

SENATE BILL REPORT

ESSB 6106

As Passed Senate, February 11, 2006

Title: An act relating to disclosure of health care information for law enforcement purposes.

Brief Description: Requiring disclosure of specified health care information for law enforcement purposes.

Sponsors: Senate Committee on Health & Long-Term Care (originally sponsored by Senator Brandland).

Brief History:

Committee Activity: Health & Long-Term Care: 1/26/06, 1/30/06 [DPS].

Passed Senate: 2/11/06, 43-0.

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

Majority Report: That Substitute Senate Bill No. 6106 be substituted therefor, and the substitute bill do pass.

Signed by Senators Keiser, Chair; Thibaudeau, Vice Chair; Deccio, Ranking Minority Member; Benson, Brandland, Franklin, Johnson, Kastama, Kline, Parlette and Poulsen.

Staff: Edith Rice (786-7444)

Background: The Health Insurance Portability and Accountability Act (HIPAA) established federal standards for disclosure of protected health care information by health care providers, including hospitals. Both state law and HIPAA govern disclosure of health care information.

Engrossed Substitute Senate Bill 5158 enacted in 2005 addressed a variety of state health care information disclosure issues, including patient authorization for release of health care information, and clarifying information that allows a health care provider to disclose information to a law enforcement official that the provider in good faith believes constitutes evidence of criminal conduct that occurred on the premises. This same law enables a provider to disclose basic identifying information about a patient brought in by a public authority (fire, police, sheriff). However, current law does not provide for the mandatory release of health care information to law enforcement.

Although dental files can be made available to law enforcement agencies attempting to locate missing persons, there is currently no standard set for the quality of copies of dental records to be provided, nor is there a provision made for circumstances where next of kin cannot be located or refuse to provide consent to release of the missing person's dental records.

Summary of Bill: A health care provider is required to disclose health care information about a patient without the patient's consent upon request of local, state, or federal law enforcement authorities for any patient who has been, or is being, treated for any injury arising from (1) the discharge of a firearm; (2) a sharp or pointed instrument which law enforcement

authorities reasonably believe to have been intentionally inflicted; or (3) a blunt force injury which law enforcement authorities reasonably believe resulted from a criminal act. Law enforcement authorities can make the request for the information orally or in writing to a nursing supervisor, administrator, or designated privacy official.

An individual responding to such a request must provide the following information about the patient, if known: name, address, gender, age, condition, diagnosis, status of consciousness upon admission, provider name, whether or not the patient has been transferred to another facility, and the patient's discharge time and date.

A definition is provided for "federal, state, or local law enforcement authorities." It includes those authorities who are empowered by law to investigate or prosecute alleged or potential criminal violations of law.

In the case of a person reported missing and not found within 30 days of the report, diagnostic quality copies of the missing person's dental records must be provided by the missing person's dentist if presented with written consent from the person's family. In the event family cannot be located, law enforcement authorities may submit a statement that the next of kin could not be located, or that the next of kin have refused to consent, and law enforcement authorities have reason to believe they may have been involved in the missing person's disappearance.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Takes effect immediately.

Testimony For: Medical staff are concerned about releasing information about patients under the HIPAA law. When we can't get the information, we lose witnesses, and we lose the ability to process the crime scene. Unless state law requires the hospital to release the information, they can't. We support the concept, but would like to see it more narrowly applied, for criminal offenses.

Testimony Against: None.

Who Testified: PRO: Nathan Janes, Seattle Police Department; Leo Port, Seattle Police Dept., Legal Adviser; Ken Bertrand, Group Health.

House Amendment(s): It is specified that the written or oral request for information must be made to a nursing supervisor, administrator, or designated privacy official. Case is referred to in the singular, and the reference to "any other injury" is removed.