



Senate

General Assembly

File No. 80

January Session, 2005

Substitute Senate Bill No. 1027

Senate, March 30, 2005

The Committee on Human Services reported through SEN. HANDLEY of the 4th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT AUTHORIZING THE DEPARTMENTS OF MENTAL HEALTH AND ADDICTION SERVICES AND CHILDREN AND FAMILIES TO SHARE CERTAIN INFORMATION AND RECORDS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2005*) (a) If a serious injury or
2 unexpected death of a person being served by the Department of
3 Mental Health and Addiction Services and the Department of Children
4 and Families occurs, each agency may share, in accordance with
5 applicable federal privacy laws, information and records in its custody
6 relating to the care and treatment of said person with the other agency
7 without the consent of said person, provided the information shared is
8 necessary for the purpose of allowing each agency to assist the other in
9 the performance of activities preventing or treating child abuse or
10 neglect relating to the serious injury or unexpected death.

11 (b) The finding of any investigation of a serious injury or
12 unexpected death conducted by the Department of Mental Health and

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

This bill allows the Departments of Mental Health and Addiction Services and Children and Families to share client information in certain circumstances. This is not expected to result in any fiscal impact for either agency.

OLR Bill Analysis

sSB 1027

AN ACT AUTHORIZING THE DEPARTMENTS OF MENTAL HEALTH AND ADDICTION SERVICES AND CHILDREN AND FAMILIES TO SHARE CERTAIN INFORMATION AND RECORDS**SUMMARY:**

This bill permits the departments of Mental Health and Addiction Services (DMHAS) and Children and Families (DCF) to exchange information and records in their custody when a person who both departments serve dies unexpectedly or is seriously injured. (Since DMHAS serves only people age 18 and older and DCF serves people up to age 21, the bill appears to apply only to 18- to 20-years olds.) It allows them to share the information, in accordance with federal law, without the consent of the injured or deceased person. They can do this as long as it is needed to help each department prevent or treat child abuse or neglect related to the injury or death.

The bill exempts the findings of any joint investigation by these departments into an unexpected death or serious injury from disclosure under the Freedom of Information Act. And it prohibits subjecting the findings to disclosure or introduction as evidence in any civil action arising from the death or injury. The bill specifies that it does not restrict disclosing confidential records or communications on which the findings are based when disclosure is required by law.

Under the bill, no one who participates in an investigation can be required or allowed to testify in a civil action, with certain exceptions.

EFFECTIVE DATE: October 1, 2005

COURT TESTIMONY BASED ON INVESTIGATION

The bill prohibits requiring or allowing anyone who participated in a joint agency investigation to testify in any civil action as to the "content of such action." (This term's meaning is uncertain, but it may encompass testimony not directly related to the facts of the case.) But it does not preclude introducing in a civil suit (1) documents that were created independently of the suit; (2) testimony concerning facts that

were the basis for initiating the suit, or (3) the fact that a person's staff privileges were terminated or restricted and the specific restriction. It also permits data discussed or developed during an investigation to be introduced in proceedings concerning the termination or restriction of a health care provider's staff privileges.

BACKGROUND

Federal Laws Applicable to Information and Record Sharing

The Health Insurance Portability and Accountability Act (HIPPA) generally prohibits health care providers, including state health care providers like DMHAS and the agencies with which it contracts, from disclosing protected health information without a person's consent. HIPPA permits disclosure without consent (1) when required by law; (2) to appropriate government agencies regarding victims of abuse, neglect, or domestic violence; (3) in response to an order from a court or administrative tribunal; (4) to health oversight agencies for activities such as audits or investigations; and (5) for law enforcement activities.

The federal Child Abuse Prevention and Treatment Act requires states to preserve the confidentiality of all records in order to protect the rights of children and their parents or guardians. But it permits disclosure (1) to state or local government entities, or their agents, that need the information in order to carry out their legal responsibilities to prevent children from abuse and neglect; (2) when abuse or neglect results in a child fatality or near fatality; and (3) to a court upon a finding that the record is needed to determine an issue before it.

COMMITTEE ACTION

Public Health Committee

Joint Favorable Substitute Change of Reference

Yea 24 Nay 0

Human Services Committee

Joint Favorable Report

Yea 16 Nay 0