

## **BILL ANALYSIS**

C.S.H.B. 518  
By: Naishtat  
Human Services  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Under current Texas law, a person may be detained by a peace officer without a warrant if the circumstances lead the officer to conclude that there is reasonable cause to believe that the person is mentally ill and, because of the mental illness, there is a substantial risk of imminent, serious harm to the mentally ill person or others. Currently, excluding weekends and holidays, this detention may last no longer than 24 hours, excluding any time the person spends receiving medical care in the emergency room, unless the Probate Court has issued an Order of Protective Custody. On weekends and holidays, the 24-hour period is extended until 4:00 p.m. the next business day.

Many examining physicians find it difficult to fully examine and observe persons detained under this system to determine if protective custody is necessary. Twenty-four hours is often not enough time, particularly as the clock starts ticking the moment the person is detained, and these physicians have expressed a desire for more time

C.S.H.B. 518 would amend the Health and Safety Code to extend the allowable detention time from 24 to 48 hours after the person is accepted at the facility.

### **RULEMAKING AUTHORITY**

C.S.H.B. 518 does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 518 authorizes the detainment of a person accepted by a facility for a preliminary examination for not longer than forty-eight hours after the time the person is presented to the facility unless a written order for protective custody is obtained. The forty-eight hour period includes any time the patient spends waiting in the facility for medical care before the person receives the preliminary examination. The provision denying time spent receiving necessary medical care in the facility's emergency room or emergency care in another area of the facility, from being counted as part of the official detainment time is removed.

The substitute authorizes the detainment of a person until 12 p.m. on the first succeeding business day if the forty-eight hour period ends on a Saturday, Sunday, legal holiday, or before 4 p.m. on the first succeeding business day. If the forty-eight hour period ends at a different time, the authorization to detain the person extends only until 4 p.m. on the day the forty-eight hour period ends.

The substitute requires a physician to examine the person as soon as possible within twelve hours after the time the person is apprehended by the peace officer or transported for emergency detention by the person's guardian.

The substitute provides that a motion for an order of protective custody be accompanied by a certificate of medical examination for mental illness prepared by a physician who has examined the proposed patient not earlier than the third day before the day the motion is filed.

The substitute requires The Department of State Health Services to conduct a study of the effects related to the change in law made by this act. The substitute requires The Department of State Health Services to report on the conclusions of the study information concerning relevant

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admissions to state mental health facilities, not later than December 31, 2008. The substitute requires the report on the study's conclusions to be provided to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officers of the Senate Committee on Health and Human Services and the House Public Health Committee.

#### **EFFECTIVE DATE**

September 1, 2007.

#### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

C.S.H.B. 518 modifies the original by requiring The Department of State Health Services to conduct a study of the effects related to the change in law made by this act. The substitute requires The Department of State Health Services to report on the conclusions of the study information concerning relevant admissions to state mental health facilities, not later than December 31, 2008. The substitute requires the report on the study's conclusions to be provided to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officers of the Senate Committee on Health and Human Services and the House Public Health Committee.