

BILL ANALYSIS

Senate Research Center
83R27703 GCB-D

C.S.H.B. 1738
By: Naishtat; Burkett (Zaffirini)
Health & Human Services
5/7/2013
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Subtitle C (Texas Mental Health Code), Title 7 (Mental Health and Mental Retardation), Health and Safety Code, has not been substantially revised since 1985. During this time, the Texas mental health system has undergone dramatic change, and an update is necessary to address those changes. Current law is unwieldy and difficult to navigate, resulting in inefficient allocation of state resources. It has been suggested that the increased number of forensic commitments to state hospitals through the criminal justice system is in part a product of the difficulties in navigating the civil commitment process.

Currently, police officers are transporting persons in mental health emergencies across the state, but officers and mental health facilities across the state do not all use the same detention forms which guide decision-making processes. The detention forms contain valuable information on the detained person's condition, circumstances of apprehension, and potential risks, and goes into the person's medical file and may be used to make treatment, as well as commitment, determinations.

This bill creates statewide, standardized forms to ensure that laws regarding emergency detention procedures are applied consistently throughout the state.

C.S.H.B. 1738 amends current law relating to the emergency detention by a peace officer of a person who may have mental illness, including information provided to the person subject to detention and a standard form of notification of detention to be provided to a facility by a peace officer.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 4 (Section 573.025, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 573.001, Health and Safety Code, by adding Subsection (g) to require a peace officer who takes a person into custody under Subsection (a) (relating to authorizing a peace officer, without a warrant, to take a person into custody under certain circumstances) to immediately inform the person orally in simple, nontechnical terms of the reason for the detention, and that a staff member of the facility will inform the person of the person's rights within 24 hours after the time the person is admitted to a facility, as provided by Section 573.025(b).

SECTION 2. Amends Section 573.002, Health and Safety Code, as follows:

Sec. 573.002. New heading: PEACE OFFICER'S NOTIFICATION OF DETENTION.
(a) Requires a peace officer to immediately file with a facility a notification of detention after transporting a person to that facility in accordance with Section 573.001 (Apprehension by Peace Officer Without Warrant), rather than requiring a peace officer to immediately file an application for detention after transporting a person to a facility under Section 573.001.

(b) Requires that the notification of, rather than the application for, detention contain certain information. Makes a nonsubstantive change.

(c) Requires the facility where the person is detained to include in the detained person's clinical file the notification of detention described by this section.

(d) Sets forth the required form on which the peace officer is required to give the notification of detention described by this section. Prohibits a mental health facility or hospital emergency department from requiring a peace officer to execute any form other than this form as a predicate to accepting for temporary admission a person detained under Section 573.001, Health and Safety Code.

(e) Prohibits a mental health facility or hospital emergency department from requiring a peace officer to execute any form other than the form provided by Subsection (d) as a predicate to accepting for temporary admission a person detained under Section 573.001.

SECTION 3. Amends Section 573.021(a), Health and Safety Code, to require a facility to temporarily accept a person for whom an application for detention is filed or for whom a peace officer files a notification of detention under Section 573.002(a).

SECTION 4. Amends Section 573.025, Health and Safety Code, as follows:

Sec. 573.025. RIGHTS OF PERSONS APPREHENDED, DETAINED, OR TRANSPORTED FOR EMERGENCY DETENTION. (a) Provides that a person apprehended, detained, or transported for emergency detention under this chapter (Emergency Detention) has certain rights, including the right to a reasonable opportunity to communicate with a relative or other responsible person who has a proper interest in the person's welfare. Makes nonsubstantive changes.

(b) Requires a person apprehended, detained, or transported for emergency detention under this subtitle (Texas Mental Health Code) to be informed in a certain manner of the rights provided by this section and this subtitle.

(c) Requires the executive commissioner of the Health and Human Services Commission by rule to prescribe the manner in which the person is informed of the person's rights under this section and this subtitle.

SECTION 5. Effective date: September 1, 2013.