

By: Shelton

H.B. No. 836

A BILL TO BE ENTITLED

AN ACT

relating to certain persons receiving mental health services.

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

SECTION 1. Section 574.035(j), Health and Safety Code, is amended to read as follows:

(j) A judge may advise, but may not compel, the proposed patient to:

(1) ~~[receive treatment with psychoactive medication as specified by the outpatient mental health services treatment plan];~~

~~[(2)]~~ participate in counseling; and

(2) ~~[(3)]~~ refrain from the use of alcohol or illicit drugs.

SECTION 2. Subchapter C, Chapter 574, Health and Safety Code, is amended by adding Section 574.038 to read as follows:

Sec. 574.038. COURT-ORDERED OUTPATIENT TREATMENT WITH PSYCHOACTIVE MEDICATION. (a) The court, in an order that directs a patient to participate in outpatient mental health services, may also order the patient to receive treatment with one or more classes of psychoactive medication. The court may order the patient to receive that treatment only if the court finds, from clear and convincing evidence, that:

(1) treatment with the proposed psychoactive medication:

1 (A) is in the best interest of the patient;

2 (B) is significantly more likely to maintain or
3 improve the patient's condition than less intrusive treatments; and

4 (C) if continued and monitored, will likely
5 prevent, or significantly delay, the patient's need for inpatient
6 mental health services in the future;

7 (2) without treatment with the proposed psychoactive
8 medication the patient will likely be involuntarily admitted to an
9 inpatient mental health facility before the first anniversary of
10 the date the order is issued and be treated with that psychoactive
11 medication during that admission; and

12 (3) the patient has demonstrated a continuing pattern
13 of behavior that tends to confirm the likelihood of serious harm to
14 the patient or others.

15 (b) To demonstrate a continuing pattern of behavior under
16 Subsection (a)(3), the evidence must include evidence that:

17 (1) the patient has received involuntary inpatient
18 mental health services not less than:

19 (A) three times within the 18-month period
20 preceding the date the order is issued; or

21 (B) five times during the patient's lifetime; and

22 (2) the patient's last commitment to an inpatient
23 mental health facility was a result, at least substantially, of the
24 patient's refusal to continue taking psychoactive medication
25 following the patient's discharge from an inpatient mental health
26 facility.

27 (c) Before ordering a patient to receive treatment with one

1 or more classes of psychoactive medication under this section, the
2 court must consider medical evidence regarding the benefits and
3 risks of the psychoactive medication.

4 (d) A court that orders a patient to receive outpatient
5 treatment with psychoactive medication under this section shall:

6 (1) determine whether an assertive community
7 treatment team or a mobile crisis outreach team is available to
8 monitor the patient, assist the patient, and recommend that the
9 patient receive necessary inpatient mental health services; and

10 (2) prescribe in the order the initial level of
11 services the team will provide to the patient.

12 (e) The court, in an order that directs a patient to receive
13 outpatient treatment with psychoactive medication under this
14 section, shall require the local mental health authority to provide
15 the patient with any of the following services that the patient
16 requests:

17 (1) counseling;

18 (2) supervised or assisted living;

19 (3) educational or vocational training;

20 (4) enrollment in a day program or partial day
21 program; and

22 (5) alcohol or substance abuse treatment.

23 SECTION 3. Section 574.065(a), Health and Safety Code, is
24 amended to read as follows:

25 (a) The court may modify an order for outpatient services at
26 the modification hearing if the court determines that the patient
27 meets the applicable criteria for court-ordered mental health

1 services prescribed by Section 574.034(a) or 574.035(a) or for
2 court-ordered outpatient treatment with one or more classes of
3 psychoactive medication as prescribed by Section 574.038(a).

4 SECTION 4. Section 574.066, Health and Safety Code, is
5 amended by adding Subsection (i) to read as follows:

6 (i) A court that renews an order for outpatient mental
7 health services may also renew an order that directs that patient to
8 receive outpatient treatment with one or more classes of
9 psychoactive medication. The court may renew that order only if the
10 court finds, from clear and convincing evidence, that the patient
11 meets the criteria for court-ordered outpatient treatment with one
12 or more classes of psychoactive medication as prescribed by Section
13 574.038(a).

