

§§1,2
C. 18A:40A-7.1
&
18A:40A-7.2

P.L. 1997, CHAPTER 362, *approved January 19, 1998*
Senate, No. 62 (*Fourth Reprint*)

1 AN ACT concerning school-based drug and alcohol abuse counseling
2 programs and supplementing chapter 40A of Title 18A of the New
3 Jersey Statutes.

4

5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7

8 1. a. ¹[If] Except as provided by section 3 of P.L.1971, c.437
9 (C.9:6-8.10), if¹ a public or private ²secondary² school pupil who is
10 participating in a school-based drug and alcohol abuse counseling
11 program provides information during the course of a counseling
12 session in that program which indicates that the pupil's parent or
13 guardian or other person residing in the pupil's household is dependent
14 upon or illegally using a substance as that term is defined in section 2
15 of P.L.1987, c.387 ²[(C.18:40A-9)] (C.18A:40A-9)², that information
16 shall be kept confidential and may be disclosed only under the
17 circumstances expressly authorized under subsection b. of this section.

18 b. The information provided by a pupil pursuant to subsection a.
19 of this section may be disclosed:

20 (1) subject to the pupil's written consent, to another person or
21 entity whom the pupil specifies in writing;

22 (2) pursuant to a court order; ¹[or]¹

23 (3) to a person engaged in a bona fide research purpose, except
24 that no names or other information identifying the pupil or the person
25 with respect to whose substance abuse the information was provided,
26 shall be made available to the researcher ¹; or

27 (4) to the Division of Youth and Family Services ³[or ²to² a law
28 enforcement agency]³ ⁴or to a law enforcement agency⁴ , if the
29 information would cause a person to reasonably suspect that the

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate floor amendments adopted January 27, 1997.

² Senate floor amendments adopted March 10, 1997.

³ Assembly AED committee amendments adopted December 11, 1997.

⁴ Senate amendments adopted in accordance with Governor's recommendations January 12, 1998.

1 ²secondary school² pupil or another child ¹residing in the pupil's
 2 household² may be an abused or neglected child as ²[defined]the
 3 terms are used² in R.S.9:6-1, ²[R.S.9:6-8.9]or as the terms are defined
 4 in section 2 of P.L.1971, c.437(C.9:6-8.9),² or section 1 of P.L.1974,
 5 c.119 (C.9:6-8.21)¹.

6 c. Any disclosure made pursuant to paragraph (1) or (2) of
 7 subsection b. of this section shall be limited to that information which
 8 is necessary to carry out the purpose of the disclosure, and the person
 9 or entity to whom the information is disclosed shall be prohibited from
 10 making any further disclosure of that information without the pupil's
 11 written consent. The disclosure shall be accompanied by a written
 12 statement advising the recipient that the information is being disclosed
 13 from records the confidentiality of which is protected by P.L. _____,
 14 c. _____ (C. _____)(pending before the Legislature as this bill), and
 15 that this law prohibits any further disclosure of this information
 16 without the written consent of the person from whom the information
 17 originated. ¹Nothing in this act shall be construed as prohibiting the
 18 Division of Youth and Family Services ³[or a law enforcement
 19 agency]^{3 4}or a law enforcement agency⁴ from using or disclosing the
 20 information in the course of conducting an investigation ³[or
 21 prosecution]^{3 4}or prosecution. Nothing in this act shall be construed
 22 as authorizing the violation of any federal law⁴ .¹

23 d. The prohibition on the disclosure of information provided by a
 24 pupil pursuant to subsection a. of this section shall apply whether the
 25 person to whom the information was provided believes that the person
 26 seeking the information already has it, has other means of obtaining it,
 27 is a law enforcement or other public official, has obtained a subpoena,
 28 or asserts any other justification for the disclosure of this information.
 29

30 2. ¹[A] Except as provided by section 6 of P.L.1971, c.437 (C.9:6-
 31 8.13), a¹ person who discloses or willfully permits the disclosure of
 32 information provided by a pupil in violation of the provisions of
 33 section 1 of this act is subject to a fine of not more than \$500 for a
 34 first offense and not more than \$5,000 for a second and each
 35 subsequent offense. The penalty shall be collected and enforced in
 36 summary proceedings under "the penalty enforcement law"
 37 (N.J.S.2A:58-1 et seq.).

38
 39 3. This act shall take effect immediately.

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 41 _____
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 43 Requires information provided by pupils in school-based drug and
 44 alcohol abuse counseling about substance abuse by family members be
 45 kept confidential.