

[Passed Both Houses]

[Third Reprint]

SENATE, No. 62

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# STATE OF NEW JERSEY

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PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Senators CAFIERO, KOSCO, Assemblymen Gibson,  
Asselta and LeFevre

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.

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

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8 1. a. <sup>1</sup>[If] Except as provided by section 3 of P.L.1971, c.437  
9 (C.9:6-8.10), if <sup>1</sup>a public or private <sup>2</sup>secondary<sup>2</sup> 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 <sup>2</sup>[(C.18:40A-9)] (C.18A:40A-9)<sup>2</sup>, 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; <sup>1</sup>[or]<sup>1</sup>

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 <sup>1</sup>: or

**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:

<sup>1</sup> Senate floor amendments adopted January 27, 1997.

<sup>2</sup> Senate floor amendments adopted March 10, 1997.

<sup>3</sup> Assembly AED committee amendments adopted December 11, 1997.

1       (4) to the Division of Youth and Family Services<sup>3</sup>[or<sup>2</sup>to<sup>2</sup>a law  
2 enforcement agency]<sup>3</sup>, if the information would cause a person to  
3 reasonably suspect that the<sup>2</sup>secondary school<sup>2</sup>pupil or another child  
4 [residing in the pupil's household]<sup>2</sup> may be an abused or neglected  
5 child as<sup>2</sup>[defined]the terms are used<sup>2</sup> in R.S.9:6-1,<sup>2</sup>[R.S.9:6-8.9]or  
6 as the terms are defined in section 2 of P.L.1971, c.437(C.9:6-8.9),<sup>2</sup>  
7 or section 1 of P.L.1974, c.119 (C.9:6-8.21)<sup>1</sup>.

8       c. Any disclosure made pursuant to paragraph (1) or (2) of  
9 subsection b. of this section shall be limited to that information which  
10 is necessary to carry out the purpose of the disclosure, and the person  
11 or entity to whom the information is disclosed shall be prohibited from  
12 making any further disclosure of that information without the pupil's  
13 written consent. The disclosure shall be accompanied by a written  
14 statement advising the recipient that the information is being disclosed  
15 from records the confidentiality of which is protected by P.L. \_\_\_\_\_,

16       c. (C. \_\_\_\_\_)(pending before the Legislature as this bill), and  
17 that this law prohibits any further disclosure of this information  
18 without the written consent of the person from whom the information  
19 originated. <sup>1</sup>Nothing in this act shall be construed as prohibiting the  
20 Division of Youth and Family Services<sup>3</sup>[or a law enforcement  
21 agency]<sup>3</sup> from using or disclosing the information in the course of  
22 conducting an investigation<sup>3</sup>[or prosecution]<sup>3</sup>.<sup>1</sup>

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.

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30       2. <sup>1</sup>[A] Except as provided by section 6 of P.L.1971, c.437 (C.9:6-  
31 8.13), a<sup>1</sup> 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.).

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39       3. This act shall take effect immediately.

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