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Salvatore Rickford
Operator's Signature

10/16/03
Date

2003 HOUSE HUMAN SERVICES
HB 1425

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Almeta Rickford
Operator's Signature

10/16/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1425

House Human Services Committee

Conference Committee

Hearing Date February 5, 2003

Tape Number	Side A	Side B	Meter #
1	x		0.7 -20.7
2	x		44.8 -48.0
Committee Clerk Signature <i>Sharon Rowland</i>			

Minutes:

Rep. Galvin appeared as prime sponsor stating this bill would allow family members or relatives to be able to have access to medical records of family members who are developmentally disabled in order to do a family history. He also suggested changing heirs to descendants and handed out the South Dakota Statute.

Rep. Amerman asked about the word heirs. Answer: Heirs meant inheritance and feels descendants is a better word.

Rep. Grande appeared in support as cosponsor also stating that checking with Legislative Council they felt heirs was not appropriate and that descendants should be used instead.

Descendants definition meant direct blood line.

David Boeck, Lawyer for Protection and Advocacy Project appeared in opposition with written testimony. (See attached)

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Bill/Resolution Number HB 1425
Hearing Date February 5, 2003

Rep. Kreidt noted that referencing Rep. Galvin's testimony we are presuming that all of these people are dead and gone, there is no possibility to do what you are referencing, I feel in this situation.

Answer: Putting the word descendants in, means the law would apply to people who are alive. If I have a developmental disability and I have children, they would have access to my records right now, assuming I appear alive yet. That is one of the problems with the way this is written. The other is that it only applies to people with developmental disabilities. It doesn't apply to your great great uncle who was never diagnosed with a developmental disability but of whom you have no records. You suspect there's going to be medical records somewhere and try to find them. I think what this bill would do is give access to ALL records and if we want to serve this purpose and I don't object to somebody putting together a family history, we need to define more carefully just what information were going to make open. Generally psychiatric records don't need to be disclosed, I don't know how detailed this family history is going to be. It seems to be unusual to go into lots of the medical issues that someone had while they were alive. I do think that it might be part of a history to describe how the person was treated while alive in 1902 and having a developmental disability. How did we treat people then.

Rep. Amerman asked: if this bill was passed and descendants got the medical records from the relation, is there a law or are they bound by a law to not show it to anyone or can they show it to anyone?

Answer: Mr. Boeck's understanding was that once they have the records, HIPPA (the new medical privacy law) would not prohibit them from putting information in a book and sharing it

Yolanda Richardson
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with anyone they want. Putting it solely in a family history, they just went to other members of the family, I believe there is no protection on that.

Rep. Wieland asked if the bill were to state that the parents of a legal guardian and the subject has deceased, so that there was no one else to ask for these records, would that have an effect on your testimony?

Answer: It would have some affect on my testimony because we wouldn't have the problem of somebody alive now who's records are being examined. But as I stated, lots of codes of professional ethics require confidentiality even after a patient or client has died. There are arguments, some things are private and you don't want them out, whether your dead or alive. I don't think you should have to forfeit that when you have that protection for contacts with a social worker or physician but suddenly this law would change that and I think this law could be amended. It sounds like descendants isn't actually the term that we want, because I believe the scenario with this person has no children, so we might want something other than simply descendants. I also think we would want to define more narrowly what records could be shared with those relatives.

Rep. Devlin asked about a situation with adoption and needed medical information, how does that work with someone that has been in the Center at Grafton or wherever, is that information available through a court order to a family member or what?

Answer: I believe that would be governed by the new provisions of the Federal Health Insurance Portability and Accountability Act and I don't know for sure how that is covered. In adoption laws we tried to open it up so that medical records can be found out, for a narrow purpose and once that purpose is satisfied, that's it.

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Richard Costa
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Rep. Potter asked if we changed the words and verbage, wouldn't there still be a problem with keeping it just developmentally disabled persons and wouldn't we need to expand that also.

Answer: Yes, just limiting it to one category of people because of a disability, seems to me to be a significant problem and as I suggested before, maybe we want some amendments to this although its going to be some pretty significant amendment.

