

By: Bonnen of Brazoria

H.B. No. 3189

Substitute the following for H.B. No. 3189:

By: Moody

C.S.H.B. No. 3189

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the reporting of and access to information related to
3 court-ordered prescription drug substance abuse treatment;
4 providing a criminal penalty.

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

6 SECTION 1. Subchapter G, Chapter 42A, Code of Criminal
7 Procedure, is amended by adding Article 42A.3035 to read as
8 follows:

9 Art. 42A.3035. REPORTING. A judge who requires as a
10 condition of community supervision that a defendant serve a term of
11 confinement and treatment in a substance abuse felony punishment
12 facility or participate in substance abuse treatment services in a
13 program or facility approved or licensed by the Department of State
14 Health Services to receive treatment for prescription drug
15 substance abuse shall submit to the Texas State Board of Pharmacy:

16 (1) the name and date of birth of the defendant; and

17 (2) the name of the substance or substances abused by
18 the defendant.

19 SECTION 2. Chapter 121, Government Code, is amended by
20 adding Section 121.003 to read as follows:

21 Sec. 121.003. REPORTING. A judge who requires a defendant
22 to receive treatment for prescription drug substance abuse as a
23 condition of participation in a specialty court under this subtitle
24 shall submit to the Texas State Board of Pharmacy:

1 (1) the name and date of birth of the defendant; and

2 (2) the name of the substance or substances abused by
3 the defendant.

4 SECTION 3. Subchapter D, Chapter 462, Health and Safety
5 Code, is amended by adding Section 462.0691 to read as follows:

6 Sec. 462.0691. REPORTING. A judge who enters an order for
7 court-ordered treatment under this chapter for prescription drug
8 substance abuse shall submit to the Texas State Board of Pharmacy:

9 (1) the name and date of birth of the patient; and

10 (2) the name of the substance or substances abused by
11 the patient.

12 SECTION 4. Sections 481.076(a), (a-3), (a-4), (c), (i), and
13 (j), Health and Safety Code, are amended to read as follows:

14 (a) The board may not permit any person to have access to
15 information submitted to the board under Article 42A.3035, Code of
16 Criminal Procedure, Section 121.003, Government Code, or Section
17 462.0691, 481.074(q), or 481.075 except:

18 (1) an investigator for the board, the Texas Medical
19 Board, the Texas State Board of Podiatric Medical Examiners, the
20 State Board of Dental Examiners, the State Board of Veterinary
21 Medical Examiners, the Texas Board of Nursing, or the Texas
22 Optometry Board;

23 (2) an authorized officer or member of the department
24 or authorized employee of the board engaged in the administration,
25 investigation, or enforcement of this chapter or another law
26 governing illicit drugs in this state or another state;

27 (3) the department on behalf of a law enforcement or

1 prosecutorial official engaged in the administration,
2 investigation, or enforcement of this chapter or another law
3 governing illicit drugs in this state or another state;

4 (4) a medical examiner conducting an investigation;

5 (5) a pharmacist or a pharmacy technician, as defined
6 by Section 551.003, Occupations Code, acting at the direction of a
7 pharmacist or a practitioner who is a physician, dentist,
8 veterinarian, podiatrist, optometrist, or advanced practice nurse
9 or is a physician assistant described by Section 481.002(39)(D) or
10 an employee or other agent of a practitioner acting at the direction
11 of a practitioner and is inquiring about a recent Schedule II, III,
12 IV, or V prescription history or any prescription drug substance
13 abuse treatment of a particular patient of the practitioner,
14 provided that the person accessing the information is authorized to
15 do so under the Health Insurance Portability and Accountability Act
16 of 1996 (Pub. L. No. 104-191) and rules adopted under that Act;

17 (6) a pharmacist or practitioner who is inquiring
18 about the person's own dispensing or prescribing activity; or

19 (7) one or more states or an association of states with
20 which the board has an interoperability agreement, as provided by
21 Subsection (j).

