

By: Davis of Harris

H.B. No. 405

Substitute the following for H.B. No. 405:

By: Rose

C.S.H.B. No. 405

A BILL TO BE ENTITLED

AN ACT

relating to the authority of an emergency room physician to hold a person believed to have a mental illness.

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

SECTION 1. Subchapter A, Chapter 573, Health and Safety Code, is amended by adding Section 573.005 to read as follows:

Sec. 573.005. EMERGENCY ROOM HOLD ON PERSON. (a) A physician who is attending a person at a hospital emergency room may hold the person at the hospital emergency room if the physician has reason to believe and does believe that the person is mentally ill and that because of that mental illness there is a substantial risk of serious harm to the person or to others unless the person is immediately restrained. The physician may hold the person at the hospital emergency room for a period not to exceed 24 hours pending the arrival of a representative of the local mental health authority or a peace officer able to transport the person to an inpatient mental health facility for a preliminary examination.

(b) If at any time the physician determines that the person being held no longer presents a substantial risk of serious harm to the person or to others, the physician immediately shall release the person.

(c) If the physician holds or releases the person under this section, the physician immediately shall notify the local mental health authority of the circumstances.

1 (d) Section 573.025 and the rights provided by that section
2 apply to a person held under this section as if holding the person
3 under this section were a detention to which that section applies.

4 (e) It is an exception to prosecution under Section 20.02,
5 Penal Code, that the restraint of the person was in compliance with
6 this section.

7 SECTION 2. This Act takes effect immediately if it receives
8 a vote of two-thirds of all the members elected to each house, as
9 provided by Section 39, Article III, Texas Constitution. If this
10 Act does not receive the vote necessary for immediate effect, this
11 Act takes effect September 1, 2007.