

By: Zaffirini

S.B. No. 32

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the detention and transportation of a person with a
3 mental illness.

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

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

7 (d) A peace officer who takes a person into custody under
8 Subsection (a) shall immediately transport the apprehended person
9 to:

10 (1) the nearest appropriate inpatient mental health
11 facility; ~~or~~

12 (2) a mental health facility deemed suitable by the
13 local mental health authority, if an appropriate inpatient mental
14 health facility is not available; or

15 (3) a medical facility or other facility that the
16 local mental health authority deems suitable, if a facility
17 described in Subdivision (1) or (2) is not available.

18 (e) A jail or similar detention facility used to detain
19 persons charged with or convicted of a crime is not a facility ~~may~~
20 ~~not be deemed~~ suitable for detention of a person taken into custody
21 under this section unless another facility described by Subsection
22 (d)(1) or (2) is not available and the nearest facility described by
23 Subsection (d)(3) is located more than 75 miles from the location
24 where the peace officer has custody of the person. A person may be

1 detained in a jail or similar detention facility under this
2 subsection for not longer than 12 hours. The sheriff or other
3 officer responsible for the facility shall document:

- 4 (1) the time the person's detention begins;
5 (2) the duration of the detention;
6 (3) the reason for the detention; and
7 (4) the time a representative of the local mental
8 health authority arrives at the facility [~~except in an extreme~~
9 emergency].

10 (f) The sheriff or officer responsible for [~~A person~~
11 ~~detained in~~] a jail or a similar detention [~~nonmedical~~] facility
12 shall ensure that a person detained in the jail or similar detention
13 facility is [~~be~~] kept separate from any person who is charged with
14 or convicted of a crime.

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

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

19 SECTION 3. Section 574.027, Health and Safety Code, is
20 amended by amending Subsections (c) and (d) and adding Subsection
21 (c-1) to read as follows:

22 (c) A person under a protective custody order may not be
23 detained in a jail or nonmedical facility used to detain persons who
24 are charged with or convicted of a crime unless another facility
25 described by Subsection (a) is not available and the nearest
26 medical facility or other facility deemed suitable by the local
27 mental health authority is located more than 75 miles from the

1 location where the peace officer has custody of the person. A
2 person may be detained in a jail or nonmedical facility under this
3 subsection for not longer than 12 hours. The sheriff or other
4 officer responsible for the facility shall document:

- 5 (1) the time the person's detention begins;
- 6 (2) the duration of the detention;
- 7 (3) the reason for the detention; and
- 8 (4) the time a representative of the local mental
9 health authority arrives at the facility ~~[except because of and~~
10 ~~during an extreme emergency and in no case for longer than 72 hours,~~
11 ~~excluding Saturdays, Sundays, legal holidays, and the period~~
12 ~~prescribed by Section 574.025(b) for an extreme emergency. The~~
13 ~~person must be isolated from any person who is charged with or~~
14 ~~convicted of a crime].~~

15 (c-1) The sheriff or officer responsible for a jail or
16 a nonmedical facility described by Subsection (c) shall ensure that
17 a person detained in the jail or facility under Subsection (c) is
18 kept separate from any person who is charged with or convicted of a
19 crime.

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

23 SECTION 4. Section 574.045, Health and Safety Code, is
24 amended by adding Subsection (l) to read as follows:

25 (l) A patient restrained under Subsection (g) may be
26 restrained only during the apprehension, detention, or
27 transportation of the patient. The method of restraint must permit

1 the patient to sit in an upright position without undue difficulty.

2 SECTION 5. This Act takes effect immediately if it receives
3 a vote of two-thirds of all the members elected to each house, as
4 provided by Section 39, Article III, Texas Constitution. If this
5 Act does not receive the vote necessary for immediate effect, this
6 Act takes effect September 1, 2009.