

By: Wentworth

S.B. No. 1162

A BILL TO BE ENTITLED

AN ACT

1
2 relating to reporting regarding, the apprehension and
3 transportation of, and records relating to certain persons who are
4 or may be persons with mental illness.

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

6 SECTION 1. Section 611.004, Health and Safety Code, is
7 amended by adding Subsections (e) and (f) to read as follows:

8 (e) A professional shall report to law enforcement
9 personnel and disclose confidential information relating to a
10 patient if the professional has reason to believe and does believe
11 that the patient or another person is mentally ill and intends to:

12 (1) attempt suicide by acting in a manner that
13 provokes a lethal response by a police officer;

14 (2) cause serious bodily injury to a government
15 official; or

16 (3) cause serious bodily injury to another individual.

17 (f) A professional who in good faith discloses confidential
18 information in accordance with Subsection (e) is immune from civil
19 or criminal liability for that disclosure.

20 SECTION 2. Subchapter A, Chapter 573, Health and Safety
21 Code, is amended by adding Section 573.0015 to read as follows:

22 Sec. 573.0015. APPREHENSION BY PEACE OFFICER WITHOUT
23 WARRANT ON CERTAIN REPORT BY MENTAL HEALTH PROFESSIONAL. A peace
24 officer, without a warrant, may take a person into custody in the

1 manner provided in Section 573.001 if the officer receives from a
2 mental health professional a report in accordance with Section
3 611.004(e) of the professional's belief that the person is mentally
4 ill and intends to attempt an action described by that subsection.

5 SECTION 3. Title 1, Code of Criminal Procedure, is amended
6 by adding Chapter 5A to read as follows:

7 CHAPTER 5A. PREVENTION OF SUICIDE AND PHYSICAL VIOLENCE BY
8 MENTALLY ILL PERSONS

9 Art. 5A.01. REPORT OF APPREHENSION OF CERTAIN PERSONS
10 BELIEVED TO BE MENTALLY ILL AND DANGEROUS REQUIRED. (a) A peace
11 officer who takes a person into custody in accordance with Section
12 573.0015, Health and Safety Code, shall make a written report that
13 includes:

14 (1) the name of the person taken into custody;
15 (2) the name of the mental health professional who
16 reported to law enforcement personnel in accordance with Section
17 611.004(e), Health and Safety Code, the professional's belief that
18 the person is mentally ill and intends to attempt an action
19 described by that subsection;

20 (3) a description of the action the professional
21 believes the person intended to take; and

22 (4) the name of the government official or other
23 individual to whom the person intended to cause serious bodily
24 injury, if applicable.

25 (b) A peace officer shall provide a copy of the report
26 described by Subsection (a) to the bureau of identification and
27 records of the Department of Public Safety of the State of Texas for

1 the bureau's recordkeeping function under Section 411.042,
2 Government Code.

3 Art. 5A.02. CERTAIN RECORDKEEPING REQUIRED. (a) Each local
4 law enforcement agency shall establish a departmental code for
5 identifying and retrieving reports received under Article 5A.01.

6 (b) In order to ensure that an officer investigating an
7 incident or responding to a disturbance call that involves or may
8 involve a person who is mentally ill is aware of the existence of a
9 report made under Article 5A.01(a), each local law enforcement
10 agency shall establish procedures within the agency to provide to
11 officers adequate information or access to information concerning
12 the identity of a person identified in a report as a person who has
13 been taken into custody because of a report by a mental health
14 professional under Section 611.004(e), Health and Safety Code, and
15 the action the professional believes the person intended to take.

16 (c) The district or county attorney exercising authority in
17 the county in which the law enforcement agency has jurisdiction is
18 entitled to access the records created under this chapter.

19 SECTION 4. Section 411.042(b), Government Code, is amended
20 to read as follows:

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

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

27 (2) collect information concerning the number and

1 nature of offenses reported or known to have been committed in the
2 state and the legal steps taken in connection with the offenses, and
3 other information useful in the study of crime and the
4 administration of justice, including information that enables the
5 bureau to create a statistical breakdown of offenses in which
6 family violence was involved and a statistical breakdown of
7 offenses under Sections 22.011 and 22.021, Penal Code;

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

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

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

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

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

27 (B) any known identifying number of the person to

1 whom the order is directed, including the person's social security
2 number or driver's license number;

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

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

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

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

16 (G) the date the order expires;

17 (7) grant access to criminal history record
18 information in the manner authorized under Subchapter F;

19 (8) collect and disseminate information regarding
20 offenders with mental impairments in compliance with Chapter 614,
21 Health and Safety Code; ~~and~~

22 (9) record data and maintain a state database for a
23 computerized criminal history record system and computerized
24 juvenile justice information system that serves:

25 (A) as the record creation point for criminal
26 history record information and juvenile justice information
27 maintained by the state; and

1 (B) as the control terminal for the entry of
2 records, in accordance with federal law and regulations, federal
3 executive orders, and federal policy, into the federal database
4 maintained by the Federal Bureau of Investigation;

5 (10) procure and file for record fingerprints and
6 other pertinent information of each person:

7 (A) ordered by a court to receive inpatient
8 mental health services under Chapter 574, Health and Safety Code;
9 or

10 (B) acquitted in a criminal case by reason of
11 insanity or lack of mental responsibility, regardless of whether
12 the person is ordered by a court to receive inpatient treatment or
13 residential care under Chapter 46C, Code of Criminal Procedure; and

14 (11) collect and disseminate information regarding
15 the apprehension of certain persons because of a report by a mental
16 health professional under Section 611.004(e), Health and Safety
17 Code.

18 SECTION 5. Section 574.045(e), Health and Safety Code, is
19 repealed.

20 SECTION 6. Section 611.004(f), Health and Safety Code, as
21 added by this Act, applies only to a disclosure of confidential
22 information made on or after the effective date of this Act.

23 SECTION 7. As soon as practicable after the effective date
24 of this Act, the Department of Public Safety of the State of Texas
25 shall procure and file the fingerprints and information required by
26 Section 411.042(b)(10), Government Code, as added by this Act.

27 SECTION 8. This Act takes effect September 1, 2011.