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SFA



BILL ANALYSIS

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Senate Bill 1225 (as enrolled)
Sponsor: Senator Jon Cisky
Senate Committee: Families, Mental Health and Human Services
House Committee: Judiciary

PUBLIC ACT 497 of 1998

Date Completed: 1-22-99

CONTENT

The bill amended the Mental Health Code to allow a Family Independence Agency (FIA) caseworker or administrator to have access to a person's mental health records or information under certain circumstances involving an investigation of child abuse or child neglect.

The bill will take effect on March 1, 1999.

Under the bill, if there is a compelling need for mental health records or information to determine whether child abuse or child neglect has occurred, or to take action to protect a minor in a case in which there may be a substantial risk of harm, an FIA caseworker or administrator directly involved in the investigation must notify a mental health professional that a child abuse or neglect investigation has been initiated involving a person who has received services from that professional. The FIA employee must request, in writing, mental health records and information that are pertinent to that investigation.

Upon receiving the notification and request, the mental health professional must review all mental health records and information in his or her possession to determine whether there are mental health records or information pertinent to the investigation. Within 14 days after receiving the request, the mental health professional must release the pertinent records and information to the FIA caseworker or administrator.

The following privileges do not apply to mental health records or information to which access is given under the bill:

- The physician-patient privilege created in the Public Health Code (MCL 333.2157).
- The dentist-patient privilege created in the Public Health Code (MCL 333.16648).
- The licensed professional counselor-client and limited licensed counselor-client

privilege created in the Public Health Code (MCL 333.18117).

- The psychologist-patient privilege created in the Public Health Code (MCL 333.18237).
- Any other health professional-patient privilege created or recognized by law.

To the extent not protected by immunity under the governmental immunity Act, a person who in good faith gives access to mental health records or information under the bill is immune from civil or administrative liability arising from that conduct, unless the conduct constitutes gross negligence or willful and wanton misconduct.

A duty under the bill relating to child abuse and neglect does not alter a duty imposed under another statute, including the Child Protection Law, regarding the reporting or investigation of child abuse or neglect.

MCL 330.1100a et al.

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: S. Angelotti

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.