

By: Zaffirini, et al.
(Guillen)

S.B. No. 44

Substitute the following for S.B. No. 44:

By: Naishtat

C.S.S.B. No. 44

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

(e) A jail or similar detention facility may not be deemed suitable for detention of a person taken into custody under this section except in an extreme emergency that exists because of hazardous weather or the occurrence of a disaster that threatens the safety of the proposed patient or person transporting the proposed patient. In the event of an extreme emergency, a person may be detained in a jail or similar detention facility under this subsection during the extreme emergency and for not longer than 12 hours after the extreme emergency ends. The sheriff or other officeholder responsible for the facility shall document and report the following to the Commission on Jail Standards on a monthly basis for each person detained in a jail or similar detention facility:

- (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 is notified and arrives at the facility.

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

1 ~~detained in~~] a jail or a similar detention [~~nonmedical~~] facility
2 shall ensure that a person detained in the jail or similar detention
3 facility is [~~be~~] kept separate from any person who is charged with
4 or convicted of a crime.

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

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

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

12 (c) A person under a protective custody order may not be
13 detained in a jail or nonmedical facility used to detain persons who
14 are charged with or convicted of a crime except because of and
15 during an extreme emergency that exists because of hazardous
16 weather or the occurrence of a disaster that threatens the safety of
17 the proposed patient or the person transporting the proposed
18 patient. In the event of an extreme emergency, a person may be
19 detained in a jail or nonmedical facility under this subsection
20 during the extreme emergency and for not longer than 12 hours after
21 the extreme emergency ends. The sheriff or other officeholder
22 responsible for the facility shall document and report the
23 following to the Commission on Jail Standards on a monthly basis for
24 each person detained in the jail or nonmedical facility:

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

26 (2) the duration of the detention;

27 (3) the reason for the detention; and

1 (4) the time a representative of the local mental
2 health authority is notified and arrives at the facility [~~and in no~~
3 ~~case for longer than 72 hours, excluding Saturdays, Sundays, legal~~
4 ~~holidays, and the period prescribed by Section 574.025(b) for an~~
5 ~~extreme emergency. The person must be isolated from any person who~~
6 ~~is charged with or convicted of a crime]~~.

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

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

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

17 (l) A patient restrained under Subsection (g) may be
18 restrained only during the apprehension, detention, or
19 transportation of the patient. The method of restraint must permit
20 the patient to sit in an upright position without undue difficulty.

21 SECTION 5. This Act takes effect immediately if it receives
22 a vote of two-thirds of all the members elected to each house, as
23 provided by Section 39, Article III, Texas Constitution. If this
24 Act does not receive the vote necessary for immediate effect, this
25 Act takes effect September 1, 2011.