

BILL ANALYSIS

Senate Research Center
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S.B. 1627
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Health & Human Services
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Deoxyribonucleic acid (DNA) and fingerprint databases help prevent and solve crimes across Texas, and serve other vital identification functions. This information is kept for various individuals, but not for a person who is ordered by a court to receive certain mental health services under Chapter 574 of the Health and Safety Code.

This bill would require the Bureau of Identification and Records to file, record, and retain fingerprints and other pertinent information for all persons committed to temporary or extended inpatient mental health services under Chapter 574 (Court-Ordered Mental Health Services) of the Health and Safety Code. S.B. 1627 would allow a judge to include in the order committing a person to a mental health facility a finding that the person is manifestly dangerous. This would require the collection and storage of the person's DNA information in addition to fingerprint information.

As proposed, S.B. 1627 amends current law relating to the collection of biometric identifiers of certain persons receiving inpatient mental health services.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Department of Public Safety of the State of Texas in SECTION 1 (Section 411.042, Government Code) and SECTION 3 (Section 411.1474, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 411.042, Government Code, by adding Subsection (k), as follows:

(k) Requires the bureau of identification and records (bureau) to procure and file for record fingerprints and other pertinent information of all persons committed to temporary or extended inpatient mental health services under Chapter 574 (Court-Ordered Mental Health Services), Health and Safety Code. Requires the Texas Department of Public Safety of the State of Texas (DPS) to adopt rules governing the retention of and access to fingerprints recorded under this section.

SECTION 2. Amends Section 411.142(g), Government Code, to authorize the DNA database to contain DNA records for a person who is found to be manifestly dangerous in an order committing the person to extended inpatient mental health services under Section 574.036(f), Health and Safety Code; committed to a maximum security unit in accordance with Article 46B.104 (Civil Commitment Placement; Finding of Violence), Code of Criminal Procedure; or the subject of an affirmative determination under Article 46C.157 (Determination Regarding Dangerous Conduct of Acquitted Person), Code of Criminal Procedure. Makes a nonsubstantive change.

SECTION 3. Amends Subchapter G, Chapter 411, Government Code, by adding Section 411.1474, as follows:

Sec. 411.1474. DNA RECORDS OF CERTAIN PERSONS COMMITTED TO MENTAL HEALTH FACILITIES. (a) Provides this section applies only to a person who is found manifestly dangerous in an order committing the person to extended

inpatient mental health services under Section 574.036(f), Health and Safety Code; committed to a maximum security unit in accordance with Article 46B.104, Code of Criminal Procedure; or the subject of an administrative determination under Article 46C.157, Code of Criminal Procedure.

(b) Requires DPS by rule to require a person that has the training and other resources necessary to efficiently and properly take a DNA specimen to take one or more specimens from a person described by Subsection (a) for the purpose of creating a DNA record, and preserve the specimen and maintain a record of the collection of the specimen.

SECTION 4. Amends Section 574.036, Health and Safety Code, by adding Subsection (f), as follows:

(f) Authorizes the judge, in an order committing a person to a mental health facility for extended inpatient mental health services, to include a finding that the person is manifestly dangerous. Authorizes the judge to include the finding only if the criterion specified by the jury or judge under Section 574.035(c) (relating to the jury or judge finding that the proposed patient meets the commitment criteria prescribed by Subsection (a)), is that the proposed patient is likely to cause serious harm to others.

SECTION 5. Amends Subchapter D, Chapter 574, Health and Safety Code, by adding Section 574.049, as follows:

Sec. 574.049. COLLECTION OF BIOMETRIC IDENTIFIERS OF PATIENTS. (a) Requires a person committed to a mental health facility for temporary or extended inpatient mental health services to provide a complete set of legible fingerprints to the bureau at DPS.

(b) Requires a person to provide one or more DNA samples for the purpose of creating a DNA record in accordance with Section 411.1474, Government Code, if the person is found manifestly dangerous in an order committing the person to extended inpatient mental health services under Section 574.036(f); committed to a maximum security unit in accordance with Article 46B.104, Code of Criminal Procedure; or the subject of an affirmative determination under Article 46C.157, Code of Criminal Procedure.

SECTION 6. (a) Provides that Section 411.042(k), Government Code, as added by this Act, applies only to the fingerprints and pertinent information of persons committed to temporary or extended inpatient mental health services under Chapter 574, Health and Safety Code, on or after the effective date of this Act.

(b) Provides that Section 411.1474, Government Code, and Section 574.049, Health and Safety Code, as added by this Act, apply only to persons committed to temporary or extended inpatient mental health services under Chapter 574, Health and Safety Code, on or after the effective date of this Act; found manifestly dangerous in an order committing the person to extended inpatient mental health services under Section 574.036(f), Health and Safety Code, as added by this Act, on or after the effective date of this Act; committed to a maximum security unit in accordance with Article 46B.104, Code of Criminal Procedure, on or after the effective date of this Act; or subject to an affirmative determination made under Article 46C.157, Code of Criminal Procedure, on or after the effective date of this Act.

SECTION 7. Effective date: September 1, 2009.