

### Fiscal Estimate - 2001 Session

Original       Updated       Corrected       Supplemental

<b>LRB Number</b> <b>01-2882/1</b>		<b>Introduction Number</b> <b>SB-237</b>	
<b>Subject</b> Require that prescription information be treated as a patient health care record or mental health treatment record for confidentiality			
<b>Fiscal Effect</b>			
<b>State:</b>			
<input checked="" type="checkbox"/> No State Fiscal Effect			
<input type="checkbox"/> Indeterminate			
<input type="checkbox"/> Increase Existing Appropriations		<input type="checkbox"/> Increase Existing Revenues	
<input type="checkbox"/> Decrease Existing Appropriations		<input type="checkbox"/> Decrease Existing Revenues	
<input type="checkbox"/> Create New Appropriations		<input type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget	
		<input type="checkbox"/> Yes <input type="checkbox"/> No	
		<input type="checkbox"/> Decrease Costs	
<b>Local:</b>			
<input type="checkbox"/> No Local Government Costs			
<input type="checkbox"/> Indeterminate			
1. <input type="checkbox"/> Increase Costs		3. <input type="checkbox"/> Increase Revenue	
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory		<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	
2. <input type="checkbox"/> Decrease Costs		4. <input type="checkbox"/> Decrease Revenue	
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory		<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	
5. Types of Local Government Units Affected			
<input type="checkbox"/> Towns		<input type="checkbox"/> Village <input type="checkbox"/> Cities	
<input type="checkbox"/> Counties		<input type="checkbox"/> Others	
<input type="checkbox"/> School Districts		<input type="checkbox"/> WTCS Districts	
<b>Fund Sources Affected</b>		<b>Affected Ch. 20 Appropriations</b>	
<input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS			
<b>Agency/Prepared By</b>		<b>Authorized Signature</b>	<b>Date</b>
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## Fiscal Estimate Narratives

DHFS 9/12/01

LRB Number	<b>01-2882/1</b>	Introduction Number	<b>SB-237</b>	Estimate Type	<b>Original</b>
<b>Subject</b>					
Require that prescription information be treated as a patient health care record or mental health treatment record for confidentiality					

### Assumptions Used in Arriving at Fiscal Estimate

Currently, licensed pharmacists, as well as a number of other health care providers, are prohibited from releasing patient health care records unless informed consent is given by the patient (or person authorized by patient). One of the exceptions to this rule is that the health care record can be released if the identity of the patient could not be determined. If a person is injured by the unauthorized release of his or her health care record, the injured person can pursue a civil remedy against the health care provider for actual damages, reasonable actual attorney costs and exemplary damages of not more than \$1,000 (\$25,000 if violation was willful and knowing).

This bill would modify current law in three ways. First, licensed pharmacies, as well as licensed pharmacists, would be included in the definition of health care providers in regards to the above confidentiality requirements. Second, the exception for the release of health care records if the record would not permit identification of the patient is modified, for pharmacy records only, to require that the record cannot identify either the patient or the health care provider. Finally, the bill extends provisions for civil penalties beyond health care providers to include a person that willfully and knowingly obtains confidential pharmacy information. The bill specifies that such a person would be liable for actual damages, reasonable actual attorney fees and exemplary damages of not more than \$25,000.

This bill would have a negligible impact on the Department of Health and Family Services and would not restrict its ability to collect information for operating such health care programs as Medical Assistance. Current statutory provisions authorize access to health care records without informed consent if it is necessary for a state agency to perform a legally authorized function.

### Long-Range Fiscal Implications