

BILL ANALYSIS

Senate Research Center

S.B. 839
By: Duncan
Criminal Justice
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law authorizes law enforcement entities and mental health communities to share medical information with each other, for the purpose of continuity of care for mentally or physically ill offenders in the criminal justice system. This allows for a plan to be in place as an offender moves through the criminal justice process.

S.B. 839 clarifies who can share such information by transferring rulemaking authority previously granted to now-defunct state agencies to their successor agencies, and requires the information to be treated in a confidential manner.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Texas Rehabilitation Commission, the Texas Commission for the Blind, the Texas Commission for the Deaf and Hard of Hearing, the Texas Department of Health, and the Texas Department of Human Services is transferred to the Department of Assistive and Rehabilitative Services, the Department of State Health Services, and the Department of Aging and Disability Services in SECTION 3 (Section 614.015, Health and Safety Code) of this bill.

Rulemaking authority is expressly granted to the bureau of identification and records of the Department of Public Safety, in SECTION 4 (Section 614.016, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 614.001, Health and Safety Code, by adding Subdivision (3-a), to define "continuity of care and services."

SECTION 2. Amends Sections 614.013(a) and (c), Health and Safety Code, as follows:

(a) Requires the Texas Department of Criminal Justice, the Department of State Health Services (DSHS), rather than the Texas Department of Mental Health and Mental Retardation, the bureau of identification and records of the Department of Public Safety (DPS), representatives of local mental health or mental retardation authorities appointed by the commissioner of DSHS, and the directors of community supervision and corrections departments to adopt a memorandum of understanding that establishes their respective responsibilities to institute a continuity of care and service program for offenders with mental impairments in the criminal justice system.

(c) Makes conforming changes.

SECTION 3. Amends Section 614.015, Health and Safety Code, as follows:

Sec. 614.015. CONTINUITY OF CARE FOR PHYSICALLY DISABLED, TERMINALLY ILL, OR SIGNIFICANTLY ILL OFFENDERS. (a) Removes rulemaking authority, with respect to adopting a memorandum of understanding establishing respective responsibilities in instituting a continuity of care and service program for physically disabled, terminally ill, or significantly ill offenders, from the Texas Rehabilitation Commission, the Texas Commission for the Blind, the Texas Commission for the Deaf and Hard of Hearing, the Texas Department of Health, and the

Texas Department of Human Services and grants that authority to the Department of Assistive and Rehabilitative Services, DSHS, and the Department of Aging and Disability Services.

(b) and (c) Makes conforming and nonsubstantive changes.

SECTION 4. Amends Section 614.016(a), Health and Safety Code, to require the bureau of identification and records of DPS (bureau), in conjunction with certain other entities, by rule to adopt a memorandum of understanding that establishes their respective responsibilities to institute a continuity of care and service program for offenders in the criminal justice system who are mentally impaired, elderly, physically disabled, terminally ill, or significantly ill.

SECTION 5. Amends Section 614.017, Health and Safety Code, as follows:

Sec. 614.017. EXCHANGE OF INFORMATION. (a) Requires an agency to accept information relating to a special needs offender that is sent to the agency to serve the purposes of continuity of care and services regardless of whether other state law makes that information confidential, in addition to a certain other requirement. Makes a conforming change.

(b) Prohibits information obtained under this section from being used as evidence in any criminal proceeding, unless obtained and introduced by other lawful evidentiary means.

(c) Redefines “agency” to include the Health and Human Services Commission, the Department of Information Resources, and the bureau, as set forth in this subsection.

(d) Requires an agency to manage confidential information accepted or disclosed under this section prudently so as to maintain its confidentiality to the extent possible.

(e) Provides that a person commits a Class B misdemeanor offense if the person releases or discloses confidential information obtained under this section for purposes other than continuity of care and services, except as authorized by other law or by consent of the person to whom the information relates.

SECTION 6. Amends Section 411.042(b), Government Code, to require the bureau to collect and disseminate information regarding offenders with mental impairments in compliance with Chapter 614 (Texas Correctional Office on Offenders with Medical or Mental Impairments), Health and Safety Code.

SECTION 7. Effective date: September 1, 2007.