

By: Duncan

S.B. No. 839

A BILL TO BE ENTITLED

AN ACT

relating to the exchange of information among agencies related to the Texas Correctional Office on Offenders with Medical or Mental Impairments and the agencies responsible for continuity of care for offenders in the criminal justice system who are physically disabled, terminally ill, or significantly ill; providing a criminal penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 614.001, Health and Safety Code, is amended by adding Subdivision (3-a) to read as follows:

(3-a) "Continuity of care and services" refers to the process of:

(A) identifying the medical, psychiatric, or psychological care or treatment needs and educational or rehabilitative service needs of an offender with medical or mental impairments;

(B) developing a plan for meeting the treatment, care, and service needs of the offender with medical or mental impairments; and

(C) coordinating the provision of treatment, care, and services between the various agencies who provide treatment, care, or services such that they may continue to be provided to the offender at the time of arrest, while charges are pending, during post-adjudication or post-conviction custody or

1 criminal justice supervision, and for pretrial diversion.

2 SECTION 2. Subsections (a) and (c), Section 614.013, Health
3 and Safety Code, are amended to read as follows:

4 (a) The Texas Department of Criminal Justice, the ~~[Texas]~~
5 Department of State ~~[Mental]~~ Health Services ~~[and—Mental~~
6 ~~Retardation]~~, the bureau of identification and records of the
7 Department of Public Safety, representatives of local mental health
8 or mental retardation authorities appointed by the commissioner of
9 the ~~[Texas]~~ Department of State ~~[Mental]~~ Health Services ~~[and~~
10 ~~Mental Retardation]~~, and the directors of community supervision and
11 corrections departments shall adopt a memorandum of understanding
12 that establishes their respective responsibilities to institute a
13 continuity of care and service program for offenders with mental
14 impairments in the criminal justice system. The office shall
15 coordinate and monitor the development and implementation of the
16 memorandum of understanding.

17 (c) The Texas Department of Criminal Justice, the ~~[Texas]~~
18 Department of State ~~[Mental]~~ Health Services ~~[and—Mental~~
19 ~~Retardation]~~, local mental health or mental retardation
20 authorities, and community supervision and corrections departments
21 shall:

22 (1) operate the continuity of care and service program
23 for offenders with mental impairments in the criminal justice
24 system with funds appropriated for that purpose; and

25 (2) actively seek federal grants or funds to operate
26 and expand the program.

27 SECTION 3. Section 614.015, Health and Safety Code, is

amended to read as follows:

Sec. 614.015. CONTINUITY OF CARE FOR PHYSICALLY DISABLED, TERMINALLY ILL, OR SIGNIFICANTLY ILL OFFENDERS. (a) The Texas Department of Criminal Justice, the Department of Assistive and Rehabilitative Services [~~Texas Rehabilitation Commission, the Texas Commission for the Blind, the Texas Commission for the Deaf and Hard of Hearing~~], the [Texas] Department of State Health Services, and the [Texas] Department of Aging and Disability [~~Human~~] Services by rule shall 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 physically disabled, terminally ill, or significantly ill. The council shall coordinate and monitor the development and implementation of the memorandum of understanding.

(b) The memorandum of understanding must establish methods for:

(1) identifying offenders in the criminal justice system who are physically disabled, terminally ill, or significantly ill;

(2) developing interagency rules, policies, and procedures for the coordination of care of and the exchange of information on offenders who are physically disabled, terminally ill, or significantly ill by local and state criminal justice agencies, the Texas Department of Criminal Justice, the Department of Assistive and Rehabilitative Services [~~Texas Rehabilitation Commission, the Texas Commission for the Blind, the Texas~~

1 ~~Commission for the Deaf and Hard of Hearing~~], the [Texas]
2 Department of State Health Services, and the [Texas] Department of
3 Aging and Disability [Human] Services; and

4 (3) identifying the services needed by offenders who
5 are physically disabled, terminally ill, or significantly ill to
6 reenter the community successfully.

7 (c) The Texas Department of Criminal Justice, the
8 Department of Assistive and Rehabilitative Services [Texas
9 ~~Rehabilitation Commission~~, the Texas Commission for the Blind, the
10 ~~Texas Commission for the Deaf and Hard of Hearing~~], the [Texas]
11 Department of State Health Services, and the [Texas] Department of
12 Aging and Disability [Human] Services shall:

13 (1) operate, with funds appropriated for that purpose,
14 the continuity of care and service program for offenders in the
15 criminal justice system who are physically disabled, terminally
16 ill, or significantly ill; and

17 (2) actively seek federal grants or funds to operate
18 and expand the program.

19 SECTION 4. Subsection (a), Section 614.016, Health and
20 Safety Code, is amended to read as follows:

21 (a) The office, the Commission on Law Enforcement Officer
22 Standards and Education, the bureau of identification and records
23 of the Department of Public Safety, and the Commission on Jail
24 Standards by rule shall adopt a memorandum of understanding that
25 establishes their respective responsibilities to institute a
26 continuity of care and service program for offenders in the
27 criminal justice system who are mentally impaired, elderly,

1 physically disabled, terminally ill, or significantly ill.

