

BILL ANALYSIS

C.S.H.B. 3731
By: Coleman
Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

While current law permits hearings on applications for court-ordered mental health services and applications for an order to authorize psychoactive medication to be held on the same day, interested parties note that nothing requires the hearings to be held consecutively. In some areas of the state, there have been reports of anywhere from a 7-day to a 14-day gap between the date on which the court orders mental health services and the date on which the court considers ordering psychoactive medication. Having a separate medication hearing that occurs so long after the final commitment hearing can delay treatment, increase a patient's length of stay and the costs associated with that stay, and interfere with patient care delivery. C.S.H.B. 3731 seeks to address this issue by revising the deadline by which a hearing on an application to administer psychoactive medication must be held for a patient who is required to receive certain court-ordered mental health services.

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. 3731 amends the Health and Safety Code to remove provisions authorizing a hearing on an application filed by a physician for an order to authorize the administration of a psychoactive medication, regardless of the patient's refusal, to be held on the date of a hearing on an application for temporary or extended mental health services but not later than 30 days after the filing of the medication application. The bill instead requires such a hearing as follows: if the patient is under a court order for inpatient mental health services, the hearing is to be held not later than five business days after the filing of the application for an order to authorize psychoactive medication; or, if an application for court-ordered temporary or extended mental health services has been filed for the patient, the hearing is to be held on the date of a hearing on that application or, on a showing of good cause why the hearing cannot or should not be held on that date, the hearing is to be held not later than five business days after the filing of the application for the order to authorize psychoactive medication. The bill specifies that nothing in provisions relating to the authorization for a physician to apply for an order to authorize the administration of psychoactive medication shall be construed to require a physician to file an application for such an order for a patient for whom an application for court-ordered temporary or extended mental health services has been filed.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3731 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 574.104, Health and Safety Code, is amended by amending Subsections (d) and (e) and adding Subsection (d-1) to read as follows:

(d) The hearing on an [the] application for an order to authorize psychoactive medication shall [may] be held:

(1) if the patient is under a court order for inpatient mental health services under this chapter or other law, not later than five business days after the filing of the application; or

(2) if an application for court-ordered mental health services under Section 574.034 or 574.035 has been filed for the patient:

(A) on the date of a hearing on that [an] application; or

(B) on a showing of good cause why the hearing cannot or should not be held on the date prescribed by Paragraph (A), [for court-ordered mental health services under Section 574.034 or 574.035 but shall be held] not later than five business [30] days after the filing of the application for the order to authorize psychoactive medication.

(d-1) If the hearing is not held on the same day as the application for court-ordered mental health services under Section 574.034 or 574.035 and the patient is transferred to a mental health facility in another county, the court may transfer the application for an order to authorize psychoactive medication to the county where the patient has been transferred.

(e) Subject to the requirement in Subsection (d) that the hearing shall be held on the date of a hearing on an application for court-ordered mental health services under Section 574.034 or 574.035 or not later than five business [30] days after the filing of the application for an order to authorize psychoactive medication, the court may grant one continuance on a party's motion and for good cause shown. The court may grant more than one continuance only with the agreement of the parties.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 574.104, Health and Safety Code, is amended by amending Subsections (d) and (e) and adding Subsections (d-1) and (f) to read as follows:

(d) The hearing on an [the] application for an order to authorize psychoactive medication shall [may] be held:

(1) if the patient is under a court order for inpatient mental health services under this chapter or other law, not later than five business days after the filing of the application for an order to authorize psychoactive medication; or

(2) if an application for court-ordered mental health services under Section 574.034 or 574.035 has been filed for the patient:

(A) on the date of a hearing on that [an] application; or

(B) on a showing of good cause why the hearing cannot or should not be held on the date prescribed by Paragraph (A), [for court-ordered mental health services under Section 574.034 or 574.035 but shall be held] not later than five business [30] days after the filing of the application for the order to authorize psychoactive medication.

(d-1) If the hearing is not held on the same day as the application for court-ordered mental health services under Section 574.034 or 574.035 and the patient is transferred to a mental health facility in another county, the court may transfer the application for an order to authorize psychoactive medication to the county where the patient has been transferred.

(e) Subject to the requirement in Subsection (d) that the hearing shall be held on the date of a hearing on an application for court-ordered mental health services under Section 574.034 or 574.035 or not later than five business [30] days after the filing of the application for an order to authorize psychoactive medication, the court may grant one continuance on a party's motion or [and] for good cause shown. The court may grant more than one continuance only with the agreement of the parties.

(f) Nothing in this section shall be

construed to require a physician to file an application for an order to authorize psychoactive medication for a patient for whom an application for court-ordered mental health services under Section 574.034 or 574.035 has been filed.

SECTION 2. The changes in law made by this Act to Section 574.104, Health and Safety Code, apply only to an application to authorize the administration of certain medication that is filed on or after the effective date of this Act. An application to authorize the administration of certain medication that is filed before the effective date of this Act is governed by the law in effect on the date on which the application was filed, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2013.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.