

By: Reynolds

H.B. No. 4009

A BILL TO BE ENTITLED

AN ACT

1
2 relating to procedures applicable to the emergency detention of a
3 person with mental illness at a mental health facility, including
4 the detention, transportation, and transfer of the person and to
5 certain best practices for courts with jurisdiction over emergency
6 mental health matters.

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

8 SECTION 1. Section 573.001(d), Health and Safety Code, is
9 amended to read as follows:

10 (d) A peace officer who takes a person into custody under
11 Subsection (a) shall immediately~~+~~

12 [~~(1)~~] transport the apprehended person to:

13 (1) [~~(A)~~] the nearest appropriate inpatient mental
14 health facility located within 100 miles from where the person was
15 apprehended; or

16 (2) the nearest hospital emergency department, if the
17 person is in need of emergency medical care [~~(B)~~ ~~a mental health~~
18 ~~facility deemed suitable by the local mental health authority, if~~
19 ~~an appropriate inpatient mental health facility is not available,~~
20 ~~or~~

21 [~~(2)~~ ~~transfer the apprehended person to emergency~~
22 ~~medical services personnel of an emergency medical services~~
23 ~~provider in accordance with a memorandum of understanding executed~~
24 ~~under Section 573.005 for transport to a facility described by~~

1 ~~Subdivision (1)(A) or (B)]~~.

2 SECTION 2. Subchapter B, Chapter 573, Health and Safety
3 Code, is amended by adding Section 573.013 to read as follows:

4 Sec. 573.013. JUDICIAL BEST PRACTICES AND PROCEDURES. The
5 Office of Court Administration of the Texas Judicial System shall
6 develop and provide to each court in the state with jurisdiction to
7 hear emergency mental health matters under this chapter best
8 practices and procedures for ensuring that a judge or magistrate is
9 available 24 hours a day, seven days a week to respond to
10 applications for emergency detention under Section 573.012(h).

11 SECTION 3. Sections 573.021(a), (b), and (d), Health and
12 Safety Code, are amended to read as follows:

13 (a) A mental health facility shall temporarily accept a
14 person for whom an application for detention is filed or for whom a
15 peace officer or emergency medical services personnel of an
16 emergency medical services provider transporting the person in
17 accordance with a memorandum of understanding executed under
18 Section 573.005 files a notification of detention completed by the
19 peace officer under Section 573.002(a).

20 (b) A person accepted for a preliminary examination may be
21 detained in custody for not longer than 48 hours after the time the
22 person is presented to the mental health facility unless a written
23 order for protective custody is obtained. The 48-hour period
24 allowed by this section includes any time the patient spends
25 waiting in the mental health facility for medical care before the
26 person receives the preliminary examination. If the 48-hour
27 period ends on a Saturday, Sunday, legal holiday, or before 4 p.m.

1 on the first succeeding business day, the person may be detained
2 until 4 p.m. on the first succeeding business day. If the 48-hour
3 period ends at a different time, the person may be detained only
4 until 4 p.m. on the day the 48-hour period ends. If extremely
5 hazardous weather conditions exist or a disaster occurs, the
6 presiding judge or magistrate may, by written order made each day,
7 extend by an additional 24 hours the period during which the person
8 may be detained. The written order must declare that an emergency
9 exists because of the weather or the occurrence of a disaster.

10 (d) A mental health facility must comply with this section
11 only to the extent that the commissioner determines that a mental
12 health facility has sufficient resources to perform the necessary
13 services under this section.

14 SECTION 4. Section [573.022](#), Health and Safety Code, is
15 amended by amending Subsection (c) and adding Subsections (d) and
16 (e) to read as follows:

17 (c) A facility that has admitted a person for emergency
18 detention under Subsection (a) or to which a person has been
19 transported under Subsection (b) may transfer the person to an
20 appropriate mental hospital with the written consent of the
21 treating physician or hospital administrator.

22 (d) A peace officer may transport a person approved for
23 transfer under Subsection (c) without a court order if the person is
24 still subject to an unexpired notification of detention filed under
25 Section [573.002](#). A copy of the notification must accompany the
26 person to the receiving facility. This subsection applies only in a
27 county with a population of 550,000 or more that is adjacent to a

1 county with a population of 3.3 million or more.

2 (e) A treating physician or hospital administrator who
3 recommends the transfer of a person under Subsection (c) to a more
4 appropriate mental hospital is immune from civil liability if the
5 recommendation was made based on a reasonable and prudent medical
6 decision to ensure care for the person.

7 SECTION 5. The changes in law made by this Act apply to an
8 emergency detention under Chapter 573, Health and Safety Code, that
9 begins on or after the effective date of this Act. An emergency
10 detention under Chapter 573, Health and Safety Code, that begins
11 before the effective date of this Act is governed by the law as it
12 existed immediately before that date, and that law is continued in
13 effect for that purpose.

14 SECTION 6. As soon as practicable after the effective date
15 of this Act, the Office of Court Administration of the Texas
16 Judicial System shall develop the best practices and procedures as
17 required by Section 573.013, Health and Safety Code, as added by
18 this Act.

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