
College & Workforce Development Committee

SB 5786

Brief Description: Concerning research in public institutions of higher education.

Sponsors: Senators Brown and Palumbo.

Brief Summary of Bill

- Removes institutions of higher education from the state agencies required to establish a process, agreements, and rules for releasing individually identifying records for research purposes.

Hearing Date: 3/20/19

Staff: Trudes Tango (786-7384).

Background:

State Law on Release of Records for Research.

Certain state agencies, including public institutions of higher education, are subject to specific state laws governing the release of records for research. Generally, the state agency may provide access to individually identifiable personal records for research purposes if the person to whom the record pertains provides written consent to the disclosure of the record. Individually identifiable records contain information that reveals or can likely be associated with the identity of a person to whom the record pertains.

A state agency may provide access to individually identifiable personal records for research purposes without the person's consent only if:

- the state agency has adopted research review and approval rules, including the requirement to appoint a standing human research review board that is competent to review research proposals as to ethical and scientific soundness. The review board must determine that: (1) the disclosure request has scientific merit and the research cannot be

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

reasonably accomplished without disclosure of the information and without waiver of the person's informed consent; and (2) disclosure risks have been minimized, and remaining risks are outweighed by anticipated health, safety, or scientific benefits;

- the state agency and the research professional have a confidentiality agreement prior to disclosure. The agreement must establish certain safeguards for assuring confidentiality and contain other provisions such as the timely destruction of the individual identifiers in the records; and
- the disclosure does not violate federal laws or regulations.

Unauthorized disclosure, whether willful or negligent, by a research professional is a gross misdemeanor. In addition, the research professional and the state agency may be subject to a civil penalty up to \$10,000 for each violation.

Federal Laws on Release of Records.

Institutions of higher education are also subject to federal laws, such as the Family Educational Rights and Privacy Act (FERPA) and the Health Insurance Portability and Accountability Act (HIPPA), which contain privacy and disclosure provisions. In addition, federal law requires research involving individually identifiable nonpublic records to be reviewed and approved in advance by an Institutional Review Board (IRB). Generally, researchers must obtain consent for the use of records unless the IRB determines certain criteria are met.

Summary of Bill:

Institutions of higher education are removed from the state agencies required to comply with the state law on the release of records for research purposes.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.