED PURSUANT TO AN <—
28 INFORMAL ADJUSTMENT OR A CONSENT DECREE, WHO HAVE BEEN FOUND
29 TO HAVE COMMITTED A DELINQUENT ACT OR WHO HAVE BEEN found to
30 be dependent or delinquent, and to enhance the coordination

1 of efforts to identify children who may be at risk of child
2 abuse, parental neglect, or initial or ~~more serious~~ <—
3 ADDITIONAL delinquent behavior and to provide early <—
4 ~~intervention~~ services to these children and their families.
5 Any such agreement shall be signed by the chief executive
6 officers of the entities referred to in this section AS WELL <—
7 AS THE PUBLIC DEFENDER'S OFFICE AND GUARDIAN AD LITEM IN EACH
8 COUNTY and shall be submitted to the court for approval.

9 (2) All interagency information sharing agreements
10 shall, at a minimum, DO ALL OF THE FOLLOWING: <—

11 (i) ~~provide~~ PROVIDE that information will be shared <—
12 PURSUANT TO THIS CHAPTER AND THE STATUTES OR REGULATIONS <—
13 LISTED UNDER SUBSECTION (A)(1), (2), (3), (4), (5) AND
14 (6) to enhance the coordination of case management
15 services to and the supervision of children who have been
16 ~~alleged or~~ found to BE dependent or delinquent, WHO ARE <—
17 BEING SUPERVISED PURSUANT TO AN INFORMAL ADJUSTMENT OR A
18 CONSENT DECREE, WHO HAVE BEEN FOUND TO HAVE COMMITTED A
19 DELINQUENT ACT or who have been accepted for service by a
20 county agency, and to enhance the coordination of efforts
21 to identify children who may be at risk of child abuse,
22 parental neglect, or initial or ~~more serious~~ ADDITIONAL <—
23 delinquent behavior and to provide ~~early intervention~~ <—
24 services to these children and their families. <—

25 (II) PROVIDE THAT, WHENEVER POSSIBLE, THE PREFERRED <—
26 METHOD FOR OBTAINING AUTHORIZATION TO SHARE CONFIDENTIAL
27 INFORMATION SHALL BE UPON THE WRITTEN, INFORMED CONSENT
28 OF THE PERSON AUTHORIZED UNDER APPLICABLE LAW TO CONSENT
29 TO THE RELEASE OF INFORMATION AFTER THAT PERSON HAS BEEN
30 PROVIDED A FULL UNDERSTANDING OF THE CIRCUMSTANCES UNDER

1 WHICH AND WITH WHOM THE INFORMATION WILL BE SHARED. IN
2 COUNTIES THAT DO NOT HAVE AGENCIES WITH PRIMARY
3 RESPONSIBILITY FOR REPRESENTING DELINQUENT OR DEPENDENT
4 CHILDREN, THE COURT SHALL DESIGNATE LAWYERS WITH
5 EXPERIENCE IN REPRESENTING THESE CHILDREN TO SATISFY THE
6 REQUIREMENTS OF THIS SUBPARAGRAPH.

7 ~~(ii) set~~ (III) SET forth the specific activities in <—
8 which the signatories and their representatives will
9 engage, either collectively or individually, in
10 furtherance of the purposes of the agreement; and. <—

11 ~~(iii) prohibit~~ (IV) PROHIBIT the release of <—
12 information shared pursuant to this agreement with other
13 parties, except as otherwise required or permitted by
14 statute.

15 Section 2. This act shall take effect in 60 days.