

## HB 435 -- Mental Health Patient Abuse

Sponsor: Stevenson

This bill creates the crime of abuse of a vulnerable person in the first, second, and third degrees. A "vulnerable person" is defined as a person with a physical or mental disability who is unable to protect his or her own interests.

A person commits the crime of abuse of a vulnerable person in the first degree, a class A felony, if the person attempts to kill or knowingly causes or attempts to cause serious physical injury to any person receiving mental health services.

A person commits the crime in the second degree, a class B felony, if the health care provider knowingly causes or attempts to cause physical injury to a vulnerable person by means of a deadly weapon or recklessly causes serious physical injury to a mental health patient.

A health care provider commits the crime in the third degree, a class A misdemeanor, if the provider:

- (1) Knowingly causes or attempts to cause physical contact with a patient knowing that the patient will regard the contact as harmful or provocative;
- (2) Knowingly engages in conduct on more than one occasion that causes grave emotional distress to a patient;
- (3) Purposely or knowingly places a patient in apprehension of immediate physical injury;
- (4) Intentionally fails to provide care to a patient in a manner consistent with an acceptable course of treatment for the person; or
- (5) Knowingly acts or knowingly fails to act in a manner which results in a grave risk to the life or health of a patient.

The bill also:

- (1) Requires that when abuse is suspected a written or verbal report should be made to the appropriate authorities. Failure to do so in a reasonable amount of time will be a class A misdemeanor and may be subject to a \$500 fine;
- (2) Specifies that any residential facility, day program, or specialized service operated, funded, or licensed by the Department of Mental Health that prevents or discourages a person

from reporting abuse or neglect is subject to a loss of license and civil fines up to \$5,000;

(3) Requires identifying information in investigative reports pertaining to abuse and neglect to remain confidential. The information may only be released to the parent or guardian;

(4) Changes potential civil penalties for noncompliance with rules and standards for treatment of persons affected by mental disorders from \$100 to \$10,000;

(5) Requires the department director to establish a panel to review the deaths of all adults in the care and custody of the department and to establish guidelines for the fatality review panel, coroners, medical examiners, hospitals, and physicians to identify suspicious deaths;

(6) Specifies that no civil action may be taken against any employee who reports or discusses job performance that affects the safety of consumers; and

(7) Requires a hospital, medical professional, mental health professional, or department facility to release all records of any client in the care and custody of the department to the review panel.