

By: Naishtat

H.B. No. 518

A BILL TO BE ENTITLED

AN ACT

relating to the detention and examination of certain persons for whom an application for emergency detention or a motion for an order of protective custody has been filed.

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

SECTION 1. Sections 573.021(b) and (c), Health and Safety Code, are amended to read as follows:

(b) A person accepted for a preliminary examination may be detained in custody for not longer than 48 ~~[24]~~ hours after the time the person is presented to the facility unless a written order for protective custody ~~[further detention]~~ is obtained. The 48-hour ~~[24-hour]~~ period allowed by this section includes any time the patient spends waiting in the facility for medical care before the person receives the preliminary examination. ~~[The period does not include any time during which the person is actually receiving necessary medical care in the facility's emergency room or emergency care in another area of the facility.]~~ If the 48-hour ~~[24-hour]~~ period ends on a Saturday, Sunday, legal holiday, or before 4 p.m. on the first succeeding business day, the person may be detained until 12 ~~[4]~~ p.m. on the first succeeding business day. If the 48-hour period ends at a different time, the person may be detained only until 4 p.m. on the day the 48-hour period ends. If extremely hazardous weather conditions exist or a disaster occurs, the presiding judge or magistrate may, by written order made each

1 day, extend by an additional 24 hours the period during which the  
2 person may be detained. The written order must declare that an  
3 emergency exists because of the weather or the occurrence of a  
4 disaster.

5 (c) A physician shall examine the person as soon as possible  
6 within 12 [~~24~~] hours after the time the person is apprehended by the  
7 peace officer or transported for emergency detention by the  
8 person's guardian.

9 SECTION 2. Section 574.021(d), Health and Safety Code, is  
10 amended to read as follows:

11 (d) The motion must be accompanied by a certificate of  
12 medical examination for mental illness prepared by a physician who  
13 has examined the proposed patient not earlier than the third  
14 [~~fifth~~] day before the day the motion is filed.

15 SECTION 3. (a) The Department of State Health Services  
16 shall conduct a study of the effects the change in law made by this  
17 Act has on:

18 (1) reducing the overall number of admissions to state  
19 mental health facilities; and

20 (2) the number of admissions of persons to state  
21 mental health facilities for periods of less than 96 hours.

22 (b) The Department of State Health Services shall include in  
23 a report on the conclusions of the study information concerning  
24 relevant admissions to state mental health facilities:

25 (1) during the 24-month period preceding the effective  
26 date of this Act; and

27 (2) during the 12-month period following the effective

1 date of this Act.

2 (c) Not later than December 31, 2008, the Department of  
3 State Health Services shall provide the report on the study's  
4 conclusions to the governor, the lieutenant governor, the speaker  
5 of the house of representatives, and the presiding officers of the  
6 Senate Committee on Health and Human Services and the House Public  
7 Health Committee.

8 SECTION 4. The change in law made by this Act applies only  
9 to the detention and examination of a person admitted for a  
10 preliminary examination under Section 573.021, Health and Safety  
11 Code, on or after the effective date of this Act and to the filing of  
12 a motion for emergency detention under Section 574.021, Health and  
13 Safety Code, on or after the effective date of this Act. The  
14 detention and examination of a person admitted for a preliminary  
15 examination before the effective date of this Act is governed by the  
16 law in effect when the person was admitted, the filing of a motion  
17 for an order of protective custody is governed by the law in effect  
18 on the date the motion is filed, and the former law is continued in  
19 effect for those purposes.

20 SECTION 5. This Act takes effect September 1, 2007.