Rep. Kreidt asked that if it works in South Dakota (HB 1427), why wouldn't it work here?

Answer: Doesn't know how South Dakota works and is not familiar with HB 1427 ?

Closed the hearing.

Afternoon Committee:

Rep. Price noted that a parent or legal guardian is what we are having a request for change.

Rep. Amerman stated he would oppose the bill because he is uncomfortable with it.

Rep. Wieland still wonders why they need those records in order to do a family history. It seems real strange to me. But if the language could be amended and if everybody is gone or everybody is deceased and if the individual before he/she passed away or the parents or the legal guardians didn't express that someone couldn't do it. I don't understand that once they are gone, why they couldn't.

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Yolanda Richardson
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10/16/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1425

House Human Services Committee

Conference Committee

Hearing Date February 11, 2003

Tape Number	Side A	Side B	Meter #
1	x		52.0 - 61.1
Committee Clerk Signature <i>Sharon Engstrom</i>			

Minutes: Committee Work

Rep. Price stated that she spoke to Alex Schweitzer of the State Hospital and spoke further to the bill sponsors and the issue is that they don't know where this person is buried, the cause of death and they were not able to get any sort of information. So as a recommendation, they have gone to Vital Statistics to try to get the death certificate, which would give them 5 pieces: date and place of birth, date and place of death and how the death. But the piece they still don't know is was this disability caused by a birth defect, accident or illness, which is the one thing they are concerned about because they have another family member in South Dakota with the South Dakota bill who is developmentally disabled also and they are trying to find out if it is hereditary. Now they can go to court to do that. I also asked Mr. Schweitzer to check to see if there was anyway we could deal with this without passing a law and he has not responded to me. What does the committee wish to do? Amend the bill and pass it, kill the bill or do you wish to try to

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make it work like South Dakota's Law. If you wish, we could have our intern try to amend the bill to mirror South Dakota Law.

Rep. Devlin stated he feels were opening up some privacy things for family members that we shouldn't be doing and I can't support the bill and doesn't know if we can amend the bill enough to fix it.

Rep. Porter moves an amendment on line 7 to change heirs to descendants, second by Rep.

Wieland. 12 - 0 - 1 Amendment passed

Rep. Amerman doesn't like the bill for a number of reasons, one of which as Mr. Boeck stated it is a little bit discriminatory because it only deals with disabled people and recommends DO NOT PASS as AMENDED, second by Rep. Potter. 10 - 2 - 1 Rep. Amerman will carry the bill.

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Salvatore Riccardi
Operator's Signature

10/6/03
Date

38341.0101
Title.0200

Adopted by the Human Services Committee
February 11, 2003

VK
2/11/03

HOUSE AMENDMENTS TO HOUSE BILL NO. 1425 HM 2-12-03

Page 1, line 7, replace "heirs" with "descendants"

Renumber accordingly

Page No. 1

38341.0101

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La Costa Richard
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10/6/03
Date

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Date:
Roll Call Vote #:

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB ~~1425~~ 1425

House _____ HUMAN SERVICES _____ Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DNP as Amended

Motion Made By Rep Amerman Seconded By Rep Potter

Representatives	Yes	No	Representatives	Yes	No
Rep. Clara Sue Price - Chair	✓		Rep. Sally Sandvig	✓	
Rep. Bill Devlin, Vice-Chair	✓		Rep. Bill Amerman	✓	
Rep. Robin Weisz	✓		Rep. Carol Niemeier	A	
Rep. Vonnie Pietsch	✓		Rep. Louise Potter	✓	
Rep. Gerald Uglem	✓				
Rep. Chet Pollert	✓				
Rep. Todd Porter	✓				
Rep. Gary Kreidt		✓			
Rep. Alon Wieland	✓	✓			

Total (Yes) 10 No 2

Absent 1

Floor Assignment Rep Amerman

If the vote is on an amendment, briefly indicate intent:

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Sal Costa Richardson 10/16/03
Operator's Signature Date

