

By: Duncan S.B. No. 839  
(In the Senate - Filed February 22, 2007; March 7, 2007,  
read first time and referred to Committee on Criminal Justice;  
April 10, 2007, reported favorably, as amended, by the following  
vote: Yeas 5, Nays 0; April 10, 2007, sent to printer.)

COMMITTEE AMENDMENT NO. 1 By: Duncan

Amend S.B. 839 as follows:

(1) Add the following appropriately numbered SECTIONS to  
the bill and renumber subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. 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  
criminal justice supervision, and for pretrial diversion.

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

(a) The Texas Department of Criminal Justice, the [Texas]  
Department of State [Mental] Health Services [and Mental  
Retardation], the bureau of identification and records of the  
Department of Public Safety, representatives of local mental health  
or mental retardation authorities appointed by the commissioner of  
the [Texas] Department of State [Mental] Health Services [and  
Mental Retardation], and the directors of community supervision and  
corrections departments shall 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. The office shall  
coordinate and monitor the development and implementation of the  
memorandum of understanding.

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

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

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

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

(a) The office, the Commission on Law Enforcement Officer  
Standards and Education, the bureau of identification and records  
of the Department of Public Safety, and the Commission on Jail  
Standards 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 mentally impaired, elderly,  
physically disabled, terminally ill, or significantly ill.

SECTION \_\_\_\_\_. Subsection (b), Section 411.042, Government  
Code, is amended to read as follows:

(b) The bureau of identification and records shall:

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

(2) collect information concerning the number and nature of offenses reported or known to have been committed in the state and the legal steps taken in connection with the offenses, and other information useful in the study of crime and the administration of justice, including a statistical breakdown of those offenses in which family violence was involved;

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

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

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

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

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

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

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

(D) the residence address and place of employment or business of the person protected by the order, unless that information is excluded from the order under Section 85.007, Family Code;

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

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

(G) the date the order expires; and

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

(2) Strike SECTIONS 2 and 3 of the bill and substitute the following appropriately numbered SECTION:

SECTION \_\_\_\_\_. Section 614.017, Health and Safety Code, is amended to read as follows:

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

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

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

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

(c) In this section:

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

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

(B) the Board of Pardons and Paroles;

(C) the Department of State Health Services;

(D) the Texas Juvenile Probation Commission;

(E) the Texas Youth Commission;

(F) the Department of Assistive and Rehabilitative Services;

(G) the Texas Education Agency;

(H) the Commission on Jail Standards;

(I) the Department of Aging and Disability Services;

(J) the Texas School for the Blind and Visually Impaired;

(K) community supervision and corrections departments;

(L) personal bond pretrial release offices established under Article 17.42, Code of Criminal Procedure;

(M) local jails regulated by the Commission on Jail Standards;

(N) a municipal or county health department;

(O) a hospital district;

(P) a judge of this state with jurisdiction over criminal cases; ~~and~~

(Q) an attorney who is appointed or retained to represent a special needs offender;

(R) the Health and Human Services Commission;

(S) the Department of Information Resources; and

(T) the bureau of identification and records of the Department of Public Safety, for the sole purpose of providing real-time, contemporaneous identification of individuals in the Department of State Health Services client data base.

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

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

(e) A person commits an 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 the consent of the person to whom the information relates. An offense under this subsection is a Class B misdemeanor.

# 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 614.015, 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 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; and

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

(c) 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 shall:

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

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

SECTION 2. Subdivision (1), Subsection (c), Section 614.017, Health and Safety Code, is amended to read as follows:

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

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

(B) the Board of Pardons and Paroles;

(C) the Department of State Health Services;

(D) the Texas Juvenile Probation Commission;

(E) the Texas Youth Commission;

(F) the Department of Assistive and Rehabilitative Services;

(G) the Texas Education Agency;

(H) the Commission on Jail Standards;

(I) the Department of Aging and Disability Services;

(J) the Texas School for the Blind and Visually Impaired;

(K) community supervision and corrections departments;

(L) personal bond pretrial release offices established under Article 17.42, Code of Criminal Procedure;

(M) local jails regulated by the Commission on Jail Standards;

(N) a municipal or county health department;

(O) a hospital district;

(P) a judge of this state with jurisdiction over criminal cases; ~~and~~

(Q) an attorney who is appointed or retained to

represent a special needs offender;

(R) the Health and Human Services Commission; and

(S) the Department of Information Resources.

SECTION 3. Section 614.017, Health and Safety Code, is amended by adding Subsections (d) and (e) to read as follows:

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

(e) A person commits an 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 the consent of the person to whom the information relates. An offense under this subsection is a Class B misdemeanor.

SECTION 4. This Act takes effect September 1, 2007.

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