

By: Campos

H.B. No. 1464

A BILL TO BE ENTITLED

1 AN ACT
2 relating to preliminary examination periods for mental health
3 protective custody and the criteria for and duration of certain
4 court-ordered mental health services.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 573.021(b), Health and Safety Code, is
7 amended to read as follows:

8 (b) A person accepted for a preliminary examination may be
9 detained in custody for not longer than 72 [~~48~~] hours after the time
10 the person is presented to the facility unless a written order for
11 protective custody is obtained. The 72-hour [~~48-hour~~] period
12 allowed by this section includes any time the patient spends
13 waiting in the facility for medical care before the person receives
14 the preliminary examination. If the 72-hour [~~48-hour~~] period ends
15 on a Saturday, Sunday, legal holiday, or before 4 p.m. on the first
16 succeeding business day, the person may be detained until 4 p.m. on
17 the first succeeding business day. If the 72-hour [~~48-hour~~] period
18 ends at a different time, the person may be detained only until 4
19 p.m. on the day the 72-hour [~~48-hour~~] period ends. If extremely
20 hazardous weather conditions exist or a disaster occurs, the
21 presiding judge or magistrate may, by written order made each day,
22 extend by an additional 24 hours the period during which the person
23 may be detained. The written order must declare that an emergency
24 exists because of the weather or the occurrence of a disaster.

1 SECTION 2. Sections 574.034(a) and (d), Health and Safety
2 Code, are amended to read as follows:

3 (a) The judge may order a proposed patient to receive
4 court-ordered temporary inpatient mental health services only if
5 the judge or jury finds, from clear and convincing evidence, that:

6 (1) the proposed patient is a person with mental
7 illness; and

8 (2) as a result of that mental illness the proposed
9 patient:

10 (A) poses a substantial risk of causing [~~is~~
11 ~~likely to cause~~] serious harm to the proposed patient, as evidenced
12 by serious threats of attempting suicide, a suicide attempt, or
13 other significant self-inflicted bodily harm;

14 (B) poses a substantial risk of causing [~~is~~
15 ~~likely to cause~~] serious harm to others, as evidenced by violent
16 behavior directed toward others; [~~or~~]

17 (C) is:

18 (i) suffering severe and abnormal mental,
19 emotional, or physical distress;

20 (ii) experiencing substantial mental or
21 physical deterioration of the proposed patient's ability to
22 function independently, which is exhibited by the proposed
23 patient's inability, except for reasons of indigence, to provide
24 for the proposed patient's basic needs, including food, clothing,
25 health, or safety; and

26 (iii) unable to make a rational and
27 informed decision as to whether or not to submit to treatment; or

1 (D) is experiencing severe mental or physical
2 deterioration that, without immediate intervention, poses a
3 substantial risk of severe impairment or injury to the proposed
4 patient.

5 (d) To be clear and convincing under Subsection (a), the
6 evidence must include expert testimony and, unless waived, evidence
7 of a recent overt act or a continuing pattern of behavior that tends
8 to confirm:

9 (1) the likelihood of serious harm to the proposed
10 patient or others; ~~or~~

11 (2) the proposed patient's distress and the
12 deterioration of the proposed patient's ability to function; or

13 (3) the severe deterioration of the proposed patient
14 that poses a substantial risk of impairment or injury to the
15 proposed patient.

16 SECTION 3. Section 574.0345(c), Health and Safety Code, is
17 amended to read as follows:

18 (c) An order for temporary outpatient mental health
19 services shall state that treatment is authorized for not longer
20 than 90 ~~[45]~~ days, except that the order may specify a period not to
21 exceed 180 ~~[90]~~ days if the judge finds that the longer period is
22 necessary.

23 SECTION 4. Sections 574.035(a) and (e), Health and Safety
24 Code, are amended to read as follows:

25 (a) The judge may order a proposed patient to receive
26 court-ordered extended inpatient mental health services only if the
27 jury, or the judge if the right to a jury is waived, finds, from

1 clear and convincing evidence, that:

2 (1) the proposed patient is a person with mental
3 illness;

4 (2) as a result of that mental illness the proposed
5 patient:

6 (A) poses a substantial risk of causing [~~is~~
7 ~~likely to cause~~] serious harm to the proposed patient, as evidenced
8 by serious threats of attempting suicide, a suicide attempt, or
9 other significant self-inflicted bodily harm;

10 (B) poses a substantial risk of causing [~~is~~
11 ~~likely to cause~~] serious harm to others, as evidenced by violent
12 behavior directed toward others; [~~or~~]

13 (C) is:

14 (i) suffering severe and abnormal mental,
15 emotional, or physical distress;

16 (ii) experiencing substantial mental or
17 physical deterioration of the proposed patient's ability to
18 function independently, which is exhibited by the proposed
19 patient's inability, except for reasons of indigence, to provide
20 for the proposed patient's basic needs, including food, clothing,
21 health, or safety; and

22 (iii) unable to make a rational and
23 informed decision as to whether or not to submit to treatment; or

24 (D) is experiencing severe mental or physical
25 deterioration that, without immediate intervention, poses a
26 substantial risk of severe impairment or injury to the proposed
27 patient;

1 (3) the proposed patient's condition is expected to
2 continue for more than 90 days; and

3 (4) the proposed patient has received court-ordered
4 inpatient mental health services under this subtitle or under
5 Chapter 46B, Code of Criminal Procedure, for at least 60
6 consecutive days during the preceding 12 months.

7 (e) To be clear and convincing under Subsection (a), the
8 evidence must include expert testimony and evidence of a recent
9 overt act or a continuing pattern of behavior that tends to confirm:

10 (1) the likelihood of serious harm to the proposed
11 patient or others; ~~or~~

12 (2) the proposed patient's distress and the
13 deterioration of the proposed patient's ability to function; or

14 (3) the severe deterioration of the proposed patient
15 that poses a substantial risk of impairment or injury to the
16 proposed patient.

17 SECTION 5. The change in law made by this Act to Section
18 573.021, Health and Safety Code, applies to an emergency detention
19 that begins on or after the effective date of this Act. An emergency
20 detention that begins before the effective date of this Act is
21 governed by the law as it existed immediately before that date, and
22 that law is continued in effect for that purpose.

23 SECTION 6. The changes in law made by this Act to Chapter
24 574, Health and Safety Code, apply only to a proceeding for
25 court-ordered mental health services that occurs on or after the
26 effective date of this Act, regardless of when an offense with which
27 the defendant is charged was committed.

1 SECTION 7. This Act takes effect September 1, 2023.