

BILL ANALYSIS

C.S.H.B. 1947
By: Burkett
Human Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

There are several circumstances under which a person with mental illness can be detained and committed by a court for mental health treatment. Interested parties assert that some jurisdictions allow individuals to be committed if their condition is likely to deteriorate and contend that this standard has created vagueness and confusion in the detention and commitment process because it relies on making predictions about the person's future condition rather than assessing the person's current state. As a result, individuals may be inappropriately detained and committed, which can add unnecessary expense to a state's mental health system. C.S.H.B. 1947 seeks to address these concerns.

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. 1947 amends the Health and Safety Code to define "gravely disabled" as a person who, as a result of mental illness, is suffering severe and ongoing mental, emotional, or physical distress; is in danger of serious physical harm or serious illness due to the person's inability to function independently, which is exhibited by the person's inability due to mental illness, except for reasons of indigence, to provide for the person's basic needs, including food, clothing, shelter, medical care, health, or safety; and is unable to make a rational and informed decision as to whether to submit to treatment.

C.S.H.B. 1947 revises the criteria that demonstrates to a peace officer that a person poses substantial risk of serious harm to the person or others, authorizing apprehension without a warrant, and criteria that demonstrates to a judge or designated magistrate that a proposed patient presents a substantial risk of serious harm to the person or others, authorizing the issuance of a protective custody order, to include that the person is gravely disabled to the extent that the person cannot remain at liberty. The bill revises the conditions under which a court may order temporary inpatient mental health services or extended inpatient mental health services to include that the person is gravely disabled.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1947 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. Section 571.003, Health and Safety Code, is amended.

No equivalent provision.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as introduced version.

SECTION 2. Section 573.001, Health and Safety Code, is amended to read as follows:
Sec. 573.001. APPREHENSION BY PEACE OFFICER WITHOUT WARRANT. (a) A peace officer, without a warrant, may take a person into custody if the officer:
(1) has reason to believe and does believe that:
(A) the person is mentally ill; and
(B) because of that mental illness there is a substantial risk of serious harm to the person or to others unless the person is immediately restrained; and
(2) believes that there is not sufficient time to obtain a warrant before taking the person into custody.
(b) A substantial risk of serious harm to the person or others under Subsection (a)(1)(B) may be demonstrated by:
(1) the person's behavior; or
(2) the person being gravely disabled [~~evidence of severe emotional distress and deterioration in the proposed patient's mental condition~~] to the extent that the person cannot remain at liberty.
(c) The peace officer may form the belief that the person meets the criteria for apprehension:
(1) from a representation of a credible person; or
(2) on the basis of the conduct of the apprehended person or the circumstances under which the apprehended person is found.
(d) A peace officer who takes a person into custody under Subsection (a) shall immediately transport the apprehended person to:
(1) the nearest appropriate inpatient mental health facility; or
(2) a mental health facility deemed suitable by the local mental health authority, if an appropriate inpatient mental health facility is not available.
(e) A jail or similar detention facility may not be deemed suitable except in an extreme emergency.
(f) A person detained in a jail or a nonmedical facility shall be kept separate from any person who is charged with or convicted of a crime.

No equivalent provision.

SECTION 3. Section 574.022, Health and Safety Code, is amended to read as follows:

Sec. 574.022. ISSUANCE OF ORDER.

(a) The judge or designated magistrate may issue a protective custody order if the judge or magistrate determines:

(1) that a physician has stated his opinion and the detailed reasons for his opinion that the proposed patient is mentally ill; and

(2) the proposed patient presents a substantial risk of serious harm to himself or others if not immediately restrained pending the hearing.

(b) The determination that the proposed patient presents a substantial risk of serious harm may be demonstrated by the proposed patient's behavior or by the person being gravely disabled [~~evidence of severe emotional distress and deterioration in the proposed patient's mental condition~~] to the extent that the proposed patient cannot remain at liberty.

(c) The judge or magistrate may make a determination that the proposed patient meets the criteria prescribed by Subsection (a) from the application and certificate alone if the judge or magistrate determines that the conclusions of the applicant and certifying physician are adequately supported by the information provided.

(d) The judge or magistrate may take additional evidence if a fair determination of the matter cannot be made from consideration of the application and certificate only.

(e) The judge or magistrate may issue a protective custody order for a proposed patient who is charged with a criminal offense if the proposed patient meets the requirements of this section and the facility administrator designated to detain the proposed patient agrees to the detention.

SECTION 2. Section 574.034(a), Health and Safety Code, is amended.

SECTION 4. Same as introduced version.

SECTION 3. Section 574.035(a), Health and Safety Code, is amended.

SECTION 5. Same as introduced version.

SECTION 4. This Act takes effect September 1, 2013.

SECTION 6. Same as introduced version.