

BILL ANALYSIS

C.S.H.B. 1190
By: Allen
Corrections
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The federal Health Insurance Portability and Accountability Act of 1996 grants to patients considerable control over their health care records. When a patient is also an inmate, the regulations account for this situation, but once an inmate is released from custody, their full rights under HIPAA come into play. Criminal justice agencies are very concerned about having to obtain authorizations from offenders in order to share protected health information on topics such as substance abuse treatment and sex offender treatment. There are three state statutes that permit, but do not require, information sharing on criminal justice clientele. If those statutes are made mandatory, information sharing without authorization will be permitted under the HIPAA regulations, specifically 45 CFR sec. 164.512(a), which permits the use or disclosure of protected health information where it is "required by law."

C.S.H.B. 1190 makes mandatory three state statutes that currently provide for permissive information sharing with regard to special needs offenders, parolees in general, and sex offenders in particular.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1: Amends Section 614.017(a) Health and Safety Code to make mandatory the sharing of information regarding offenders relating to special needs offenders.

SECTION 2: Amends Section 614.017(c)(1) Health and Safety Code by adding the Board of Pardons and Paroles, and any division of the Texas Department of Criminal Justice, to the "agencies" covered in that statute.

SECTION 3: Amends Section 508.313(c) Government Code (the parole file confidentiality statute) to make mandatory the sharing of information about parolees with certain governmental entities, for certain purposes.

SECTION 4: Conditionally amends Sections 109.102 and 109.051-053 Occupations Code, if to make mandatory the sharing of information regarding sex offenders among criminal justice and law enforcement agencies, and sex offender treatment providers.

SECTION 5: In the alternative to SECTION 4, conditionally amends art. 4512g-1, Revised Statutes, to make mandatory the sharing of information regarding sex offenders among criminal justice and law enforcement agencies, and sex offender treatment providers.

SECTION 6: Repeals Section 614.017(b) Health and Safety Code, which stated that this section is not intended to conflict with federal law that restricts the disclosure of information.

SECTION 7: Effective date.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2003.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute modifies the original by changing the effective date to immediately upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2003.