

Senate Fiscal Agency
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SFA



BILL ANALYSIS

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Senate Bill 862 (as enrolled)
Sponsor: Senator Robert Geake
Senate Committee: Health Policy and Senior Citizens
House Committee: Health Policy

Date Completed: 7-8-98

RATIONALE

Some health facility or agency administrators contend that in recent years there have been a number of incidents in which persons have come upon health facility property and threatened or intimidated patients and/or staff, or caused disruptions in operations. The Public Health Code does not specifically prohibit persons from entering a health facility and intimidating, threatening, or frightening patients or employees. Although individuals who are disturbed or threatened may bring a civil action or agree to press criminal charges, the victim may refuse to pursue the matter and health facilities themselves have no recourse. While there are general statutes against trespassing, some people feel that they are inadequate in this case, and that patients and their caretakers should be afforded special protection against certain behaviors.

CONTENT

The bill would amend the Public Health Code to prohibit an individual from entering upon the premises of a health facility or agency that was an inpatient facility, outpatient facility, or residential facility for the purpose of engaging in an activity that would cause a reasonable person to feel, and that actually caused a health facility or agency employee, patient, or visitor to feel, terrorized, frightened, intimidated, threatened, harassed, or molested. A person who violated the prohibition would be guilty of a misdemeanor, punishable by imprisonment for up to one year, a fine of at least \$1,000 but not more than \$10,000, or both.

The bill would not prohibit "constitutionally protected activity or conduct that serves a legitimate purpose".

Under the Code, a "health facility or agency" is a clinical lab; county medical care facility;

freestanding surgical outpatient facility; health maintenance organization; home for the aged; hospital; hospice; hospice residence; an ambulance operation, aircraft transport operation, nontransport prehospital life support operation, or medical first response service; or a nursing home.

The bill specifies that its provisions would not apply to a nursing home covered under Sections 21763(5) and 21799c(1)(c). These sections were amended by Public Act 546 of 1996, which placed in the Code prohibitions and penalties similar to those proposed in Senate Bill 862 for health facilities or agencies.

Proposed MCL 333.20198

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Recently there have been an increasing number of complaints from health facilities about disruptive activity by individuals on those properties. These disruptions can have a heightened effect on frail or ill patients and the staff that cares for them, and can contribute to increased levels of fear, confusion, and stress. Currently, while there are general laws against trespassing, there are no laws specific to conduct on health facilities property. The bill would make clear that behavior resulting in specific emotional responses by staff, visitors, and residents would allow health facilities to press charges and subject violators to criminal penalties. Since the language in the bill is modeled after language in the stalking law, there already is case law to help frame the type of behavior or activity that would result in a penalty. In addition, the bill's penalty provisions are identical to those enacted by

Public Act 546 of 1996, which prohibits the same type of conduct in nursing homes. Like that Act, the bill also specifies that constitutional activities would remain protected. In short, patients in health facilities represent a vulnerable segment of our population, and they need and deserve to be protected. By imposing criminal penalties on those individuals who, through their behavior, frighten and terrorize patients, employees, and visitors, the bill would create a safer environment for all required to work in and be treated in health facilities.

Opposing Argument

The bill makes no distinction between repeated behaviors and one-time occurrences. Some people feel that because of the vagueness of the language it could be used against family members or legitimate representatives of advocacy groups who complain, perhaps vehemently, about inadequate care or safety violations at a health facility. A family member could be banned and even face criminal penalties just because an employee claimed to feel terrorized, intimidated, or harassed by a family member upset in finding that his or her relative was receiving substandard care or living in unsafe conditions.

Response: The bill specifically would protect conduct that served a legitimate purpose, or was a constitutionally protected activity.

Legislative Analyst: G. Towne

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on local government and no fiscal impact on State government.

There are no data to indicate how many people may be convicted of intimidating, threatening, harassing, or molesting health facility or agency personnel, patients, or visitors. To the extent that the proposed legislation would create a misdemeanor with up to 12 months of incarceration and/or a fine, local government would incur the cost of incarceration or receive fine revenues.

Fiscal Analyst: K. Firestone

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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.