

BILL ANALYSIS

C.S.H.B. 1856
By: Burkett
Homeland Security & Public Safety
Committee Report (Substituted)

BACKGROUND AND PURPOSE

It has been reported that peace officers transporting a patient with a mental illness from an emergency room or general hospital to a mental health facility are often asked to obtain medical clearance from the originating facility prior to transport or from the receiving mental health facility upon delivery of the patient. Interested parties note that obtaining a medical clearance, which can be as extensive as a full physical, can be time consuming for law enforcement and inefficient for both the entities covering the costs, such as counties, and the individuals with mental illness who are in dire need of immediate care. In addition, the parties note that medical clearance examinations for patients with no signs of physical fragility waste valuable hospital and law enforcement resources, as well as delay transfer and treatment of individuals, and that the attorney general has issued an opinion providing that medical clearance decisions should be left to the detaining officer's discretion. C.S.H.B. 1856 seeks to address these issues by prohibiting a mental health facility from requiring a medical evaluation before a peace officer transports certain persons to the facility.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 1856 amends the Health and Safety Code to prohibit a mental health facility to which a peace officer transports a person taken into custody for emergency detention without a warrant due to the person's mental illness from requiring the peace officer to transport the person taken into custody to a medical facility to receive a medical evaluation before the peace officer transports the person to the mental health facility.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1856 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Subchapter B, Chapter 573, Health and Safety Code, is amended by adding Section 573.013 to read as follows:

HOUSE COMMITTEE SUBSTITUTE

No equivalent provision.

Sec. 573.013. TRANSPORTING OFFICER'S DETERMINATION OF MEDICAL EMERGENCY. (a) A peace officer shall transport a person apprehended under Section 573.001 or 573.012 to an appropriate medical facility if the officer determines or has reason to believe that the person requires emergency medical services or that the person is:
(1) experiencing acute intoxication or overdose from the ingestion of drugs or alcohol;
(2) experiencing chest pain;
(3) losing consciousness;
(4) bleeding or has sustained a serious injury;
(5) the victim of an assault or sexual assault; or
(6) a resident of a nursing home or assisted living facility.

(b) A mental health facility may not require a medical examination of a person transported to the facility by a peace officer under Section 573.001(d) before the facility receives the person at the facility unless at the time the peace officer presents the person to the facility the peace officer determines the person should be transported to a medical facility as provided by Subsection (a).

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

SECTION 1. Section 573.001, Health and Safety Code, is amended by adding Subsection (d-1) to read as follows:

(d-1) A mental health facility described by Subsection (d) may not require a peace officer to transport a person taken into custody under this section to a medical facility to receive a medical evaluation before the peace officer transports the person to the mental health facility.

SECTION 2. Same as introduced version.