

1-1 By: Zaffirini S.B. No. 261
1-2 (In the Senate - Filed January 22, 2007; January 30, 2007,
1-3 read first time and referred to Committee on Health and Human
1-4 Services; March 5, 2007, reported favorably by the following vote:
1-5 Yeas 8, Nays 0; March 5, 2007, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the detention and transportation of a person with a
1-9 mental illness.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Subsections (e) and (f), Sections 573.001,
1-12 Health and Safety Code, are amended to read as follows:

1-13 (e) A jail or nonmedical [similar detention] facility used
1-14 to detain persons charged with or convicted of a crime may not be
1-15 deemed a suitable facility for detention of a person taken into
1-16 custody under this section unless another facility described by
1-17 Subsection (d) is not available and the nearest hospital emergency
1-18 room or other facility determined by the local mental health
1-19 authority to be suitable is located more than 75 miles from the
1-20 location where the peace officer has custody of the person. A
1-21 person may be detained in a jail or nonmedical facility under this
1-22 subsection for not longer than 12 hours. The sheriff or other
1-23 officeholder responsible for the facility shall document:

1-24 (1) the time the person's detention begins;
1-25 (2) the duration of the detention;
1-26 (3) the reason for the detention; and
1-27 (4) the time a representative of the local mental
1-28 health authority arrives at the facility [except in an extreme
1-29 emergency].

1-30 (f) The sheriff or officeholder responsible for [A person
1-31 detained in] a jail or a nonmedical facility described by
1-32 Subsection (e) shall ensure that a person detained in the jail or
1-33 facility under Subsection (e) is [be] kept separate from any person
1-34 who is charged with or convicted of a crime.

1-35 SECTION 2. Section 573.012, Health and Safety Code, is
1-36 amended by adding Subsections (h) and (i) to read as follows:

1-37 (h) A jail or nonmedical facility used to detain persons
1-38 charged with or convicted of a crime may not be deemed a suitable
1-39 facility for detention of a person apprehended under this section
1-40 unless another facility described by Subsection (e) is not
1-41 available and the nearest hospital emergency room or other facility
1-42 determined by the local mental health authority to be suitable is
1-43 located more than 75 miles from the location where the peace officer
1-44 has apprehended the person. A person may be detained in a jail or
1-45 nonmedical facility under this subsection for not longer than 12
1-46 hours. The sheriff or other officeholder responsible for the
1-47 facility shall document:

1-48 (1) the time the person's detention begins;
1-49 (2) the duration of the detention;
1-50 (3) the reason for the detention; and
1-51 (4) the time a representative of the local mental
1-52 health authority arrives at the facility.

1-53 (i) The sheriff or officeholder responsible for a jail or a
1-54 nonmedical facility described by Subsection (h) shall ensure that a
1-55 person detained in the jail or facility under Subsection (h) is kept
1-56 separate from any person who is charged with or convicted of a
1-57 crime.

1-58 SECTION 3. Section 574.023, Health and Safety Code, is
1-59 amended by adding Subsection (e) to read as follows:

1-60 (e) A person taken into custody under this section may be
1-61 detained only in the manner provided by Section 574.027.

1-62 SECTION 4. Section 574.027, Health and Safety Code, is
1-63 amended by amending Subsections (c) and (d) and adding Subsection
1-64 (c-1) to read as follows:

2-1 (c) A person under a protective custody order may not be
2-2 detained in a jail or nonmedical facility used to detain persons who
2-3 are charged with or convicted of a crime unless another facility
2-4 described by Subsection (a) is not available and the nearest
2-5 hospital emergency room or other facility determined by the local
2-6 mental health authority to be suitable is located more than 75 miles
2-7 from the location where the peace officer has custody of the person.
2-8 A person may be detained in a jail or nonmedical facility under this
2-9 subsection for not longer than 12 hours. The sheriff or other
2-10 officeholder responsible for the facility shall document:

2-11 (1) the time the person's detention begins;

2-12 (2) the duration of the detention;

2-13 (3) the reason for the detention; and

2-14 (4) the time a representative of the local mental
2-15 health authority arrives at the facility [except because of and
2-16 during an extreme emergency and in no case for longer than 72 hours,
2-17 excluding Saturdays, Sundays, legal holidays, and the period
2-18 prescribed by Section 574.025(b) for an extreme emergency. The
2-19 person must be isolated from any person who is charged with or
2-20 convicted of a crime].

2-21 (c-1) The sheriff or officeholder responsible for a jail or
2-22 a nonmedical facility described by Subsection (c) shall ensure that
2-23 a person detained in the jail or facility under Subsection (c) is
2-24 kept separate from any person who is charged with or convicted of a
2-25 crime.

2-26 (d) The county health authority shall ensure that proper
2-27 care and medical attention are made available to a person who is
2-28 detained in a jail or nonmedical facility under Subsection (c).

2-29 SECTION 5. Section 574.045, Health and Safety Code, is
2-30 amended by adding Subsection (1) to read as follows:

2-31 (1) A patient restrained under Subsection (g) may be
2-32 restrained only during the apprehension, detention, or
2-33 transportation of the patient. The method of restraint must permit
2-34 the patient to sit in an upright position without undue difficulty.

2-35 SECTION 6. This Act takes effect immediately if it receives
2-36 a vote of two-thirds of all the members elected to each house, as
2-37 provided by Section 39, Article III, Texas Constitution. If this
2-38 Act does not receive the vote necessary for immediate effect, this
2-39 Act takes effect September 1, 2007.

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