

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 18 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 11-10-4-9 IS ADDED TO THE INDIANA CODE
- 4 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
- 5 JULY 1, 2006]: **Sec. 9. (a) As used in this section, "mental health**
- 6 **record" has the meaning set forth in IC 12-18-2-226.**
- 7 **(b) A psychiatrist or a mental health facility may, with or**
- 8 **without the offender's consent, provide a copy of an offender's**
- 9 **mental health record to a facility or an agency responsible for the**
- 10 **incarceration of an offender. Any mental health records provided**
- 11 **under this subsection shall become part of the offender's health**
- 12 **record maintained by the facility or agency responsible for the**
- 13 **incarceration of an offender.**
- 14 **(c) If an offender is transferred to a different facility, the**
- 15 **offender's mental health records must be provided to the facility**
- 16 **that is used to:**
- 17 **(1) house; or**
- 18 **(2) provide mental health treatment to;**
- 19 **the offender, including a county jail or a community mental health**
- 20 **center.**
- 21 **(d) The department shall maintain health records for each**
- 22 **offender incarcerated by the department. After an offender is**
- 23 **released from incarceration, the department shall provide the**
- 24 **offender's mental health records, if any, to a mental health facility**
- 25 **or mental health provider who is providing mental health**

1 **treatment to the offender."**

2 Page 2, between lines 24 and 25, begin a new paragraph and insert:

3 "SECTION 7. IC 16-39-2-6 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. (a) Without the
5 consent of the patient, the patient's mental health record may only be
6 disclosed as follows:

7 (1) To individuals who meet the following conditions:

8 (A) Are employed by:

9 (i) the provider at the same facility or agency;

10 (ii) a managed care provider (as defined in
11 IC 12-7-2-127(b)); or

12 (iii) a health care provider or mental health care provider, if
13 the mental health records are needed to provide health care
14 or mental health services to the patient.

15 (B) Are involved in the planning, provision, and monitoring of
16 services.

17 (2) To the extent necessary to obtain payment for services
18 rendered or other benefits to which the patient may be entitled, as
19 provided in IC 16-39-5-3.

20 (3) To the patient's court appointed counsel and to the Indiana
21 protection and advocacy services commission.

22 (4) For research conducted in accordance with IC 16-39-5-3 and
23 the rules of the division of mental health and addiction, the rules
24 of the division of disability, aging, and rehabilitative services, or
25 the rules of the provider.

26 (5) To the division of mental health and addiction for the purpose
27 of data collection, research, and monitoring managed care
28 providers (as defined in IC 12-7-2-127(b)) who are operating
29 under a contract with the division of mental health and addiction.

30 (6) To the extent necessary to make reports or give testimony
31 required by the statutes pertaining to admissions, transfers,
32 discharges, and guardianship proceedings.

33 (7) To a law enforcement agency if any of the following
34 conditions are met:

35 (A) A patient escapes from a facility to which the patient is
36 committed under IC 12-26.

37 (B) The superintendent of the facility determines that failure to
38 provide the information may result in bodily harm to the
39 patient or another individual.

40 (C) A patient commits or threatens to commit a crime on
41 facility premises or against facility personnel.

42 (D) A patient is in the custody of a law enforcement officer or
43 agency for any reason and:

44 (i) the information to be released is limited to medications
45 currently prescribed for the patient or to the patient's history
46 of adverse medication reactions; and

47 (ii) the provider determines that the release of the medication

- 1 information will assist in protecting the health, safety, or
 2 welfare of the patient.
- 3 Mental health records released under this clause must be
 4 maintained in confidence by the law enforcement agency
 5 receiving them.
- 6 (8) To a coroner or medical examiner, in the performance of the
 7 individual's duties.
- 8 (9) To a school in which the patient is enrolled if the
 9 superintendent of the facility determines that the information will
 10 assist the school in meeting educational needs of a person with a
 11 disability under 20 U.S.C. 1400 et seq.
- 12 (10) To the extent necessary to satisfy reporting requirements
 13 under the following statutes:
- 14 (A) IC 12-10-3-10.
 15 (B) IC 12-17-2-16.
 16 (C) IC 12-24-17-5.
 17 (D) IC 16-41-2-3.
 18 (E) IC 31-33-5-4.
 19 (F) IC 34-30-16-2.
 20 (G) IC 35-46-1-13.
- 21 (11) To the extent necessary to satisfy release of information
 22 requirements under the following statutes:
- 23 **(A) IC 11-10-4-9.**
 24 ~~(A)~~ (B) IC 12-24-11-2.
 25 ~~(B)~~ (C) IC 12-24-12-3, IC 12-24-12-4, and IC 12-24-12-6.
 26 ~~(C)~~ (D) IC 12-26-11.
- 27 (12) To another health care provider in a health care emergency.
- 28 (13) For legitimate business purposes as described in
 29 IC 16-39-5-3.
- 30 (14) Under a court order under IC 16-39-3.
- 31 (15) With respect to records from a mental health or
 32 developmental disability facility, to the United States Secret
 33 Service if the following conditions are met:
- 34 (A) The request does not apply to alcohol or drug abuse
 35 records described in 42 U.S.C. 290dd-2 unless authorized by
 36 a court order under 42 U.S.C. 290dd-2(b)(2)(c).
 37 (B) The request relates to the United States Secret Service's
 38 protective responsibility and investigative authority under 18
 39 U.S.C. 3056, 18 U.S.C. 871, or 18 U.S.C. 879.
 40 (C) The request specifies an individual patient.
 41 (D) The director or superintendent of the facility determines
 42 that disclosure of the mental health record may be necessary to
 43 protect a person under the protection of the United States
 44 Secret Service from serious bodily injury or death.
 45 (E) The United States Secret Service agrees to only use the
 46 mental health record information for investigative purposes
 47 and not disclose the information publicly.

- 1 (F) The mental health record information disclosed to the
2 United States Secret Service includes only:
3 (i) the patient's name, age, and address;
4 (ii) the date of the patient's admission to or discharge from
5 the facility; and
6 (iii) any information that indicates whether or not the patient
7 has a history of violence or presents a danger to the person
8 under protection.
9 (16) To the statewide waiver ombudsman established under
10 IC 12-11-13, in the performance of the ombudsman's duties.
11 (b) After information is disclosed under subsection (a)(15) and if the
12 patient is evaluated to be dangerous, the records shall be interpreted in
13 consultation with a licensed mental health professional on the staff of
14 the United States Secret Service.
15 (c) A person who discloses information under subsection (a)(7) or
16 (a)(15) in good faith is immune from civil and criminal liability."
17 Renumber all SECTIONS consecutively.
(Reference is to ESB 18 as printed February 17, 2006.)

Representative Brown T