

## **BILL ANALYSIS**

S.B. 839  
By: Duncan  
Corrections  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

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.

As proposed, 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**

It is the committee's opinion that 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 expressly 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. It is the committee's opinion that rulemaking authority is expressly granted to the bureau of identification and records of the Department of Public Safety in SECTION 4 of this bill.

### **ANALYSIS**

SECTION 1. Amends Section 614.001, Health and Safety Code, to define the processes involved in “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 (TDCJ), Department of State Health Services (DSHS), rather than the Texas Department of Mental Health and Mental Retardation, the Bureau of Identification and Records at the Department of Public Safety (bureau), 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 a conforming change.

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 their respective responsibilities in instituting a continuity of care and service program for offenders in the criminal justice system who are 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, the 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 make a conforming change adding the bureau of identification and records of the Department of Public Safety to a list of those who must by rule 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) Changes a reference to information exchange for purposes of this chapter to an exchange for purposes of continuity of care. Makes conforming changes.

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

(c) Amends Section 614.017(c)(1), Health and Safety Code, to add the Health and Human Services Commission, the Department of Information Resources, and, for the sole purpose of providing real-time, contemporaneous identification of individuals in the DSHS client data base, the bureau of identification and records of the Department of Public Safety to the definition of "agency."

Amends Section 614.017, Health and Safety Code, by adding Subsections (d) and (e), as follows:

(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, other than as authorized by this section or other law, or without 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.

#### **EFFECTIVE DATE**

September 1, 2007.