

# HOUSE BILL ANALYSIS

## HB 2513

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**Brief Description:** Providing for the release of mental health information under certain circumstances.

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**Sponsors:** Representatives Ballisiotes and O'Brien.

**Hearing:** January 26, 2000

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### HOUSE COMMITTEE ON CRIMINAL JUSTICE AND CORRECTIONS

#### **BACKGROUND:**

Pre-Sentence Reports. Before imposing a sentence upon an offender a court usually conducts a pre-sentence hearing. At that time, the court may order the Department of Corrections (DOC) to complete a pre-sentence report to assist the trial court in sentencing the offender after he or she has been convicted. A pre-sentence report usually includes an offender's prior convictions, prior arrests, employment history, education history, and family and social background.

Release Plans. Prior to an offender's release from confinement, a release plan may be developed for the purpose of determining the offender's risk to the community and to plan for any needed treatment and support services that may be needed during his or her transition back into the community.

Mental health providers usually do not provide mental health records or reports to the DOC on a regular basis for pre-sentencing or post sentencing purposes, regarding mental health services provided to an offender while voluntarily or involuntarily under their care.

#### **SUMMARY OF BILL:**

Mental health providers are required to release records and reports to the Department of

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Corrections regarding offenders sentence under the Sentencing Reform Act.

Pre-Sentence Reports & Release Plans. Upon the Department of Corrections' request, all relevant reports and records relating to mental health services delivered to a person sentenced or being sentenced under the Sentencing Reform Act, must be released to the department. The information must be used for the purposes of completing a pre-sentence investigation, or for the supervision of an incarcerated person, or for determining a person's risk to the community upon his or her release. The request must be in writing and does not require the consent of the offender subject of the record.

The Department of Social and Health Services and the DOC, in consultation with regional support networks, mental health service providers, mental health consumers, and advocates for persons with mental illness, must adopt rules regarding the release of such records including the type and scope of information to be released. These rules must establish requirements for notifying all persons under the supervision of the DOC regarding the release of such records.

Any information received by the DOC may be released to the Indeterminate Sentencing Review Board (ISRB). Further disclosure by the ISRB must be consistent with any written policy of the board. In addition, the DOC may also share any mental health information received with other agencies or to the general public for purposes of completing a presentence investigation, supervision of a person, or for determining an offender's risk to the community. All records that are disclosed must be in a manner that is consistent with written policy to be developed by the DOC.

The decision to disclose or not to disclose any mental health information relating to an offender will not result in civil liability for the DOC, any employees of the DOC, the ISRB, or any employees of the ISRB, so long as the decision was reached in good faith. In addition, no mental health service provider or individual employed by a mental health service provider will be held liable for information released to or used by the DOC.

Whenever federal law or federal regulations restrict the release of information contained in the treatment records of any patient who receives treatment for alcoholism or drug dependency, the release of the information may be restricted as necessary to comply with federal law and regulations.

**FISCAL NOTE:** Requested on January 19, 2000.

**EFFECTIVE DATE:** Ninety days after adjournment of a session in which bill is passed.