22 (a-3) The board shall ensure that the department has
23 unrestricted access at all times to information submitted to the
24 board under Article 42A.3035, Code of Criminal Procedure, Section
25 121.003, Government Code, and Sections 462.0691, 481.074(q), and
26 481.075. The department's access to the information shall be
27 provided through a secure electronic portal under the exclusive

1 control of the department. The department shall pay all expenses
2 associated with the electronic portal.

3 (a-4) A law enforcement or prosecutorial official described
4 by Subsection (a)(3) may obtain information submitted to the board
5 under Article 42A.3035, Code of Criminal Procedure, Section
6 121.003, Government Code, or Section 462.0691, 481.074(q), or
7 481.075 only if the official submits a request to the department.
8 If the department finds that the official has shown proper need for
9 the information, the department shall provide access to the
10 relevant information.

11 (c) The board by rule shall design and implement a system
12 for submission of information to the board by electronic or other
13 means and for retrieval of information submitted to the board under
14 this section and Article 42A.3035, Code of Criminal Procedure,
15 Section 121.003, Government Code, and Sections 462.0691, 481.074,
16 and 481.075. The board shall use automated information security
17 techniques and devices to preclude improper access to the
18 information. The board shall submit the system design to the
19 director and the Texas Medical Board for review and comment a
20 reasonable time before implementation of the system and shall
21 comply with the comments of those agencies unless it is
22 unreasonable to do so.

23 (i) Information submitted to the board under Article
24 42A.3035, Code of Criminal Procedure, Section 121.003, Government
25 Code, or Section 462.0691, 481.074(q), or 481.075 is confidential
26 and remains confidential regardless of whether the board permits
27 access to the information under this section.

1 (j) The board may enter into an interoperability agreement
2 with one or more states or an association of states authorizing the
3 board to access prescription monitoring information maintained or
4 collected by the other state or states or the association,
5 including information maintained on a central database such as the
6 National Association of Boards of Pharmacy Prescription Monitoring
7 Program InterConnect. Pursuant to an interoperability agreement,
8 the board may authorize the prescription monitoring program of one
9 or more states or an association of states to access information
10 submitted to the board under Article 42A.3035, Code of Criminal
11 Procedure, Section 121.003, Government Code, and Sections
12 462.0691, 481.074(q), and 481.075, including by submitting or
13 sharing information through a central database such as the National
14 Association of Boards of Pharmacy Prescription Monitoring Program
15 InterConnect.

16 SECTION 5. Section 481.0761(a), Health and Safety Code, is
17 amended to read as follows:

18 (a) The board shall by rule establish and revise as
19 necessary a standardized database format that may be used by a
20 pharmacy or court to transmit the information required by Article
21 42A.3035, Code of Criminal Procedure, Section 121.003, Government
22 Code, and Sections 462.0691, 481.074(q), and 481.075(i) to the
23 board electronically or to deliver the information on storage
24 media, including disks, tapes, and cassettes.

25 SECTION 6. Section 481.127(a), Health and Safety Code, is
26 amended to read as follows:

27 (a) A person commits an offense if the person knowingly

1 gives, permits, or obtains unauthorized access to information
2 submitted to the board under Article 42A.3035, Code of Criminal
3 Procedure, Section 121.003, Government Code, or Section 462.0691,
4 481.074(q), or 481.075.

5 SECTION 7. (a) Article 42A.3035, Code of Criminal
6 Procedure, as added by this Act, applies to a defendant placed on
7 community supervision on or after the effective date of this Act,
8 regardless of whether the offense for which the defendant was
9 placed on community supervision was committed before, on, or after
10 the effective date of this Act.

11 (b) Section 121.003, Government Code, as added by this Act,
12 applies to a person who, on or after the effective date of this Act,
13 enters a specialty court program under Subtitle K, Title 2,
14 Government Code, regardless of whether the person committed the
15 offense for which the person enters the program before, on, or after
16 the effective date of this Act.

17 (c) Section 462.0691, Health and Safety Code, as added by
18 this Act, applies only to an order for court-ordered treatment
19 entered on or after the effective date of this Act. An order
20 entered before the effective date of this Act is governed by the law
21 in effect on the date the order was entered, and the former law is
22 continued in effect for that purpose.

23 SECTION 8. This Act takes effect September 1, 2017.