

By: Van de Putte

S.B. No. 1198

A BILL TO BE ENTITLED

AN ACT

relating to the court-ordered administration of psychoactive medication to certain criminal defendants.

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

SECTION 1. Sections 574.106(a) and (a-1), Health and Safety Code, are amended to read as follows:

(a) The court may issue an order authorizing the administration of one or more classes of psychoactive medication to a patient who:

(1) is under a court order to receive:

(A) inpatient mental health services; or

(B) outpatient mental health services, if the

patient has been released on bail under Article 46B.072, Code of Criminal Procedure; or

(2) is in custody awaiting trial in a criminal proceeding and was ordered to receive inpatient or outpatient mental health services in the six months preceding a hearing under this section.

(a-1) The court may issue an order under this section only if the court finds by clear and convincing evidence after the hearing:

(1) for any patient, including a patient who has been determined to be incompetent to stand trial or who has been acquitted of an offense by reason of insanity, that:

1 (A) the patient lacks the capacity to make a
2 decision regarding the administration of the proposed medication;
3 and

4 (B) treatment with the proposed medication is in
5 the best interest of the patient; or

6 (2) if the patient was ordered to receive inpatient
7 mental health services by a criminal court with jurisdiction over
8 the patient, that:

9 (A) the patient presents a danger to the patient
10 or others in the inpatient mental health facility in which the
11 patient is being treated as a result of a mental disorder or mental
12 defect as determined under Section 574.1065; and

13 (B) treatment with the proposed medication is in
14 the best interest of the patient.

15 SECTION 2. Section 574.107(b), Health and Safety Code, is
16 amended to read as follows:

17 (b) The county in which the applicable criminal charges are
18 pending or were adjudicated shall pay as provided by Subsection (a)
19 the costs of a hearing that is held under Section 574.106 to
20 evaluate the court-ordered administration of psychoactive
21 medication to:

22 (1) a patient ordered to receive [~~inpatient~~] mental
23 health services as described by Section 574.106(a)(1) after having
24 been determined to be incompetent to stand trial or having been
25 acquitted of an offense by reason of insanity; or

26 (2) a patient who:

27 (A) is awaiting trial after having been

1 determined to be competent to stand trial; and

2 (B) was ordered to receive [~~inpatient~~] mental
3 health services as described by Section 574.106(a)(2).

4 SECTION 3. Articles 46B.086(a), (b), and (c), Code of
5 Criminal Procedure, are amended to read as follows:

6 (a) This article applies only to a defendant:

7 (1) who is determined under this chapter to be
8 incompetent to stand trial;

9 (2) who is confined in a correctional facility while
10 awaiting transfer to an inpatient mental health facility or a
11 residential care facility or who has been released on bail to an
12 outpatient treatment program;

13 (3) for whom a correctional facility with licensed
14 physicians providing psychiatric services, an inpatient mental
15 health facility, a residential care facility, or an outpatient
16 treatment program provider has prepared a continuity of care plan
17 that requires the defendant to take psychoactive medications; and

18 (4) [~~(3)~~] who, after a hearing held under Section
19 574.106, Health and Safety Code, has been found to not [~~to~~] meet the
20 criteria prescribed by Sections 574.106(a) and (a-1), Health and
21 Safety Code, for court-ordered administration of psychoactive
22 medications [~~, or~~

23 [~~(4) who is subject to Article 46B.072~~].

24 (b) If a defendant described by Subsection (a) refuses to
25 take psychoactive medications as required by the defendant's
26 continuity of care plan, the director of the correctional facility
27 or outpatient treatment program provider, as applicable, shall

1 notify the court in which the criminal proceedings are pending of
2 that fact not later than the end of the next business day following
3 the refusal. The court shall promptly notify the attorney
4 representing the state and the attorney representing the defendant
5 of the defendant's refusal. The attorney representing the state
6 may file a written motion to compel medication. The motion to
7 compel medication must be filed not later than the 15th day after
8 the date a judge issues an order stating that the defendant does not
9 meet the criteria for court-ordered administration of psychoactive
10 medications under Section 574.106, Health and Safety Code, except
11 that, [~~the motion to compel medication~~] for a defendant in an
12 outpatient treatment program, the motion may be filed at any time
13 after the date a judge issues such an order.

14 (c) The court, after notice and after a hearing held not
15 later than the fifth day after the defendant is returned to the
16 committing court, may authorize the director of the [~~a~~]
17 correctional facility or the program provider, as applicable, to
18 have the medication administered to the defendant, by reasonable
19 force if necessary.

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