

BILL ANALYSIS

Senate Research Center
83R3240 EES-D

S.B. 1591
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Health & Human Services
4/18/2013
As Filed

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. What is more, 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.

While current law allows emergency detention by a law enforcement officer without a warrant, several jurisdictions continue to require officers to obtain a warrant either before or after apprehension in a dangerous situation. Peace officers are forced to either petition the court, or take the person to jail when they should be going to the hospital. This wastes valuable resources and creates potentially risky delays in needed care if a judge or magistrate with the authority to authorize a detention is unavailable.

S.B. 1591 eliminates the need for officers to obtain emergency detention warrants before apprehension of a person in a dangerous situation. It also directs all persons to file the sworn written application as opposed to the application that must be reviewed by a judge or magistrate.

As proposed, S.B. 1591 amends current law relating to the emergency detention of persons with mental illness.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 571.018(a), Health and Safety Code, as follows:

(a) Requires that the costs for a hearing or proceeding under this subtitle be paid by:

(1) the county that initiates emergency detention procedures under Subchapter A (Apprehension by Peace Officer or Transportation for Emergency Detention by Guardian), rather than Subchapter A or B (Judge's or Magistrate's Order for Emergency Apprehension and Detention), Chapter 573 (Emergency Detention);
or

(2) if no emergency detention procedures are initiated, the county that accepts an application for court-ordered mental health services, issues an order for protective custody, or issues an order for temporary mental health services.

SECTION 2. Amends Section 572.004, Health and Safety Code, by amending Subsections (d) and (f) and adding Subsections (d-1) and (d-2), as follows:

(d) Requires a physician who has reasonable cause to believe that a patient might meet the criteria for court-ordered mental health services or emergency detention to examine the patient as soon as possible within 24 hours after the time the request for discharge is filed. Requires the physician to discharge the patient on completion of the examination unless the physician determines that the person meets the criteria for court-ordered mental health services or emergency detention. Requires the physician, if the physician makes a determination that the patient meets the criteria for court-ordered mental health services or emergency detention, not later than 4 p.m. on the next succeeding business day after the date on which the examination occurs, to:

- (1) discharge the patient;
- (2) file an application for court-ordered mental health services and obtain a written order for further detention; or
- (3) arrange for the patient to be apprehended by a peace officer or transported for emergency detention under Subchapter A, Chapter 573.

Deletes existing text requiring the physician, if the physician makes a determination that the patient meets the criteria for court-ordered mental health services or emergency detention, not later than 4 p.m. on the next succeeding business day after the date on which the examination occurs, to, either discharge the patient or file an application for court-ordered mental health services or emergency detention and obtain a written order for further detention.

(d-1) Requires the physician to notify the patient if the physician intends to:

- (1) detain the patient under Subsection (d);
- (2) file an application for court-ordered mental health services; or
- (3) arrange for the patient to be apprehended by a peace officer or transported for emergency detention under Subchapter A, Chapter 573.

Deletes existing text requiring the physician to notify the patient if the physician intends to detain the patient under this subsection or intends to file an application for court-ordered mental health services or emergency detention.

(d-2) Requires that a decision to detain a patient under Subsection (d), rather than under this subsection, and the reasons for the decision be made a part of the patient's clinical record.

(f) Provides that the patient is not entitled to leave the facility if before the end of the period prescribed by this section:

- (1) a written withdrawal of the request for discharge is filed;
- (2) an application for court-ordered mental health services, rather than an application for court-ordered mental health services or emergency detention, is filed and the patient is detained in accordance with this subtitle; or
- (3) the patient is apprehended by a peace officer or transported for emergency detention under Subchapter A, Chapter 573, and detained in accordance with this subtitle.

SECTION 3. Amends the heading to Section 573.001, Health and Safety Code, to read as follows:

Sec. 573.001. APPREHENSION BY PEACE OFFICER.

SECTION 4. Amends Sections 573.001(a) and (b), Health and Safety Code, as follows:

(a) Authorizes a peace officer to take a person into custody if the officer has reason to believe and does believe that:

(1) the person is mentally ill; and

(2) 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.

Deletes existing text authorizing a peace officer, without a warrant, to take a person into custody if the officer has reason to believe and does believe that the person is mentally ill, and 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 believes that there is not sufficient time to obtain a warrant before taking the person into custody. Makes nonsubstantive changes.

(b) Provides that a substantial risk of serious harm to the person or others under Subsection (a)(2), rather than under Subsection (a)(1)(B) (relating to authorizing a peace officer, without a warrant, to take a person into custody if the officer has reason to believe and does believe that because of a certain mental illness there is a substantial risk of serious harm to the person or to others unless the person is immediately restrained) may be demonstrated by:

(1) the person's behavior; or

(2) evidence of severe emotional distress and deterioration in the person's mental condition to the extent that the person cannot remain at liberty.

SECTION 5. Amends Section 573.023(a), Health and Safety Code, to require a person apprehended by a peace officer or transported for emergency detention under Subchapter A, rather than under Subchapter A or detained under Subchapter B, to be released on completion of the preliminary examination unless the person is admitted to a facility under Section 573.022 (Emergency Admission and Detention).

SECTION 6. Amends Section 573.024(c), Health and Safety Code, to require that arrangements, if the person was apprehended by a peace officer under Subchapter A, be made to immediately transport the person. Entitles the person, if the person was transported for emergency detention under Subchapter A, rather than under Subchapter A or detained under Subchapter B, to reasonably prompt transportation.

SECTION 7. Repealer: Section 54.1358(c) (relating to authorizing a criminal law hearing officer to issue a magistrate's order for emergency apprehension and detention under Chapter 573, Health and Safety Code, if certain criteria are met), Government Code.

Repealer: Section 54.858(c) (relating to authorizing a criminal law hearing officer to issue a magistrate's order for emergency apprehension and detention under Chapter 573, Health and Safety Code, if certain criteria are met), Government Code.

Repealer: Subchapter B (Judge's or Magistrate's Order for Emergency Apprehension and Detention), Chapter 573, Health and Safety Code.

SECTION 8. Effective date: September 1, 2013.