

By: Wentworth

S.B. No. 1627

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the collection of biometric identifiers of certain
3 persons receiving inpatient mental health services.

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

5 SECTION 1. Section 411.042, Government Code, is amended by
6 adding Subsection (k) to read as follows:

7 (k) The bureau of identification and records shall procure
8 and file for record fingerprints and other pertinent information of
9 all persons committed to temporary or extended inpatient mental
10 health services under Chapter 574, Health and Safety Code. The
11 department shall adopt rules governing the retention of and access
12 to fingerprints recorded under this section.

13 SECTION 2. Section 411.142(g), Government Code, is amended
14 to read as follows:

15 (g) The DNA database may contain DNA records for the
16 following:

17 (1) an individual described by this subchapter,
18 including Section 411.1471, 411.148, or 411.154;

19 (2) a biological specimen of a deceased victim of a
20 crime;

21 (3) a biological specimen that is legally obtained in
22 the investigation of a crime, regardless of origin;

23 (4) results of testing ordered by a court under this
24 subchapter, Article 64.03, Code of Criminal Procedure, or other law

1 permitting or requiring the creation of a DNA record;

2 (5) an unidentified missing person, or unidentified
3 skeletal remains or body parts;

4 (6) a close biological relative of a person who has
5 been reported missing to a law enforcement agency;

6 (7) a person at risk of becoming lost, such as a child
7 or a person declared by a court to be mentally incapacitated, if the
8 record is required by court order or a parent, conservator, or
9 guardian of the person consents to the record; ~~or~~

10 (8) a person who is:

11 (A) found to be manifestly dangerous in an order
12 committing the person to extended inpatient mental health services
13 under Section 574.036(f), Health and Safety Code;

14 (B) committed to a maximum security unit in
15 accordance with Article 46B.104, Code of Criminal Procedure; or

16 (C) the subject of an affirmative determination
17 under Article 46C.157, Code of Criminal Procedure; or

18 (9) an unidentified person, if the record does not
19 contain personal identifying information.

20 SECTION 3. Subchapter G, Chapter 411, Government Code, is
21 amended by adding Section 411.1474 to read as follows:

22 Sec. 411.1474. DNA RECORDS OF CERTAIN PERSONS COMMITTED TO
23 MENTAL HEALTH FACILITIES. (a) This section applies only to a
24 person who is:

25 (1) found manifestly dangerous in an order committing
26 the person to extended inpatient mental health services under
27 Section 574.036(f), Health and Safety Code;

1 (2) committed to a maximum security unit in accordance
2 with Article 46B.104, Code of Criminal Procedure; or

3 (3) the subject of an affirmative determination under
4 Article 46C.157, Code of Criminal Procedure.

5 (b) The department by rule shall require a person that has
6 the training and other resources necessary to efficiently and
7 properly take a DNA specimen to:

8 (1) take one or more specimens from a person described
9 by Subsection (a) for the purpose of creating a DNA record; and

10 (2) preserve the specimen and maintain a record of the
11 collection of the specimen.

12 SECTION 4. Section 574.036, Health and Safety Code, is
13 amended by adding Subsection (f) to read as follows:

14 (f) In an order committing a person to a mental health
15 facility for extended inpatient mental health services, the judge
16 may include a finding that the person is manifestly dangerous. The
17 judge may include the finding only if the criterion specified by the
18 jury or judge under Section 574.035(c) is that the proposed patient
19 is likely to cause serious harm to others.

20 SECTION 5. Subchapter D, Chapter 574, Health and Safety
21 Code, is amended by adding Section 574.049 to read as follows:

22 Sec. 574.049. COLLECTION OF BIOMETRIC IDENTIFIERS OF
23 PATIENTS. (a) A person committed to a mental health facility for
24 temporary or extended inpatient mental health services shall
25 provide a complete set of legible fingerprints to the Bureau of
26 Identification and Records at the Department of Public Safety of
27 the State of Texas.

1 (b) A person shall provide one or more DNA samples for the
2 purpose of creating a DNA record in accordance with Section
3 411.1474, Government Code, if the person is:

4 (1) found manifestly dangerous in an order committing
5 the person to extended inpatient mental health services under
6 Section 574.036(f);

7 (2) committed to a maximum security unit in accordance
8 with Article 46B.104, Code of Criminal Procedure; or

9 (3) the subject of an affirmative determination under
10 Article 46C.157, Code of Criminal Procedure.

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

16 (b) Section 411.1474, Government Code, and Section 574.049,
17 Health and Safety Code, as added by this Act, apply only to persons:

18 (1) committed to temporary or extended inpatient
19 mental health services under Chapter 574, Health and Safety Code,
20 on or after the effective date of this Act;

21 (2) found manifestly dangerous in an order committing
22 the person to extended inpatient mental health services under
23 Section 574.036(f), Health and Safety Code, as added by this Act, on
24 or after the effective date of this Act;

25 (3) committed to a maximum security unit in accordance
26 with Article 46B.104, Code of Criminal Procedure, on or after the
27 effective date of this Act; or

1 (4) subject to an affirmative determination made under
2 Article 46C.157, Code of Criminal Procedure, on or after the
3 effective date of this Act.

4 SECTION 7. This Act takes effect September 1, 2009.