14 SECTION 5. Section 574.068, Health and Safety Code, is
15 amended by adding Subsection (h) to read as follows:

16 (h) Notwithstanding Subsection (d), the court shall order a
17 reexamination or hearing regarding an order directing a patient to
18 receive court-ordered outpatient treatment with one or more classes
19 of psychoactive medication if the request is filed at least 90 days
20 after the date the order was entered or after a similar request is
21 filed. A court is not required to order a reexamination or hearing
22 if the request is filed before the 90th day after the date the order
23 was entered or after a similar request was filed unless the request
24 is supported by testimony of a physician or the patient's criminal
25 defense counsel.

26 SECTION 6. Section 574.069, Health and Safety Code, is
27 amended by adding Subsection (g) to read as follows:

1 (g) The judge shall dismiss a request described by Section
2 574.068(h) if the court finds by a preponderance of the evidence
3 that the patient continues to meet the criteria for court-ordered
4 outpatient treatment with one or more classes of psychoactive
5 medication as prescribed by Section 574.038(a). The judge shall
6 set aside an order directing a patient to receive outpatient
7 treatment with one or more classes of psychoactive medication if
8 the court fails to find, from a preponderance of the evidence, that
9 the patient continues to meet that criteria.

10 SECTION 7. Chapter 575, Health and Safety Code, is amended
11 by adding Subchapter C to read as follows:

12 SUBCHAPTER C. TRANSFER FOR MEDICAL TREATMENT

13 Sec. 575.031. TEMPORARY TRANSFER FOR MEDICAL TREATMENT.

14 (a) The facility administrator of an inpatient mental health
15 facility to which a patient has been admitted for court-ordered
16 inpatient mental health care services or in which a patient or
17 proposed patient is being detained under a protective custody or
18 detention order may temporarily transfer the patient or proposed
19 patient to a hospital if, in the opinion of a physician, the patient
20 or proposed patient needs immediate medical care or treatment.

21 (b) After receiving medical care or treatment, the hospital
22 shall return the patient or proposed patient to the inpatient
23 mental health facility where the patient or proposed patient was
24 committed or detained unless the order under which the patient or
25 proposed patient was committed or detained has expired or been
26 otherwise terminated.

27 (c) An order for mental health services or a protective

1 custody order may be renewed as provided by this chapter while a
2 patient or proposed patient is receiving services in a hospital
3 under this section.

4 SECTION 8. Section 770, Texas Probate Code, is amended by
5 amending Subsection (b) and adding Subsection (e) to read as
6 follows:

7 (b) Except as provided by Subsection (c), ~~or~~ (d), or (e)
8 of this section, a guardian may not voluntarily admit an
9 incapacitated person to a public or private in-patient psychiatric
10 facility or to a residential facility operated by the Texas
11 Department of Mental Health and Mental Retardation for care and
12 treatment. If care and treatment in a psychiatric or a residential
13 facility are necessary, the person or the person's guardian may:

14 (1) apply for services under Section 593.027 or
15 593.028, Health and Safety Code;

16 (2) apply to a court to commit the person under
17 Subtitle D, Title 7, Health and Safety Code (Persons with Mental
18 Retardation Act), Subtitle C, Title 7, Health and Safety Code
19 (Texas Mental Health Code), or Chapter 462, Health and Safety Code;
20 or

21 (3) transport the ward to an inpatient mental health
22 facility for a preliminary examination in accordance with
23 Subchapters A and C, Chapter 573, Health and Safety Code.

24 (e) A guardian of a person 16 years of age or older whose
25 primary incapacity is an intellectual disability and whose mental
26 age is younger than 16 years of age may voluntarily admit the person
27 to a public or private inpatient psychiatric facility for care and

1 treatment for a period not to exceed 14 days. The guardian and the
2 facility administrator shall immediately file written notice with
3 the court of an admission under this subsection.

4 SECTION 9. This Act takes effect September 1, 2011.