



**House
Legislative
Analysis
Section**

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MENTAL HEALTH: DUTY TO WARN

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House Bill 4237
Committee: Mental Health

House Bill 4238
Committee: Public Health
Sponsor: Rep. David Gubow

Complete to 3-6-89

A SUMMARY OF HOUSE BILLS 4237 AND 4238 AS INTRODUCED 2-21-89

House Bill 4237 would amend the Mental Health Code to create a "duty to warn" for mental health practitioners when a patient they were treating threatened imminent physical violence against some third person. More specifically, when a patient being treated by a psychiatrist, a psychologist, or a psychiatric social worker threatened physical violence against a third party, the mental health practitioner would have a duty to warn the threatened person or to take "reasonable precautions" to protect the threatened person from the patient. There would be a "rebuttable presumption" that a mental health practitioner had discharged this "duty to warn" if he or she did one or more of the following: hospitalized the patient under the appropriate provisions of the Mental Health Code; removed the risk by medicating or otherwise treating the patient; or warned the threatened person and notified the appropriate law enforcement agency of the threat. Mental health practitioners who complied with this newly-created duty to warn would not be in violation of the various legal restrictions on privileged communications, physician-patient privilege, or confidentiality provisions.

MCL 330.1750 and 330.1946

House Bill 4238 would amend the Revised Judicature Act to allow exemptions from the physician-patient privilege provisions of the act. It would prohibit disclosure of certain information "except as otherwise provided by law." The bill is tie-barred to House Bill 4237.

MCL 600.2157