

BILL ANALYSIS

Senate Research Center

S.B. 208
By: Haywood
Health & Human Services
1-21-97
As Filed

DIGEST

Currently, the law provides for the confidentiality of mental health records at the request of the person being treated. This makes it difficult for a parents and legal guardians to obtain certain information needed to make decisions relating to the whereabouts, diagnosis, and treatment of dependent patients. This bill establishes conditions under which limited information may be released by a physician about a patient.

PURPOSE

As proposed, S.B. 208 establishes requirements relating to the disclosure of limited information regarding certain patients of a physician to a parent or guardian.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 576.005, Health and Safety Code, by amending Subsections (c) and (d) and adding Subsections (e)-(g), Health and Safety Code, to prohibit disclosure under Subsection (b) if the patient gives contrary written instructions to the treating physician, except as provided in Subsection (d). Authorizes a physician without regard to the patient's written instructions to disclose information about the patient's location to the patient's parent or guardian in identifying a patient. Requires the physician to disclose to the legally authorized representative (representative) only that the requested records exist and that the patient is in the facility, if the physician has reason to believe that disclosure to a representative under this section would be harmful to the patient. Requires the treating physician to inform the representative of the physician's belief that the release of additional information would be harmful to the patient. Requires the physician to report to the Department of Protective and Regulatory Services (department) the representative's request for information and to request that the department obtain a protective order on the patient's behalf. Requires the court to determine what information should and should not be disclosed and to issue any appropriate orders if a hearing on the motion for a protective order is held. Redefines "legally authorized representative." Makes conforming changes.

SECTION 2. Emergency clause.
Effective date: upon passage.