CHAPTER 362

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

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

C.18A:40A-7.1 Confidentiality of certain information provided by pupil; exceptions.

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

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

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

(2) pursuant to a court order;

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

(4) to the Division of Youth and Family Services or to a law enforcement agency , if the information would cause a person to reasonably suspect that the secondary school pupil or another child may be an abused or neglected child as the terms are used in R.S.9:6-1, or as the terms are defined in section 2 of P.L.1971, c.437(C.9:6-8.9), or section 1 of P.L.1974, c.119 (C.9:6-8.21).

c. Any disclosure made pursuant to paragraph (1) or (2) of subsection b. of this section shall be limited to that information which is necessary to carry out the purpose of the disclosure, and the person or entity to whom the information is disclosed shall be prohibited from making any further disclosure of that information without the pupil's written consent. The disclosure shall be accompanied by a written statement advising the recipient that the information is being disclosed from records the confidentiality of which is protected by P.L.1997, 362 (C.18A:40A-7.1 et seq.), and that this law prohibits any further disclosure of this information without the written consent of the person from whom the information originated. Nothing in this act shall be construed as prohibiting the Division of Youth and Family Services or a law enforcement agency from using or disclosing the information in the course of conducting an investigation or prosecution. Nothing in this act shall be construed as authorizing the violation of any federal law .

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

C.18A:40A-7.2 Violations, penalties.

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

3. This act shall take effect immediately.

Approved January 19, 1998.