

BILL ANALYSIS

Senate Research Center
81R81 UM-D

S.B. 1626
By: Wentworth
Health & Human Services
4/9/2009
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, a medical professional may not report threats except under certain circumstances. Even then disclosure is not required, but simply permissible.

As proposed, S.B. 1626 requires mental health professionals to report a threat of physical violence against a reasonably identifiable person communicated by a patient to a local law enforcement agency if the professional determines in good faith that disclosure of the threat is necessary to protect the health and safety of the person. The bill requires the peace officer who receives the report to make a written report containing certain information and provide a copy of the report to certain agencies for record-keeping purposes.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 611.004, Health and Safety Code, by adding Subsection (e), as follows:

(e) Requires a professional to whom a patient communicates a threat of physical violence against a reasonably identifiable person to report the threat to a local law enforcement agency if the professional determines in good faith that disclosure of the threat is necessary to protect the health and safety of a person. Provides that a professional who discloses confidential information in accordance with this subsection is immune from civil or criminal liability for that disclosure.

SECTION 2. Amends Title 1, Code of Criminal Procedure, by adding Chapter 5A, as follows:

CHAPTER 5A. PREVENTION OF CERTAIN THREATENED PHYSICAL VIOLENCE

Art. 5A.01. **REPORTS OF VIOLENT THREATS REQUIRED.** (a) Requires a peace officer who receives from a mental health professional a report of a threat of physical violence in accordance with Section 611.004(e), Health and Safety Code, to make a written report that includes the names of the person making the threat, the person who is the reasonably identifiable target of the threat, the mental health professional making the report and a description of the threat.

(b) Requires a peace officer who receives from a mental health professional a report of a threat of physical violence in accordance with Section 611.004(e), Health and Safety Code, to provide a copy of the report to the Department of State Health Services (DSHS) and the bureau of identification and records of the Department of Public Safety of the State of Texas (DPS) for the bureau's recordkeeping function under Section 411.042 (Bureau of Identification and Records), Government Code.

ART. 5A.02. **CERTAIN RECORDKEEPING REQUIRED.** (a) Requires each local law enforcement agency to establish a departmental code for identifying and retrieving reports received under Article 5A.01.

(b) Requires each local law enforcement agency, in order to ensure that an officer investigating an incident or responding to a disturbance call that involves or may involve physical violence or threats of physical violence is aware of the existence of a report made under Article 5A.01(a), to establish procedures within the agency to provide to officers adequate information or access to information concerning the identity of a person identified in a report as a person who has previously made a threat of physical violence.

(c) Entitles the district or county attorney exercising authority in the county in which the law enforcement agency has jurisdiction to access the records created under this chapter.

SECTION 3. Reenacts Section 411.042(b), Government Code, as amended by Chapters 70 (H.B. 76), 1306 (S.B. 1839) and 1372 (S.B. 9), Acts of the 80th Legislature, Regular Session, 2007, and amends it to require the bureau of identification and records to collect and disseminate information regarding reports of violent threats in compliance with Chapter 5A, Code of Criminal Procedure. Makes nonsubstantive changes.

SECTION 4. Makes application of Section 611.004(e), Health and Safety Code, as added by this Act, prospective.

SECTION 5. Effective date: September 1, 2009.