
OLR Bill Analysis

sSB 152

AN ACT CONCERNING COURT SUPPORT SERVICES.

SUMMARY:

This bill makes a number of unrelated changes regarding the Judicial Branch's Court Support Services Division (CSSD) and Judicial Branch employees and programs. It:

1. allows the Department of Children and Families (DCF) to disclose certain information to CSSD to help the division determine the supervision and treatment needs of a child or youth and provide appropriate supervision and treatment;
2. specifies that court juvenile matters records may be disclosed if the law requires it and expands when probate court judges and employees can access these records;
3. allows (a) the Judicial Branch to enter into a central computer system any order or process to take a child into custody, (b) a child to be taken into custody based on an order in the system, and (c) certain disclosures of information about children subject to an order;
4. gives the Department of Correction (DOC) and certain Division of Criminal Justice employees access to information in alternative sentencing or community release plans;
5. allows authorized Judicial Branch employees to (a) access the COLLECT system regarding branch job applicants or employees or job applicants at agencies under contract with the branch who will have access to criminal justice information and (b) consider the COLLECT information in making employment and information access decisions (see BACKGROUND);

6. expands the crime of criminal violation of a protective order to include violating a protective order issued by a court when sentencing a person to probation; and
7. gives the court an additional program option for first-time participants in the pretrial drug education and community service program.

EFFECTIVE DATE: October 1, 2014

§ 1 — DCF DISCLOSURES TO CSSD ABOUT CHILDREN OR YOUTH

The bill allows DCF to disclose to CSSD, without the record subject's consent, certain information to help the division determine and provide for a child's or youth's supervision and treatment needs. The disclosures relate to records in connection with DCF's child protection activities or other activities related to children in DCF's care and custody, including information in the abuse and neglect registry. But the bill allows disclosure only of information identifying the child or youth or a member of his or her immediate family as being or having been (1) committed to DCF custody as a delinquent, (2) under DCF supervision, or (3) enrolled in DCF voluntary services.

Generally, DCF records are confidential but can be disclosed (1) with the consent of the record's subject or (2) without consent and for certain purposes to a guardian ad litem or attorney representing a child or youth in litigation affecting the child's or youth's best interests, certain foster or prospective adoptive parents, and various agencies and officials for specific purposes.

§ 2 — DISCLOSURE OF JUVENILE MATTERS RECORDS

The bill expands when probate court judges and employees can access records of juvenile matters.

Currently, for nondelinquency juvenile matters, a probate court can access records related to (1) a contested case about a minor's guardianship or termination of parental rights that the probate court transferred to Superior Court or (2) an appeal from the probate court to

the Superior Court. The bill instead allows all probate court judges and employees access to any nondelinquency records when required in the performance of their duties. Nondelinquency matters include cases involving:

1. uncared for, neglected, or abandoned children and youth and related adoptions;
2. terminating parental rights of parents of children committed to state agencies;
3. families with service needs;
4. contested matters of termination of parental rights or removal of guardians transferred from probate courts;
5. emancipation of minors; and
6. appeals from probate courts on adoption, termination of parental rights, or removal of a parent or guardian.

The bill also gives probate court judges and employees access to juvenile delinquency records when required in the performance of their duties. Under existing law, access to juvenile delinquency records is permitted, under certain conditions, to various entities, including attorneys representing a child or youth, a child's or youth's parent or guardian until the age of majority or emancipation, certain government officials and agencies, certain courts, and the subject of the record.

The bill specifies that the provisions governing disclosure and confidentiality of juvenile records do not prohibit a party from making a timely:

1. objection to the admissibility of evidence consisting of one of these records, or any part of one, in a Superior or probate court proceeding or
2. motion to seal one of these records under Superior or probate

court rules.

§§ 2 & 5 — CENTRAL DATABASE OF ORDERS TO TAKE CHILDREN INTO CUSTODY

The bill authorizes the Judicial Branch to enter court orders to take a child into custody into a central computer system. The bill makes the entry in the computer system prima facie evidence of the order or process and the child can be arrested or taken into custody based on it. The child must be held in a juvenile detention center if the order or process directs his or her detention.

The bill allows disclosure of information about a child subject to such an order or process to Judicial Branch employees and authorized agents, law enforcement agencies, and DCF.

