

HB 436 -- Mental Health Patient Abuses

Sponsor: Zweifel

This bill creates the crime of abuse of a mental health patient in the first, second, and third degrees; sexual contact with a mental health patient; and sexual intercourse with a mental health patient.

A person commits the crime of abuse of a mental health patient 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 mental health patient 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 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; and

(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 requires any health care provider who has reason to suspect that the patient has been subjected to abuse or neglect to immediately report the abuse to the Department of Mental Health. Failure to make this report, or filing a false report, is a class A misdemeanor. A second or subsequent offense is a class D felony. Any person or institution making a report in good faith is immune from civil or criminal liability.

It is illegal for an owner or employee of a mental health facility or an Alzheimer's unit to have sexual contact, sexual

intercourse, or deviate sexual intercourse with a patient. Consent of the victim is not a defense to these crimes. Sexual contact with a patient is a class B misdemeanor; a second or subsequent offense is a class D felony. Sexual intercourse or deviate sexual intercourse with a patient is a class A misdemeanor; a second or subsequent offense is a class C felony.