

## **BILL ANALYSIS**

C.S.S.B. 261  
By: Zaffirini  
Human Services  
Committee Report (Substituted)

### **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 crisis services when individuals need emergency mental health treatment. Jails too often serve as holding facilities for persons with mental illness who have not been charged with a crime but are in need of emergency mental health treatment. While these persons await transportation to a state hospital, they generally have little or no access to mental health services, allowing their conditions to deteriorate further. These individuals are sometimes transported in restraints and in positions that compromise their physical safety.

As proposed, C.S.S.B. 261 limits the detention of persons with mental illness. This bill requires the maintenance of short-term detention facilities and prohibits the use of certain forms of restraint.

### **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 substitute amends Sections 573.001 (d), (e) and (f), Health and Safety Code.

The substitute requires that a peace officer who takes a person into custody immediately transport the apprehended person to: (1) the nearest appropriate inpatient mental health facility; (2) a mental health facility deemed suitable by the local mental health authority, if an appropriate inpatient mental health facility is not available; (3) if neither (1) or (2) are available, a medical facility or other facility that the local mental health authority deems suitable.

The substitute prohibits a jail or similar detention facility from being deemed suitable for detention of a person taken into custody under this section unless certain suitable facilities are unavailable and the nearest hospital emergency room or other facility determined by the local mental health authority to be suitable is more than 75 miles from the location where the peace officer has custody of the person. It prohibits a person from being detained in a jail or non-medical facility under this subsection for more than 12 hours. The substitute requires that the sheriff or other officeholder responsible for the facility document: the time 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.

The substitute requires a sheriff or other officeholder responsible for the facility to ensure that a person detained in the facility is kept separate from any person who is charged with or convicted of a crime.

The substitute amends Section 574.023, Health and Safety Code, by adding Subsection (e), to authorize the detention of a person taken into custody under this section in the manner provided by Section 574.027.

The substitute amends Section 574.027, Health and Safety Code, by amending Subsections (c) and (d) and adding Subsection (c-1).

C.S.S.B. 261 80(R)

Subsection (c) makes conforming changes. Deletes existing text making an exception for an extreme emergency, and to require that the person is isolated from any person charged with or convicted of a crime.

Subsection (c-1) makes conforming changes. Sheriff or officeholder responsible for a jail or nonmedical facility shall ensure that the person detained in the jail or facility is kept separate from any person who is charged with or convicted of a crime.

The substitute requires that the county health authority ensure that proper care and medical attention are made available to a person who is detained in a jail or nonmedical facility under Subsection (c).

The substitute amends Section 574.045, Health and Safety Code, by adding Subsection (1) to authorize restraining a patient only during apprehension, detention, or transportation. The substitute provides the method of restraint allow the patient to sit upright without undue difficulty.

### **EFFECTIVE DATE**

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.

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

The substitute differs from the original in that the original amended Subsections (e) and (f) of Section 573.001, Health and Safety Code; the substitute also amends Subsection (d). The original started with Subsection (e) on line 7, the substitute begins with Subsection (d) on line 7, and lines are subsequently renumbered.

The substitute amends Subsection (d) and requires that a peace officer who takes a person into custody immediately transport the apprehended person to: (1) the nearest appropriate inpatient mental health facility; (2) a mental health facility deemed suitable by the local mental health authority, if an appropriate inpatient mental health facility is not available; (3) if neither (1) or (2) are available, a medical facility or other facility that the local mental health authority deems suitable.

Where the original read "a jail or nonmedical facility," the substitute now reads "a jail or similar detention facility." Also, where the original read "may not be deemed a suitable facility" the substitute reads "is not a facility suitable." Where the original reads "unless another facility described by Subsection (d) is not available," the substitute reads "unless another facility described by Subsection (d) (1) or (2) is not available and the nearest facility described by Subsection (d) (3) is located more than 75 miles from the location." In addition, where the original read "a jail or nonmedical facility described by Subsection (e) shall ensure that a person detained in the jail or facility under Subsection (e)," the substitute now reads "a jail or similar detention facility shall ensure that a person detained in the jail or similar detention facility."

The substitute removes the provision in the original which amended Section 573.012, Health and Safety Code, and added Subsections (h) and (i). SECTION 3 of the original is now SECTION 2 of the substitute.

SECTION 4 of the original is now SECTION 3 of the substitute. The substitute modifies language in the original, the original read "the nearest hospital emergency room or other facility determined by the local mental health authority to be suitable," the substitute reads "the nearest medical facility or other facility deemed suitable by the local mental health authority."

SECTION 5 of the original is now SECTION 4 of the substitute.

SECTION 6 of the original is now SECTION 5 of the substitute.