

By: Brown of Kaufman

H.B. No. 2838

A BILL TO BE ENTITLED

AN ACT

relating to general provisions proceedings for court ordered mental health services.

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

PART 1. Health and Safety Code -- Title 7. SUBTITLE C. Texas Mental Health Code, Subchapter B, Section 574.025 to read as follows:

Sec. 574.025. PROBABLE CAUSE HEARING (a) A hearing must be held to determine if:

(1) there is probable cause to believe that a proposed patient under a protective custody order presents a substantial risk of serious harm to himself or others to the extent that he cannot be at liberty pending the hearing on court-ordered mental health services; and

(2) a physician has stated his opinion and the detailed reasons for his opinion that the proposed patient is mentally ill.

(b) The hearing must be held not later than 72 hours after the time that the proposed patient was detained under a protective custody order. If the period ends on a Saturday, Sunday, or legal holiday, the hearing must be held on the next day that is not a Saturday, Sunday, or legal holiday. The judge or magistrate may postpone the hearing each day for an additional 24 hours if the judge or magistrate declares that an extreme emergency exists

1 because of extremely hazardous weather conditions or the occurrence  
2 of a disaster that threatens the safety of the proposed patient or  
3 another essential party to the hearing.

4 (c) The hearing shall be held before a magistrate or, at the  
5 discretion of the presiding judge, before a master appointed by the  
6 presiding judge. Notwithstanding any other law or requirement, a  
7 master appointed to conduct a hearing under this section may  
8 practice law in the court the master serves. The master is entitled  
9 to reasonable compensation.

10 (d) The proposed patient and the proposed patient's  
11 attorney shall have an opportunity at the hearing to appear and  
12 present evidence to challenge the allegation that the proposed  
13 patient presents a substantial risk of serious harm to himself or  
14 others.

15 (e) The magistrate or master may consider evidence,  
16 including letters, affidavits, and other material, that may not be  
17 admissible or sufficient in a subsequent commitment hearing.

18 (f) The state may prove its case on the physician's  
19 certificate of medical examination filed in support of the initial  
20 motion.

21 (g) Notwithstanding other law, as electronic  
22 teleconferencing equipment that provides real time audio and video  
23 presentation is made available to a court a judge who holds a  
24 hearing under this section related to the court-ordered mental  
25 health services in a mental health facility owned and operated by  
26 the State of Texas must utilize that technology by allowing any and  
27 all testimony required of any licensed independent practitioner

1 employed by the State of Texas or any licensed independent  
2 practitioner employed by a TDMHMR designated Local Mental Health  
3 and/or Mental Retardation Authority to be presented via the  
4 electronic teleconferencing technology thereby reducing travel and  
5 other associated expenses to the State of Texas and its  
6 contractors.