

1-1 By: Zaffirini S.B. No. 44
1-2 (In the Senate - Filed November 8, 2010; January 31, 2011,
1-3 read first time and referred to Committee on Health and Human
1-4 Services; February 22, 2011, reported favorably by the following
1-5 vote: Yeas 9, Nays 0; February 22, 2011, 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 (d), (e), and (f), Section 573.001,
1-12 Health and Safety Code, are amended to read as follows:

1-13 (d) A peace officer who takes a person into custody under
1-14 Subsection (a) shall immediately transport the apprehended person
1-15 to:

1-16 (1) the nearest appropriate inpatient mental health
1-17 facility; ~~or~~

1-18 (2) a mental health facility deemed suitable by the
1-19 local mental health authority, if an appropriate inpatient mental
1-20 health facility is not available; or

1-21 (3) a medical facility or other facility that the
1-22 local mental health authority deems suitable, if a facility
1-23 described in Subdivision (1) or (2) is not available.

1-24 (e) A jail or similar detention facility used to detain
1-25 persons charged with or convicted of a crime is not a facility ~~[may~~
1-26 ~~not be deemed]~~ suitable for detention of a person taken into custody
1-27 under this section unless another facility described by Subsection
1-28 (d)(1) or (2) is not available and the nearest facility described by
1-29 Subsection (d)(3) is located more than 75 miles from the location
1-30 where the peace officer has custody of the person. A person may be
1-31 detained in a jail or similar detention facility under this
1-32 subsection for not longer than 12 hours. The sheriff or other
1-33 officeholder responsible for the facility shall document:

1-34 (1) the time the person's detention begins;

1-35 (2) the duration of the detention;

1-36 (3) the reason for the detention; and

1-37 (4) the time a representative of the local mental
1-38 health authority arrives at the facility ~~[except in an extreme~~
1-39 ~~emergency].~~

1-40 (f) The sheriff or officeholder responsible for ~~[A person~~
1-41 ~~detained in]~~ a jail or a similar detention ~~[nonmedical]~~ facility
1-42 shall ensure that a person detained in the jail or similar detention
1-43 facility is ~~[be]~~ kept separate from any person who is charged with
1-44 or convicted of a crime.

1-45 SECTION 2. Section 574.023, Health and Safety Code, is
1-46 amended by adding Subsection (e) to read as follows:

1-47 (e) A person taken into custody under this section may be
1-48 detained only in the manner provided by Section 574.027.

1-49 SECTION 3. Section 574.027, Health and Safety Code, is
1-50 amended by amending Subsections (c) and (d) and adding Subsection
1-51 (c-1) to read as follows:

1-52 (c) A person under a protective custody order may not be
1-53 detained in a jail or nonmedical facility used to detain persons who
1-54 are charged with or convicted of a crime unless another facility
1-55 described by Subsection (a) is not available and the nearest
1-56 medical facility or other facility deemed suitable by the local
1-57 mental health authority is located more than 75 miles from the
1-58 location where the peace officer has custody of the person. A
1-59 person may be detained in a jail or nonmedical facility under this
1-60 subsection for not longer than 12 hours. The sheriff or other
1-61 officeholder responsible for the facility shall document:

1-62 (1) the time the person's detention begins;

1-63 (2) the duration of the detention;

1-64 (3) the reason for the detention; and

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

2-8 (c-1) The sheriff or officeholder responsible for a jail or
2-9 a nonmedical facility described by Subsection (c) shall ensure that
2-10 a person detained in the jail or facility under Subsection (c) is
2-11 kept separate from any person who is charged with or convicted of a
2-12 crime.

2-13 (d) The county health authority shall ensure that proper
2-14 care and medical attention are made available to a person who is
2-15 detained in a jail or nonmedical facility under Subsection (c).

2-16 SECTION 4. Section 574.045, Health and Safety Code, is
2-17 amended by adding Subsection (1) to read as follows:

2-18 (1) A patient restrained under Subsection (g) may be
2-19 restrained only during the apprehension, detention, or
2-20 transportation of the patient. The method of restraint must permit
2-21 the patient to sit in an upright position without undue difficulty.

2-22 SECTION 5. This Act takes effect immediately if it receives
2-23 a vote of two-thirds of all the members elected to each house, as
2-24 provided by Section 39, Article III, Texas Constitution. If this
2-25 Act does not receive the vote necessary for immediate effect, this
2-26 Act takes effect September 1, 2011.

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