

SENATE AMENDMENTS

2nd Printing

By: Thompson of Harris

H.B. No. 549

A BILL TO BE ENTITLED

1 AN ACT
2 relating to an exemption from civil liability for certain
3 professionals for the disclosure of certain mental health
4 information.

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 amending Subsection (a) and adding Subsection (a-1) to
8 read as follows:

9 (a) A professional may disclose confidential information
10 only:

11 (1) to a governmental agency if the disclosure is
12 required or authorized by law;

13 (2) to medical, mental health, or law enforcement
14 personnel if the professional determines that there is a
15 probability of imminent physical injury by the patient to the
16 patient or others or there is a probability of immediate mental or
17 emotional injury to the patient;

18 (3) to qualified personnel for management audits,
19 financial audits, program evaluations, or research, in accordance
20 with Subsection (b);

21 (4) to a person who has the written consent of the
22 patient, or a parent if the patient is a minor, or a guardian if the
23 patient has been adjudicated as incompetent to manage the patient's
24 personal affairs;

1 (5) to the patient's personal representative if the
2 patient is deceased;

3 (6) to individuals, corporations, or governmental
4 agencies involved in paying or collecting fees for mental or
5 emotional health services provided by a professional;

6 (7) to other professionals and personnel under the
7 professionals' direction who participate in the diagnosis,
8 evaluation, or treatment of the patient;

9 (8) in an official legislative inquiry relating to a
10 state hospital or state school as provided by Subsection (c);

11 (9) to designated persons or personnel of a
12 correctional facility in which a person is detained if the
13 disclosure is for the sole purpose of providing treatment and
14 health care to the person in custody;

15 (10) to an employee or agent of the professional who
16 requires mental health care information to provide mental health
17 care services or in complying with statutory, licensing, or
18 accreditation requirements, if the professional has taken
19 appropriate action to ensure that the employee or agent:

20 (A) will not use or disclose the information for
21 any other purposes; and

22 (B) will take appropriate steps to protect the
23 information; or

24 (11) to satisfy a request for medical records of a
25 deceased or incompetent person pursuant to Section 74.051(e), Civil
26 Practice and Remedies Code.

27 (a-1) No cause of action exists against a person described

1 by Section 611.001(2)(A) or (B) for the disclosure of confidential
2 information under Subsection (a)(2). A cause of action brought
3 against the person for the disclosure of the confidential
4 information must be dismissed with prejudice.

5 SECTION 2. The changes in law made by this Act apply only to
6 a disclosure of confidential information made on or after the
7 effective date of this Act. A disclosure made before the effective
8 date of this Act is governed by the law in effect on the date the
9 disclosure was made, and that law is continued in effect for that
10 purpose.

11 SECTION 3. This Act takes effect September 1, 2021.

ADOPTED

MAY 20 2021

Latey Law
Secretary of the Senate

By: Zaffirini

Substitute the following for H.B. No. 549:

By: *Kel Seliger*

H.B. No. 549

C.S.H.B. No. 549

A BILL TO BE ENTITLED

AN ACT

1
2 relating to exemptions from liability for certain professionals for
3 the disclosure of certain mental health information.

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

5 SECTION 1. Section 611.002, Health and Safety Code, is
6 amended by amending Subsection (b) and adding Subsection (b-1) to
7 read as follows:

8 (b) Confidential communications or records may not be
9 disclosed except as provided by Section 611.004, 611.0041, or
10 611.0045.

11 (b-1) No exception to the privilege of confidentiality
12 under Section 611.004 may be construed to create an independent
13 duty or requirement to disclose the confidential information to
14 which the exception applies.

