

BILL ANALYSIS

Senate Research Center
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S.B. 838
By: Wentworth
Jurisprudence
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AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

The Senate Jurisprudence Committee, in its Interim Report to the 79th Legislature, recommended requiring the Department of State Health Services (formerly the Texas Department of Mental Health and Mental Retardation) to improve the collection of the commitment records of persons accused of a crime who were found to be not guilty by reason of insanity.

As proposed, S.B. 838 requires the collection and maintenance of records regarding persons found not guilty by reason of insanity and who are ordered to receive in-patient treatment by the court or committed by the court for long term placement in a residential care facility under provisions of the Health and Safety Code. The bill also requires the clerk of a court to forward to the Department of State Health Services or the Department of Aging and Disability Services, as applicable, certain identifying information regarding a person found not guilty by reason of insanity.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 1 (Section 533.0095, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 533, Health and Safety Code, by adding Section 533.0095, as follows:

[While the statutory reference in this section is to the Texas Department of Mental Health and Mental Retardation (MHMR), the following amendment affects the Department of State Health Services and/or the Department of Aging and Disability Services, as successor agencies to MHMR.]

Sec. 533.0095. COLLECTION AND MAINTENANCE OF INFORMATION REGARDING PERSONS FOUND NOT GUILTY BY REASON OF INSANITY. (a) Requires the executive commissioner of the Health and Human Services Commission, by rule, to require the Texas Department of Mental Health and Mental Retardation (department) to collect information and maintain current records regarding certain persons found not guilty of an offense by reason of insanity.

(b) Requires information maintained by the department under this section to include the name and address of the facility to which the defendant is committed.

SECTION 2. Amends Section 4(c), Article 46.03, Code of Criminal Procedure, as follows:

(c) New heading: Provision of Information to Facility and Department. Requires the court to order that the clerk of the court, rather than the court reporters, prepare a transcript of all medical testimony received in both the criminal proceedings and the commitment proceedings and that those transcripts be forwarded, rather than accompany the patient, to the mental health or mental retardation facility. Requires the clerk of the court to prepare and forward certain information to the Department of State Health Services or the Department of Aging and Disability Services, as applicable. Deletes the

requirement that a statement of the facts and circumstances surrounding the alleged offense accompany the patient to the mental health or mental retardation facility. Makes nonsubstantive changes.

SECTION 3. Makes application of the change in law made by this Act to Section 4(c), Article 46.03, Code of Criminal Procedure, prospective.

SECTION 4. Effective date: September 1, 2005.