

By: Zaffirini

S.B. No. 1582

A BILL TO BE ENTITLED

AN ACT

relating to the detention of persons for mental health purposes.

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

SECTION 1. Subsections (e) and (f), Section 573.001, Health and Safety Code, are amended to read as follows:

(e) A jail or other nonmedical [~~similar detention~~] facility used to detain persons who are charged with or convicted of a crime may not be deemed suitable for purposes of Subsection (d)(2) except as a last resort and only if a hospital emergency room or other facility the local mental health authority deems suitable is not accessible to the apprehending officer within 75 miles. A person may not be detained in such a facility for more than 12 hours. The sheriff or other officeholder responsible for the facility shall 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 health authority arrives at the facility [~~except in an extreme emergency~~].

(f) The sheriff or other officeholder responsible for [~~A person detained in~~] a jail or other [~~a~~] nonmedical facility used to detain persons who are charged with or convicted of a crime shall ensure that a person detained in the jail or facility under Subsection (e) is [~~be~~] kept separate from any person who is charged with or convicted of a crime.

SECTION 2. Section 573.012, Health and Safety Code, is

1 amended by adding Subsections (h) and (i) to read as follows:

2 (h) A jail or other nonmedical facility used to detain
3 persons who are charged with or convicted of a crime may not be
4 deemed suitable for purposes of Subsection (e)(2) except as a last
5 resort and only if a hospital emergency room or other facility the
6 local mental health authority deems suitable is not accessible to
7 the apprehending officer within 75 miles. A person may not be
8 detained in such a facility for more than 12 hours. The sheriff or
9 other officeholder responsible for the facility shall document the
10 time at which the person's detention begins, the duration of the
11 detention, the reason for the detention, and the time a
12 representative of the local mental health authority arrives at the
13 facility.

14 (i) The sheriff or other officeholder responsible for a jail
15 or other nonmedical facility used to detain persons who are charged
16 with or convicted of a crime shall ensure that a person detained in
17 the jail or facility under Subsection (h) is kept separate from any
18 person who is charged with or convicted of a crime.

19 SECTION 3. Subsection (c), Section 574.027, Health and
20 Safety Code, is amended to read as follows:

21 (c) A person under a protective custody order may not be
22 detained in a jail or other nonmedical facility used to detain
23 persons who are charged with or convicted of a crime except as a
24 last resort and only if a hospital emergency room or other facility
25 the local mental health authority deems suitable is not accessible
26 to the apprehending officer within 75 miles. A person may not be
27 detained in such a facility for more than 12 hours. The sheriff or

1 other officeholder responsible for the facility shall document the
2 time at which the person's detention begins, the duration of the
3 detention, the reason for the detention, and the time a
4 representative of the local mental health authority arrives at the
5 facility. The sheriff or other officeholder responsible for a jail
6 or other nonmedical facility used to detain persons who are charged
7 with or convicted of a crime shall ensure that a person detained in
8 the jail or facility under this subsection is kept separate
9 ~~[because of and during an extreme emergency and in no case for~~
10 ~~longer than 72 hours, excluding Saturdays, Sundays, legal holidays,~~
11 ~~and the period prescribed by Section 574.025(b) for an extreme~~
12 ~~emergency. The person must be isolated]~~ from any person who is
13 charged with or convicted of a crime.

14 SECTION 4. Subsection (g), Section 574.045, Health and
15 Safety Code, is amended to read as follows:

16 (g)(1) The patient may not be physically restrained unless
17 necessary to protect the health and safety of the patient or of a
18 person traveling with the patient. If the treating physician or the
19 person transporting a patient determines that physical restraint of
20 the patient is necessary, that person shall document the reasons
21 for that determination and the duration for which the restraints
22 are needed. The person transporting the patient shall deliver the
23 document to the facility at the time the patient is delivered. The
24 facility shall include the document in the patient's clinical
25 record.

26 (2) If a patient is restrained under Subdivision (1)
27 the only restraints that may be used during the apprehension,

1 detention, or transportation of a person suspected of having a
2 mental illness are those that will still enable the individual to
3 sit in an upright position without undue difficulty.

4 SECTION 5. This Act takes effect immediately if it receives
5 a vote of two-thirds of all the members elected to each house, as
6 provided by Section 39, Article III, Texas Constitution. If this
7 Act does not receive the vote necessary for immediate effect, this
8 Act takes effect September 1, 2005.