15 SECTION 2. Section 611.004, Health and Safety Code, is
16 amended by amending Subsection (a) and adding Subsection (a-1) to
17 read as follows:

18 (a) A professional may disclose confidential information
19 only:

20 (1) to a governmental agency if the disclosure is
21 required or authorized by law;

22 (2) to medical, mental health, or law enforcement
23 personnel if the professional determines that there is a
24 probability of imminent physical injury by the patient to the

1 patient or others or there is a probability of immediate mental or
2 emotional injury to the patient;

3 (3) to qualified personnel for management audits,
4 financial audits, program evaluations, or research, in accordance
5 with Subsection (b);

6 (4) to a person who has the written consent of the
7 patient, or a parent if the patient is a minor, or a guardian if the
8 patient has been adjudicated as incompetent to manage the patient's
9 personal affairs;

10 (5) to the patient's personal representative if the
11 patient is deceased;

12 (6) to individuals, corporations, or governmental
13 agencies involved in paying or collecting fees for mental or
14 emotional health services provided by a professional;

15 (7) to other professionals and personnel under the
16 professionals' direction who participate in the diagnosis,
17 evaluation, or treatment of the patient;

18 (8) in an official legislative inquiry relating to a
19 state hospital or state school as provided by Subsection (c);

20 (9) to designated persons or personnel of a
21 correctional facility in which a person is detained if the
22 disclosure is for the sole purpose of providing treatment and
23 health care to the person in custody;

24 (10) to an employee or agent of the professional who
25 requires mental health care information to provide mental health
26 care services or in complying with statutory, licensing, or
27 accreditation requirements, if the professional has taken

1 appropriate action to ensure that the employee or agent:

2 (A) will not use or disclose the information for
3 any other purposes; and

4 (B) will take appropriate steps to protect the
5 information; or

6 (11) to satisfy a request for medical records of a
7 deceased or incompetent person pursuant to Section 74.051(e), Civil
8 Practice and Remedies Code.

9 (a-1) No civil, criminal, or administrative cause of action
10 exists against a person described by Section 611.001(2)(A) or (B)
11 for the disclosure of confidential information in accordance with
12 Subsection (a)(2). A cause of action brought against the person for
13 the disclosure of the confidential information must be dismissed
14 with prejudice.

15 SECTION 3. Section 159.002, Occupations Code, is amended by
16 adding Subsection (c-1) to read as follows:

17 (c-1) No exception to the privilege of confidentiality
18 under Section 159.003 or 159.004 may be construed to create an
19 independent duty or requirement to disclose the confidential
20 information to which the exception applies.

21 SECTION 4. Section 159.004, Occupations Code, is amended to
22 read as follows:

23 Sec. 159.004. EXCEPTIONS TO CONFIDENTIALITY IN OTHER
24 SITUATIONS. (a) An exception to the privilege of confidentiality
25 in a situation other than a court or administrative proceeding,
26 allowing disclosure of confidential information by a physician,
27 exists only with respect to the following:

- 1 (1) a governmental agency, if the disclosure is
2 required or authorized by law;
- 3 (2) medical, mental health, or law enforcement
4 personnel, if the physician determines that there is a probability
5 of:
- 6 (A) imminent physical injury to the patient, the
7 physician, or another person; or
- 8 (B) immediate mental or emotional injury to the
9 patient;
- 10 (3) qualified personnel for research or for a
11 management audit, financial audit, or program evaluation, but the
12 personnel may not directly or indirectly identify a patient in any
13 report of the research, audit, or evaluation or otherwise disclose
14 identity in any manner;
- 15 (4) those parts of the medical records reflecting
16 specific services provided if necessary in the collection of fees
17 for medical services provided by a physician, professional
18 association, or other entity qualified to provide or arrange for
19 medical services;
- 20 (5) a person who has consent, as provided by Section
21 159.005;
- 22 (6) a person, corporation, or governmental agency
23 involved in the payment or collection of fees for medical services
24 provided by a physician;
- 25 (7) another physician or other personnel acting under
26 the direction of the physician who participate in the diagnosis,
27 evaluation, or treatment of the patient;

1 (8) an official legislative inquiry regarding state
2 hospitals or state schools, if:

3 (A) information or a record that identifies a
4 patient or client is not released for any purpose unless proper
5 consent to the release is given by the patient; and

6 (B) only records created by the state hospital or
7 school or its employees are included; or

8 (9) health care personnel of a penal or other
9 custodial institution in which the patient is detained if the
10 disclosure is for the sole purpose of providing health care to the
11 patient.

