

1-1 By: Zaffirini S.B. No. 1582
1-2 (In the Senate - Filed March 11, 2005; March 22, 2005, read
1-3 first time and referred to Committee on Criminal Justice;
1-4 May 2, 2005, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 7, Nays 0; May 2, 2005, sent
1-6 to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1582 By: Hinojosa

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the detention of persons for mental health purposes.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Subsections (e) and (f), Section 573.001, Health
1-13 and Safety Code, are amended to read as follows:

1-14 (e) A jail or other nonmedical ~~[similar detention]~~ facility
1-15 used to detain persons who are charged with or convicted of a crime
1-16 may not be deemed suitable for purposes of Subsection (d)(2) except
1-17 as a last resort and only if a hospital emergency room or other
1-18 facility the local mental health authority deems suitable is not
1-19 accessible to the apprehending officer within 75 miles. A person
1-20 may not be detained in such a facility for more than 12 hours. The
1-21 sheriff or other officeholder responsible for the facility shall
1-22 document the time at which the person's detention begins, the
1-23 duration of the detention, the reason for the detention, and the
1-24 time a representative of the local mental health authority arrives
1-25 at the facility [except in an extreme emergency].

1-26 (f) The sheriff or other officeholder responsible for [A
1-27 person detained in] a jail or other [a] nonmedical facility used to
1-28 detain persons who are charged with or convicted of a crime shall
1-29 ensure that a person detained in the jail or facility under
1-30 Subsection (e) is [be] kept separate from any person who is charged
1-31 with or convicted of a crime.

1-32 SECTION 2. Section 573.012, Health and Safety Code, is
1-33 amended by adding Subsections (h) and (i) to read as follows:

1-34 (h) A jail or other nonmedical facility used to detain
1-35 persons who are charged with or convicted of a crime may not be
1-36 deemed suitable for purposes of Subsection (e)(2) except as a last
1-37 resort and only if a hospital emergency room or other facility the
1-38 local mental health authority deems suitable is not accessible to
1-39 the apprehending officer within 75 miles. A person may not be
1-40 detained in such a facility for more than 12 hours. The sheriff or
1-41 other officeholder responsible for the facility shall document the
1-42 time at which the person's detention begins, the duration of the
1-43 detention, the reason for the detention, and the time a
1-44 representative of the local mental health authority arrives at the
1-45 facility.

1-46 (i) The sheriff or other officeholder responsible for a jail
1-47 or other nonmedical facility used to detain persons who are charged
1-48 with or convicted of a crime shall ensure that a person detained in
1-49 the jail or facility under Subsection (h) is kept separate from any
1-50 person who is charged with or convicted of a crime.

1-51 SECTION 3. Subsection (c), Section 574.027, Health and
1-52 Safety Code, is amended to read as follows:

1-53 (c) A person under a protective custody order may not be
1-54 detained in a jail or other nonmedical facility used to detain
1-55 persons who are charged with or convicted of a crime except as a
1-56 last resort and only if a hospital emergency room or other facility
1-57 the local mental health authority deems suitable is not accessible
1-58 to the apprehending officer within 75 miles. A person may not be
1-59 detained in such a facility for more than 12 hours. The sheriff or
1-60 other officeholder responsible for the facility shall document the
1-61 time at which the person's detention begins, the duration of the
1-62 detention, the reason for the detention, and the time a
1-63 representative of the local mental health authority arrives at the

2-1 facility. The sheriff or other officeholder responsible for a jail
2-2 or other nonmedical facility used to detain persons who are charged
2-3 with or convicted of a crime shall ensure that a person detained in
2-4 the jail or facility under this subsection is kept separate
2-5 [because of and during an extreme emergency and in no case for
2-6 longer than 72 hours, excluding Saturdays, Sundays, legal holidays,
2-7 and the period prescribed by Section 574.025(b) for an extreme
2-8 emergency. The person must be isolated] from any person who is
2-9 charged with or convicted of a crime.

2-10 SECTION 4. Subsection (g), Section 574.045, Health and
2-11 Safety Code, is amended to read as follows:

2-12 (g)(1) The patient may not be physically restrained unless
2-13 necessary to protect the health and safety of the patient or of a
2-14 person traveling with the patient. If the treating physician or the
2-15 person transporting a patient determines that physical restraint of
2-16 the patient is necessary, that person shall document the reasons
2-17 for that determination and the duration for which the restraints
2-18 are needed. The person transporting the patient shall deliver the
2-19 document to the facility at the time the patient is delivered. The
2-20 facility shall include the document in the patient's clinical
2-21 record.

2-22 (2) If a patient is restrained under Subdivision (1)
2-23 the only restraints that may be used during the apprehension,
2-24 detention, or transportation of a person suspected of having a
2-25 mental illness are those that will still enable the individual to
2-26 sit in an upright position without undue difficulty.

2-27 SECTION 5. This Act takes effect immediately if it receives
2-28 a vote of two-thirds of all the members elected to each house, as
2-29 provided by Section 39, Article III, Texas Constitution. If this
2-30 Act does not receive the vote necessary for immediate effect, this
2-31 Act takes effect September 1, 2005.

2-32 * * * * *