

## **BILL ANALYSIS**

S.B. 1582  
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Human Services  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Current Texas law requires that the local mental health authority ensure that 24-hour emergency screening services, rapid crisis stabilization services, community-based crisis residential services, or hospitalization services are available in each service area. It requires that local mental health authorities maintain short-term detention facilities as the proper alternative to incarcerating the mentally ill.

Persons with mental illness who are detained in jail frequently endure violence, exploitation, and extortion at the hands of other inmates, and jail staff are often not trained to handle persons with mental illness. The experience is counter-therapeutic for such inmates and many mental health experts believe it dramatically increases their chances of a psychiatric breakdown.

Incarcerating a person with mental illness who has not been charged with a crime can exacerbate the person's illness. Over 50 percent of suicides in jails are committed within the first 24 hours of incarceration, and 29 percent are committed within the first three hours. In order to address this occurrence, the State should take action to prevent the mentally ill from being incarcerated for an extended period of time if they have not been charged with a crime.

S.B. 1582 permits the detention of a person for mental health purposes in a jail or non-medical facility only as a matter of last resort and only if an emergency room or other appropriate facility, as determined by a local mental health authority, is over 75 miles away. The bill further limits detention in such facilities to a period of not more than twelve hours. The bill also prohibits the use of certain restraints during apprehension, detention, or transportation of a person suspected of having mental illness to minimize the risk of accidental injury or death.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

The bill provides that in cases involving:

- apprehension of a person exhibiting mental illness by a peace officer without a warrant;
- a judge or magistrate's order for emergency apprehension and detention of a person exhibiting mental illness; and
- detention in protective custody of a person exhibiting mental illness

a jail or other nonmedical facility used to detain persons charged with or convicted of a crime may not be considered to be a suitable facility for purposes of detaining the above persons except as a last resort and only if another suitable facility is not accessible to the apprehending officer within 75 miles.

The bill further provides that the above persons may not be detained in such a facility for more than 12 hours, and requires the sheriff or other officeholder responsible for the facility to document the time at which the person's detention begins, the duration of the detention, the reason for the detention, and the time a representative of the local mental authority arrives at the facility.

S.B. 1582 79(R)

The bill requires the sheriff or other officeholder responsible for such facility to ensure that the above persons are kept separate from any person who is charged with or convicted of a crime.

The bill strikes a provision in current law allowing detention of a person under a protective custody order in such a facility for a period of up to 72 hours during an extreme emergency.

The bill provides that the only restraints that may be used during the apprehension, detention, or transportation of a person suspected of having a mental illness are those that will still allow the person to sit in an upright position without undue difficulty.

#### **EFFECTIVE DATE**

Upon passage or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2005.