

HOUSE BILL REPORT

SB 5786

As Reported by House Committee On:
College & Workforce Development

Title: An act relating to administrative efficiencies in research in public institutions of higher education.

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

Sponsors: Senators Brown and Palumbo.

Brief History:

Committee Activity:

College & Workforce Development: 3/20/19, 3/27/19 [DP].

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.

HOUSE COMMITTEE ON COLLEGE & WORKFORCE DEVELOPMENT

Majority Report: Do pass. Signed by 17 members: Representatives Hansen, Chair; Entenman, Vice Chair; Leavitt, Vice Chair; Van Werven, Ranking Minority Member; Gildon, Assistant Ranking Minority Member; Graham, Assistant Ranking Minority Member; Bergquist, Kraft, Mead, Paul, Pollet, Ramos, Rude, Sells, Slatter, Sutherland and Young.

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 records pertain provides written consent to the disclosure of the records.

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.

Individually identifiable personal records contain information that reveals or can likely be associated with the identity of the 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 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 of 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 (HIPAA), 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.

Staff Summary of Public Testimony:

(In support) The state statute was enacted over 30 years ago, before the current federal regulations were in place. Federal regulations already require institutions of higher education to comply with the IRBs, which oversee the release of records about human subjects. Participants in research studies are protected by HIPAA, FERPA, and the IRB regulations. Complying with the state law is duplicative, slows down the research process, and is an administrative burden.

(Opposed) None.

Persons Testifying: Senator Brown, prime sponsor; Cody Eccles, Council of Presidents; and Karen Moe, University of Washington.

Persons Signed In To Testify But Not Testifying: None.