

HOUSE BILL REPORT

SSB 5188

As Reported By House Committee On:
Criminal Justice & Corrections

Title: An act relating to offenders.

Brief Description: Revising policies concerning health care and information about the health status of inmates.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Goings, Long, Hargrove, Zarelli, Schow, Winsley and Rasmussen).

Brief History:

Committee Activity:

Criminal Justice & Corrections: 3/26/97, 4/4/97 [DPA].

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: Do pass as amended. Signed by 13 members: Representatives Ballasiotes, Chairman; Benson, Vice Chairman; Koster, Vice Chairman; Quall, Ranking Minority Member; O'Brien, Assistant Ranking Minority Member; Blalock; Cairnes; Delvin; Dickerson; Hickel; Mitchell; Robertson and Sullivan.

Staff: Yvonne Walker (786-7841).

Background: Generally, medical records and information about a patient's health care status are confidential and protected from disclosure unless the patient authorizes their release. The confidentiality protections in current state law are not forfeited by offenders when they are convicted of crimes or incarcerated.

Current law requires disclosure of a patient's medical information without the patient's authorization under limited circumstances.

Mandatory disclosure may only occur when: (a) the disclosure is to federal, state, or local public health authorities for the purposes of protecting the public health or when necessary to determine a provider's compliance with federal or state regulations; (b) the disclosure is to federal, state, or local law enforcement agencies as required by law; or (c) the disclosure is pursuant to a compulsory process as provided in state law and the patient has not obtained a protective order.

Additional exceptions exist to the medical confidentiality laws which allow disclosure without a patient's authorization. They include, among others things, disclosures made among medical professionals involved in the treatment or care of the patient; made for the protection of the health and safety of others; made orally to immediate family members; and those disclosures made for the purposes of research, quality control, and audits.

Summary of Amended Bill: An additional exception is added to the circumstances under which a patient's medical information must be disclosed without the patient's authorization.

The Department of Corrections (DOC) and local correctional facilities are required, upon request, to disclose health care information about inmates when: (1) an offender is sentenced to death; or (2) an offender puts his or her health status at issue by using it (as defined in RCW 9.94A.030) as a grounds for an appeal, personal restraint petition, pardon, or clemency petition.

Amended Bill Compared to Substitute Bill: The Department of Corrections (DOC) and local correctional facilities are required, upon request, to disclose health care information about inmates when: (1) an offender is sentenced to death; or (2) an offender puts his or her health status at issue by using it (as defined in RCW 9.94A.030 instead of RCW 9.9A.030) as a grounds for an appeal, personal restraint petition, pardon, or clemency petition.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Amended Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: None.

Testimony Against: The people's interest should always override any inmate's interest. This bill seems unnecessary especially since an exception already exists for disclosure of medical records necessary to protect the public's health or safety. The privacy rights of criminals should never prevail over the legitimate right of the public to know what is going on in the courts, prisons, and with their tax dollars.

Testified: Terry Kohl, Washington Association of Criminal Defense Lawyers.