

By: Zaffirini, Uresti

S.B. No. 261

A BILL TO BE ENTITLED

AN ACT

relating to the detention and transportation of a person with a mental illness.

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

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

(e) A jail or nonmedical [~~similar detention~~] facility used to detain persons charged with or convicted of a crime may not be deemed a suitable facility for detention of a person taken into custody under this section unless another facility described by Subsection (d) is not available and the nearest hospital emergency room or other facility determined by the local mental health authority to be suitable is located more than 75 miles from the location where the peace officer has custody of the person. A person may be detained in a jail or nonmedical facility under this subsection for not longer than 12 hours. The sheriff or other officeholder responsible for the facility shall document:

(1) the time the person's detention begins;

(2) the duration of the detention;

(3) the reason for the detention; and

(4) the time a representative of the local mental health authority arrives at the facility [~~except in an extreme emergency~~].

(f) The sheriff or officeholder responsible for [~~A person~~

1 ~~detained in]~~ a jail or a nonmedical facility described by  
2 Subsection (e) shall ensure that a person detained in the jail or  
3 facility under Subsection (e) is [be] kept separate from any person  
4 who is charged with or convicted of a crime.

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

7 (h) A jail or nonmedical facility used to detain persons  
8 charged with or convicted of a crime may not be deemed a suitable  
9 facility for detention of a person apprehended under this section  
10 unless another facility described by Subsection (e) is not  
11 available and the nearest hospital emergency room or other facility  
12 determined by the local mental health authority to be suitable is  
13 located more than 75 miles from the location where the peace officer  
14 has apprehended the person. A person may be detained in a jail or  
15 nonmedical facility under this subsection for not longer than 12  
16 hours. The sheriff or other officeholder responsible for the  
17 facility shall document:

18 (1) the time the person's detention begins;  
19 (2) the duration of the detention;  
20 (3) the reason for the detention; and  
21 (4) the time a representative of the local mental  
22 health authority arrives at the facility.

23 (i) The sheriff or officeholder responsible for a jail or a  
24 nonmedical facility described by Subsection (h) shall ensure that a  
25 person detained in the jail or facility under Subsection (h) is kept  
26 separate from any person who is charged with or convicted of a  
27 crime.

1 SECTION 3. Section 574.023, Health and Safety Code, is  
2 amended by adding Subsection (e) to read as follows:

3 (e) A person taken into custody under this section may be  
4 detained only in the manner provided by Section 574.027.

5 SECTION 4. Section 574.027, Health and Safety Code, is  
6 amended by amending Subsections (c) and (d) and adding Subsection  
7 (c-1) to read as follows:

8 (c) A person under a protective custody order may not be  
9 detained in a jail or nonmedical facility used to detain persons who  
10 are charged with or convicted of a crime unless another facility  
11 described by Subsection (a) is not available and the nearest  
12 hospital emergency room or other facility determined by the local  
13 mental health authority to be suitable is located more than 75 miles  
14 from the location where the peace officer has custody of the person.  
15 A person may be detained in a jail or nonmedical facility under this  
16 subsection for not longer than 12 hours. The sheriff or other  
17 officer responsible for the facility shall document:

- 18 (1) the time the person's detention begins;  
19 (2) the duration of the detention;  
20 (3) the reason for the detention; and  
21 (4) the time a representative of the local mental  
22 health authority arrives at the facility [~~except because of and~~  
23 ~~during an extreme emergency and in no case for longer than 72 hours,~~  
24 ~~excluding Saturdays, Sundays, legal holidays, and the period~~  
25 ~~prescribed by Section 574.025(b) for an extreme emergency. The~~  
26 ~~person must be isolated from any person who is charged with or~~  
27 ~~convicted of a crime].~~

1       (c-1) The sheriff or officeholder responsible for a jail or  
2 a nonmedical facility described by Subsection (c) shall ensure that  
3 a person detained in the jail or facility under Subsection (c) is  
4 kept separate from any person who is charged with or convicted of a  
5 crime.

6       (d) The county health authority shall ensure that proper  
7 care and medical attention are made available to a person who is  
8 detained in a jail or nonmedical facility under Subsection (c).

9       SECTION 5. Section 574.045, Health and Safety Code, is  
10 amended by adding Subsection (1) to read as follows:

11       (1) A patient restrained under Subsection (g) may be  
12 restrained only during the apprehension, detention, or  
13 transportation of the patient. The method of restraint must permit  
14 the patient to sit in an upright position without undue difficulty.

15       SECTION 6. This Act takes effect immediately if it receives  
16 a vote of two-thirds of all the members elected to each house, as  
17 provided by Section 39, Article III, Texas Constitution. If this  
18 Act does not receive the vote necessary for immediate effect, this  
19 Act takes effect September 1, 2007.