12 (b) No civil, criminal, or administrative cause of action
13 exists against a physician for the disclosure of confidential
14 information in accordance with Subsection (a)(2). A cause of
15 action brought against a physician for the disclosure of the
16 confidential information must be dismissed with prejudice.

17 SECTION 5. The changes in law made by this Act apply only to
18 a disclosure of confidential information made on or after the
19 effective date of this Act. A disclosure made before the effective
20 date of this Act is governed by the law in effect on the date the
21 disclosure was made, and that law is continued in effect for that
22 purpose.

23 SECTION 6. This Act takes effect September 1, 2021.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 20, 2021

TO: Honorable Dade Phelan, Speaker of the House, House of Representatives

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB549 by Thompson, Senfronia (Relating to exemptions from liability for certain professionals for the disclosure of certain mental health information.), **As Passed 2nd House**

<p>No significant fiscal implication to the State is anticipated.</p>
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The bill would amend the Health and Safety Code to allow certain professionals who work with a patient with a mental or health condition or disorder to disclose confidential information to mental health personnel if the professional determines there is a probability of imminent physical injury by the patient to the patient or others or a probability of immediate mental or emotional injury to the patient.

The bill would also prevent a civil, criminal, or administrative cause of action against certain persons for the disclosure of confidential information as allowed under the bill's provisions.

The bill would amend the Occupations Code to provide that civil, criminal or administrative cause of actions do not exist in certain circumstances

Based on information provided by the Office of Court Administration, no significant fiscal impact to the state court system is anticipated as a result from implementing the provisions of the bill.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Admin

LBB Staff: JMc, LBO, AKI, BH, MW

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 14, 2021

TO: Honorable Lois W. Kolkhorst, Chair, Senate Committee on Health & Human Services

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB549 by Thompson, Senfronia (Relating to exemptions from liability for certain professionals for the disclosure of certain mental health information.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Health and Safety Code to allow certain professionals who work with a patient with a mental or health condition or disorder to disclose confidential information to mental health personnel if the professional determines there is a probability of imminent physical injury by the patient to the patient or others or a probability of immediate mental or emotional injury to the patient.

The bill would also prevent a civil, criminal, or administrative cause of action against certain persons for the disclosure of confidential information as allowed under the bill's provisions.

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Based on information provided by the Office of Court Administration, no significant fiscal impact to the state court system is anticipated as a result from implementing the provisions of the bill.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Admin

LBB Staff: JMc, AKI, BH, MW

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 8, 2021

TO: Honorable Lois W. Kolkhorst, Chair, Senate Committee on Health & Human Services

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB549 by Thompson, Senfronia (Relating to an exemption from civil liability for certain professionals for the disclosure of certain mental health information.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Health and Safety Code to allow certain professionals who work with a patient with a mental or health condition or disorder to disclose confidential information to mental health personnel if the professional determines there is a probability of imminent physical injury by the patient to the patient or others or a probability of immediate mental or emotional injury to the patient.

The bill would also prevent a cause of action against certain persons for the disclosure of confidential information as allowed under the bill's provisions.

Based on information provided by the Office of Court Administration, no significant fiscal impact to the state court system is anticipated as a result from implementing the provisions of the bill.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Admin

LBB Staff: JMc, AKI, BH, MW

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

March 22, 2021

TO: Honorable Stephanie Klick, Chair, House Committee on Public Health

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB549 by Thompson, Senfronia (Relating to an exemption from civil liability for certain professionals for the disclosure of certain mental health information.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Health and Safety Code to allow certain professionals who work with a patient with a mental or health condition or disorder to disclose confidential information to mental health personnel if the professional determines there is a probability of imminent physical injury by the patient to the patient or others or a probability of immediate mental or emotional injury to the patient.

The bill would also prevent a cause of action against certain persons for the disclosure of confidential information as allowed under the bill's provisions.

Based on information provided by the Office of Court Administration, no significant fiscal impact to the state court system is anticipated as a result from implementing the provisions of the bill.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Admin

LBB Staff: JMc, AKI, MW, BH