2 SECTION 5. Section 614.017, Health and Safety Code, is
3 amended to read as follows:

4 Sec. 614.017. EXCHANGE OF INFORMATION. (a) An agency
5 shall:

6 (1) accept information relating to a special needs
7 offender that is sent to the agency to serve the purposes of
8 continuity of care [~~this chapter~~] regardless of whether other state
9 law makes that information confidential; and

10 (2) disclose information relating to a special needs
11 offender, including information about the offender's identity,
12 needs, treatment, social, criminal, and vocational history,
13 supervision status and compliance with conditions of supervision,
14 and medical and mental health history, if the disclosure serves the
15 purposes of continuity of care [~~this chapter~~].

16 (b) Information obtained under this section may not be used
17 as evidence in any criminal proceeding, unless obtained and
18 introduced by other lawful evidentiary means.

19 (c) In this section:

20 (1) "Agency" includes any of the following entities
21 and individuals, a person with an agency relationship with one of
22 the following entities or individuals, and a person who contracts
23 with one or more of the following entities or individuals:

24 (A) the Texas Department of Criminal Justice and
25 the Correctional Managed Health Care Committee;

26 (B) the Board of Pardons and Paroles;

27 (C) the Department of State Health Services;

1 (D) the Texas Juvenile Probation Commission;
2 (E) the Texas Youth Commission;
3 (F) the Department of Assistive and
4 Rehabilitative Services;
5 (G) the Texas Education Agency;
6 (H) the Commission on Jail Standards;
7 (I) the Department of Aging and Disability
8 Services;
9 (J) the Texas School for the Blind and Visually
10 Impaired;
11 (K) community supervision and corrections
12 departments;
13 (L) personal bond pretrial release offices
14 established under Article 17.42, Code of Criminal Procedure;
15 (M) local jails regulated by the Commission on
16 Jail Standards;
17 (N) a municipal or county health department;
18 (O) a hospital district;
19 (P) a judge of this state with jurisdiction over
20 criminal cases; ~~and~~
21 (Q) an attorney who is appointed or retained to
22 represent a special needs offender;
23 (R) the Health and Human Services Commission;
24 (S) the Department of Information Resources; and
25 (T) the bureau of identification and records of
26 the Department of Public Safety, for the sole purpose of providing
27 real-time, contemporaneous identification of individuals in the

1 Department of State Health Services client data base.

2 (2) "Special needs offender" includes an individual
3 for whom criminal charges are pending or who after conviction or
4 adjudication is in custody or under any form of criminal justice
5 supervision.

6 (d) An agency shall manage confidential information
7 accepted or disclosed under this section prudently so as to
8 maintain, to the extent possible, the confidentiality of that
9 information.

10 (e) A person commits an offense if the person releases or
11 discloses confidential information obtained under this section
12 other than as authorized by this section or other law or without the
13 consent of the person to whom the information relates. An offense
14 under this subsection is a Class B misdemeanor.

15 SECTION 6. Subsection (b), Section 411.042, Government
16 Code, is amended to read as follows:

17 (b) The bureau of identification and records shall:

18 (1) procure and file for record photographs, pictures,
19 descriptions, fingerprints, measurements, and other pertinent
20 information of all persons arrested for or charged with a criminal
21 offense or convicted of a criminal offense, regardless of whether
22 the conviction is probated;

23 (2) collect information concerning the number and
24 nature of offenses reported or known to have been committed in the
25 state and the legal steps taken in connection with the offenses, and
26 other information useful in the study of crime and the
27 administration of justice, including a statistical breakdown of

1 those offenses in which family violence was involved;

2 (3) make ballistic tests of bullets and firearms and
3 chemical analyses of bloodstains, cloth, materials, and other
4 substances for law enforcement officers of the state;

5 (4) cooperate with identification and crime records
6 bureaus in other states and the United States Department of
7 Justice;

8 (5) maintain a list of all previous background checks
9 for applicants for any position regulated under Chapter 1702,
10 Occupations Code, who have undergone a criminal history background
11 check under Section 411.119, if the check indicates a Class B
12 misdemeanor or equivalent offense or a greater offense; ~~and~~

13 (6) collect information concerning the number and
14 nature of protective orders and all other pertinent information
15 about all persons on active protective orders. Information in the
16 law enforcement information system relating to an active protective
17 order shall include:

18 (A) the name, sex, race, date of birth, personal
19 descriptors, address, and county of residence of the person to whom
20 the order is directed;

21 (B) any known identifying number of the person to
22 whom the order is directed, including the person's social security
23 number or driver's license number;

24 (C) the name and county of residence of the
25 person protected by the order;

26 (D) the residence address and place of employment
27 or business of the person protected by the order, unless that

1 information is excluded from the order under Section 85.007, Family
2 Code;

3 (E) the child-care facility or school where a
4 child protected by the order normally resides or which the child
5 normally attends, unless that information is excluded from the
6 order under Section 85.007, Family Code;

7 (F) the relationship or former relationship
8 between the person who is protected by the order and the person to
9 whom the order is directed; and

10 (G) the date the order expires; and

11 (7) collect and disseminate information regarding
12 offenders with mental impairments in compliance with Chapter 614,
13 Health and Safety Code.

14 SECTION 7. This Act takes effect September 1, 2007.