

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. Section 573.001, Health and Safety Code, is amended by amending Subsections (e) and (f) and by adding Subsection (g) 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.

1 (g) Each local mental health authority shall develop
2 suitable alternatives for short-term detention of persons under
3 this section.

4 SECTION 2. Section 573.012, Health and Safety Code, is
5 amended by adding Subsections (h)-(j) to read as follows:

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

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

23 (j) Each local mental health authority shall develop
24 suitable alternatives for short-term detention of persons under
25 this section.

26 SECTION 3. Section 574.027, Health and Safety Code, is
27 amended by amending Subsection (c) and adding Subsection (e) to

1 read as follows:

2 (c) A person under a protective custody order may not be
3 detained in a jail or other nonmedical facility used to detain
4 persons who are charged with or convicted of a crime except as a
5 last resort and only if a hospital emergency room or other facility
6 the local mental health authority deems suitable is not accessible
7 to 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. The sheriff or other officeholder responsible for a jail
14 or other nonmedical facility used to detain persons who are charged
15 with or convicted of a crime shall ensure that a person detained in
16 the jail or facility under this subsection is kept separate
17 ~~[because of and during an extreme emergency and in no case for~~
18 ~~longer than 72 hours, excluding Saturdays, Sundays, legal holidays,~~
19 ~~and the period prescribed by Section 574.025(b) for an extreme~~
20 ~~emergency. The person must be isolated]~~ from any person who is
21 charged with or convicted of a crime.

22 (e) Each local mental health authority shall develop
23 suitable alternatives for short-term detention of persons under
24 this section.

25 SECTION 4. 574.045 of the Health & Safety Code is amended by
26 adding subsection (g)(1) to read as follows:

27 (g) The patient may not be physically restrained unless

1 necessary to protect the health and safety of the patient or of a
2 person traveling with the patient. If the treating physician or the
3 person transporting a patient determines that physical restraint of
4 the patient is necessary, that person shall document the reasons
5 for that determination and the duration for which the restraints
6 are needed. The person transporting the patient shall deliver the
7 document to the facility at the time the patient is delivered. The
8 facility shall include the document in the patient's clinical
9 record.

10 (1) If a patient is restrained under subsection (g)
11 the only restraints that may be used during the
12 apprehension/detention or transportation of a persons suspected of
13 having a mental illness are those that will still enable the
14 individual to sit in a upright position without undue difficulty.

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