The chief court administrator must adopt policies and procedures for entering orders and process into the computer system and disclosing information about children subject to the orders and process.

§ 3 — ACCESS TO ALTERNATIVE SENTENCING OR COMMUNITY RELEASE PLANS

The bill gives access to information in alternative sentencing or community release plans (see BACKGROUND) to Division of Criminal Justice employees assigned to the court location where (1) the court ordered a probation officer to complete an alternative sentencing plan or (2) a sentencing modification hearing will be held under a community release plan. It also grants this access to DOC employees.

Under existing law, this information is available to:

1. Judicial Branch employees who require access to the information in performing their duties,
2. state and federal employees and authorized agents involved in designing and delivering treatment services to the person who is the plan's subject,
3. state or community-based agency employees providing services

directly to the person, and

4. an attorney representing the person in any proceeding where the plan is relevant.

§ 4 — JUDICIAL BRANCH ACCESS TO COLLECT AND EMPLOYMENT DECISIONS

The bill allows authorized Judicial Branch employees to:

1. access the COLLECT system regarding (a) job applicants deemed otherwise qualified who will have access to criminal justice information systems in performing the job's duties or (b) employees or job applicants of an agency under contract with the Judicial Branch who will have access to criminal justice information systems in performing the jobs' duties with respect to the Judicial Branch and
2. consider COLLECT information in deciding whether to offer the person Judicial Branch employment or allow the employee or applicant for employment with another agency to access criminal justice information.

The bill requires a Judicial Branch employee who uses COLLECT information to reject an applicant or deny access to send a written notice by registered mail to the affected person stating the evidence and reason for rejection.

The bill allows the Judicial Branch to consider this information in making decisions regardless of the laws (1) generally prohibiting state agencies from disqualifying a person from state employment solely because of a prior conviction; (2) requiring consideration of the nature of the crime, its relation to the job, the person's rehabilitation, and how much time has passed since the conviction or release; and (3) prohibiting using records of arrests that do not lead to convictions or erased convictions in connection with employment applications.

§ 6 — VIOLATING PROTECTIVE ORDERS

The bill expands the crime of criminal violation of a protective order

to include when a person violates a protective order that was issued by a court when sentencing a person to a period of probation. By law, this crime applies to violations of protective orders (1) in family violence cases; (2) in stalking, harassment, sexual assault, and risk of injury cases; and (3) related to witness harassment.

By law, this crime is a class D felony punishable by up to five years in prison, a fine of up to \$5,000, or both.

§§ 7-9 — PRETRIAL DRUG EDUCATION AND COMMUNITY SERVICE PROGRAM

Currently, those participating in this program (see BACKGROUND) for the first time attend a 15-week drug education program. The bill gives the court the option, based on the evaluation and determination conducted by the Department of Mental Health and Addiction Services, to instead require a participant to attend a substance abuse treatment program consisting of at least 15 sessions. By law, the court (1) has these same options for those participating for the second time and (2) must refer a third-time participant to a state licensed substance abuse program for evaluation and participation in treatment as ordered by the court.

The bill also makes technical and conforming changes.

BACKGROUND

Alternative Sentencing and Community Release Plans

By law, probation officers:

1. must complete alternative sentencing plans for people who enter a stated plea agreement with a prison term of up to two years when the court orders them to and
2. may develop community release plans for people sentenced to prison terms of up to two years who have (a) served at least 90 days in prison and (b) complied with prison rules and necessary treatment programs. They must apply for a sentence modification hearing if they develop such a plan.

COLLECT System

The COLLECT system is a computerized database, maintained by the Department of Emergency Services and Public Protection, that police use to check on such things as outstanding arrest warrants.

Pretrial Drug Education and Community Service Program

By law, this program is for people charged with drug possession (including possession of less than 0.5 ounce of marijuana) or paraphernalia crimes who meet certain eligibility criteria. The court has discretion to allow someone to participate. If it does, the court suspends prosecution, participants waive their right to a speedy trial and agree to a tolling of the statute of limitations, and the court dismisses charges against a participant who successfully completes the program. A participant who fails to complete the program and is not reinstated is brought to trial.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 32 Nay 0 (04/01/2014)