

AN ACT

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.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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

(g) A peace officer who takes a person into custody under Subsection (a) shall immediately inform the person orally in simple, nontechnical terms:

(1) of the reason for the detention; and

(2) 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. Section 573.002, Health and Safety Code, is amended to read as follows:

Sec. 573.002. PEACE OFFICER'S NOTIFICATION OF [~~APPLICATION FOR~~] DETENTION. (a) A peace officer shall immediately file with a facility a notification of [~~an application for~~] detention after transporting a person to that [~~a~~] facility in accordance with [~~under~~] Section 573.001.

(b) The notification of [~~application for~~] detention must

1 contain:

2 (1) a statement that the officer has reason to believe  
3 and does believe that the person evidences mental illness;

4 (2) a statement that the officer has reason to believe  
5 and does believe that the person evidences a substantial risk of  
6 serious harm to the person [~~himself~~] or others;

7 (3) a specific description of the risk of harm;

8 (4) a statement that the officer has reason to believe  
9 and does believe that the risk of harm is imminent unless the person  
10 is immediately restrained;

11 (5) a statement that the officer's beliefs are derived  
12 from specific recent behavior, overt acts, attempts, or threats  
13 that were observed by or reliably reported to the officer;

14 (6) a detailed description of the specific behavior,  
15 acts, attempts, or threats; and

16 (7) the name and relationship to the apprehended  
17 person of any person who reported or observed the behavior, acts,  
18 attempts, or threats.

19 (c) The facility where the person is detained shall include  
20 in the detained person's clinical file the notification of  
21 detention described by this section.

22 (d) The peace officer shall give the notification of  
23 detention on the following form:

24 Notification--Emergency Detention NO. \_\_\_\_\_

25 DATE:\_\_\_\_\_ TIME:\_\_\_\_\_

26 THE STATE OF TEXAS

1 FOR THE BEST INTEREST AND PROTECTION OF:

2 \_\_\_\_\_

3 NOTIFICATION OF EMERGENCY DETENTION

4 Now comes \_\_\_\_\_, a peace officer with  
5 (name of agency) \_\_\_\_\_, of the State of  
6 Texas, and states as follows:

7 1. I have reason to believe and do believe that (name of person to  
8 be detained) \_\_\_\_\_ evidences mental illness.

9 2. I have reason to believe and do believe that the above-named  
10 person evidences a substantial risk of serious harm to  
11 himself/herself or others based upon the following:

12 \_\_\_\_\_  
13 \_\_\_\_\_  
14 \_\_\_\_\_  
15 \_\_\_\_\_

16 3. I have reason to believe and do believe that the above risk of  
17 harm is imminent unless the above-named person is immediately  
18 restrained.

19 4. My beliefs are based upon the following recent behavior, overt  
20 acts, attempts, statements, or threats observed by me or reliably  
21 reported to me:

22 \_\_\_\_\_  
23 \_\_\_\_\_

1 \_\_\_\_\_  
2 \_\_\_\_\_

3 5. The names, addresses, and relationship to the above-named  
4 person of those persons who reported or observed recent behavior,  
5 acts, attempts, statements, or threats of the above-named person  
6 are (if applicable):

7 \_\_\_\_\_  
8 \_\_\_\_\_  
9 \_\_\_\_\_  
10 \_\_\_\_\_

11 For the above reasons, I present this notification to seek  
12 temporary admission to the (name of facility)  
13 \_\_\_\_\_ inpatient mental health facility or  
14 hospital facility for the detention of (name of person to be  
15 detained) \_\_\_\_\_ on an emergency basis.

16 6. Was the person restrained in any way? Yes  No

17 \_\_\_\_\_ BADGE NO. \_\_\_\_\_

18 PEACE OFFICER'S SIGNATURE

19 Address: \_\_\_\_\_ Zip Code: \_\_\_\_\_

20 Telephone: \_\_\_\_\_

21 A mental health facility or hospital emergency department may not  
22 require a peace officer to execute any form other than this form as  
23 a predicate to accepting for temporary admission a person detained  
24 under Section 573.001, Texas Health and Safety Code.

25 (e) A mental health facility or hospital emergency

1 department may not require a peace officer to execute any form other  
2 than the form provided by Subsection (d) as a predicate to accepting  
3 for temporary admission a person detained under Section 573.001.

4 SECTION 3. Section 573.021(a), Health and Safety Code, is  
5 amended to read as follows:

6 (a) A facility shall temporarily accept a person for whom an  
7 application for detention is filed or for whom a peace officer files  
8 a notification of detention under Section 573.002(a).

9 SECTION 4. Section 573.025, Health and Safety Code, is  
10 amended to read as follows:

11 Sec. 573.025. RIGHTS OF PERSONS APPREHENDED, DETAINED, OR  
12 TRANSPORTED FOR EMERGENCY DETENTION. (a) A person apprehended,  
13 detained, or transported for emergency detention under this chapter  
14 has the right:

15 (1) to be advised of the location of detention, the  
16 reasons for the detention, and the fact that the detention could  
17 result in a longer period of involuntary commitment;

18 (2) to a reasonable opportunity to communicate with  
19 and retain an attorney;

20 (3) to be transported to a location as provided by  
21 Section 573.024 if the person is not admitted for emergency  
22 detention, unless the person is arrested or objects;

23 (4) to be released from a facility as provided by  
24 Section 573.023;

25 (5) to be advised that communications with a mental  
26 health professional may be used in proceedings for further  
27 detention; ~~and~~

1           (6) to be transported in accordance with Sections  
2 573.026 and 574.045, if the person is detained under Section  
3 573.022 or transported under an order of protective custody under  
4 Section 574.023; and

5           (7) to a reasonable opportunity to communicate with a  
6 relative or other responsible person who has a proper interest in  
7 the person's welfare.

8           (b) A person apprehended, detained, or transported for  
9 emergency detention under this subtitle shall be informed of the  
10 rights provided by this section and this subtitle:

11           (1) orally in simple, nontechnical terms, within 24  
12 hours after the time the person is admitted to a facility, and in  
13 writing in the person's primary language if possible; or

14           (2) through the use of a means reasonably calculated  
15 to communicate with a hearing or visually impaired person, if  
16 applicable.

17           (c) The executive commissioner of the Health and Human  
18 Services Commission by rule shall prescribe the manner in which the  
19 person is informed of the person's rights under this section and  
20 this subtitle.

21           SECTION 5. This Act takes effect September 1, 2013.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 1738 was passed by the House on April 11, 2013, by the following vote: Yeas 144, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1738 on May 16, 2013, by the following vote: Yeas 143, Nays 1, 2 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 1738 was passed by the Senate, with amendments, on May 13, 2013, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor