

BILL ANALYSIS

Senate Research Center
78R6550 KCR-D

H.B. 2795
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Criminal Justice
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Engrossed

DIGEST AND PURPOSE

Under current law, a person can only be held in custody for 24-hours when arrested without a warrant before being charged with an offense or released. Typically, that 24 hour period begins when the person is initially taken before a magistrate who completes the performance of the magistrate's statutory duties. However, when a person with a mental or physical condition that requires medical evaluation and/or treatment is arrested without a warrant and taken to a county or city jail prior to appearing before a magistrate or judge, the arrestee frequently will not be accepted into custody at the jail until he or she has been taken to a hospital or clinic for that evaluation and/or treatment. This process can use up part or all of the 24-hour period before the person is ever actually brought before a magistrate, placed in custody, or interrogated. H.B. 2795 clarifies that, in cases where a person arrested without a warrant requires medical evaluation or care prior to being brought before a magistrate, the time required for that medical evaluation or care does not count against the 24-hour period but actually begins at the time the magistrate, completes the performance of the magistrate's statutory duties.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 17.033, Code of Criminal Procedure, by adding Subsection (d), to provide that the time limits imposed by Subsections (a) and (b) do not apply to a person arrested without a warrant who is taken to a hospital, clinic, or other medical facility before being taken before a magistrate under Article 15.17. Provides that for a person described by this subsection the time limits imposed by Subsections (a) and (b) commences after a person is released from a hospital, clinic, or other medical facility, and is taken before a magistrate, where the magistrate completes the performance of the magistrate's duties imposed by Article 15.17.

SECTION 2. (a) Effective date: upon passage or September 1, 2003.

(b) Provides that the change in law made by this Act applies only to an arrest made on or after the effective date of this Act, regardless of when the offense giving rise to the arrest was committed. Provides that an arrest made before the effective date if this Act is covered by the law in effect when the arrest was made, and the former law is continued in effect for that purpose.