

1-1 By: Naishtat, Burkett (Senate Sponsor - Zaffirini) H.B. No. 1738  
 1-2 (In the Senate - Received from the House April 15, 2013;  
 1-3 April 17, 2013, read first time and referred to Committee on Health  
 1-4 and Human Services; May 9, 2013, reported adversely, with  
 1-5 favorable Committee Substitute by the following vote:  
 1-6 Yeas 7, Nays 0; May 9, 2013, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14			X	
1-15			X	
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR H.B. No. 1738 By: Zaffirini

1-19 A BILL TO BE ENTITLED  
 1-20 AN ACT

1-21 relating to the emergency detention by a peace officer of a person  
 1-22 who may have mental illness, including information provided to the  
 1-23 person subject to detention and a standard form of notification of  
 1-24 detention to be provided to a facility by a peace officer.

1-25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-26 SECTION 1. Section 573.001, Health and Safety Code, is  
 1-27 amended by adding Subsection (g) to read as follows:

1-28 (g) A peace officer who takes a person into custody under  
 1-29 Subsection (a) shall immediately inform the person orally in  
 1-30 simple, nontechnical terms:

- 1-31 (1) of the reason for the detention; and
- 1-32 (2) that a staff member of the facility will inform the  
 1-33 person of the person's rights within 24 hours after the time the  
 1-34 person is admitted to a facility, as provided by Section  
 1-35 573.025(b).

1-36 SECTION 2. Section 573.002, Health and Safety Code, is  
 1-37 amended to read as follows:

1-38 Sec. 573.002. PEACE OFFICER'S NOTIFICATION OF [APPLICATION  
 1-39 FOR] DETENTION. (a) A peace officer shall immediately file with a  
 1-40 facility a notification of [an application for] detention after  
 1-41 transporting a person to that [a] facility in accordance with  
 1-42 [under] Section 573.001.

1-43 (b) The notification of [application for] detention must  
 1-44 contain:

- 1-45 (1) a statement that the officer has reason to believe  
 1-46 and does believe that the person evidences mental illness;
- 1-47 (2) a statement that the officer has reason to believe  
 1-48 and does believe that the person evidences a substantial risk of  
 1-49 serious harm to the person [himself] or others;
- 1-50 (3) a specific description of the risk of harm;
- 1-51 (4) a statement that the officer has reason to believe  
 1-52 and does believe that the risk of harm is imminent unless the person  
 1-53 is immediately restrained;
- 1-54 (5) a statement that the officer's beliefs are derived  
 1-55 from specific recent behavior, overt acts, attempts, or threats  
 1-56 that were observed by or reliably reported to the officer;
- 1-57 (6) a detailed description of the specific behavior,  
 1-58 acts, attempts, or threats; and
- 1-59 (7) the name and relationship to the apprehended  
 1-60 person of any person who reported or observed the behavior, acts,

2-1 attempts, or threats.  
2-2 (c) The facility where the person is detained shall include  
2-3 in the detained person's clinical file the notification of  
2-4 detention described by this section.

2-5 (d) The peace officer shall give the notification of  
2-6 detention on the following form:

2-7 Notification--Emergency Detention NO. \_\_\_\_\_  
2-8 DATE: \_\_\_\_\_ TIME: \_\_\_\_\_

2-9 THE STATE OF TEXAS  
2-10 FOR THE BEST INTEREST AND PROTECTION OF:

2-11 \_\_\_\_\_

2-12 NOTIFICATION OF EMERGENCY DETENTION

2-13 Now comes \_\_\_\_\_, a peace officer with  
2-14 (name of agency) \_\_\_\_\_, of the State of  
2-15 Texas, and states as follows:

2-16 1. I have reason to believe and do believe that (name of person to  
2-17 be detained) \_\_\_\_\_ evidences mental illness.

2-18 2. I have reason to believe and do believe that the above-named  
2-19 person evidences a substantial risk of serious harm to  
2-20 himself/herself or others based upon the following:

2-21 \_\_\_\_\_  
2-22 \_\_\_\_\_  
2-23 \_\_\_\_\_  
2-24 \_\_\_\_\_

2-25 3. I have reason to believe and do believe that the above risk of  
2-26 harm is imminent unless the above-named person is immediately  
2-27 restrained.

2-28 4. My beliefs are based upon the following recent behavior, overt  
2-29 acts, attempts, statements, or threats observed by me or reliably  
2-30 reported to me:

2-31 \_\_\_\_\_  
2-32 \_\_\_\_\_  
2-33 \_\_\_\_\_  
2-34 \_\_\_\_\_

2-35 5. The names, addresses, and relationship to the above-named  
2-36 person of those persons who reported or observed recent behavior,  
2-37 acts, attempts, statements, or threats of the above-named person  
2-38 are (if applicable):

2-39 \_\_\_\_\_  
2-40 \_\_\_\_\_  
2-41 \_\_\_\_\_  
2-42 \_\_\_\_\_

2-43 For the above reasons, I present this notification to seek  
2-44 temporary admission to the (name of facility)  
2-45 \_\_\_\_\_ inpatient mental health facility or  
2-46 hospital facility for the detention of (name of person to be  
2-47 detained) \_\_\_\_\_ on an emergency basis.

2-48 6. Was the person restrained in any way? Yes  No

2-49 \_\_\_\_\_ BADGE NO. \_\_\_\_\_  
2-50 PEACE OFFICER'S SIGNATURE

2-51 Address: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
2-52 Telephone: \_\_\_\_\_

2-53 A mental health facility or hospital emergency department may not  
2-54 require a peace officer to execute any form other than this form as  
2-55 a predicate to accepting for temporary admission a person detained  
2-56 under Section 573.001, Texas Health and Safety Code.

3-1 (e) A mental health facility or hospital emergency  
3-2 department may not require a peace officer to execute any form other  
3-3 than the form provided by Subsection (d) as a predicate to accepting  
3-4 for temporary admission a person detained under Section 573.001.

3-5 SECTION 3. Section 573.021(a), Health and Safety Code, is  
3-6 amended to read as follows:

3-7 (a) A facility shall temporarily accept a person for whom an  
3-8 application for detention is filed or for whom a peace officer files  
3-9 a notification of detention under Section 573.002(a).

3-10 SECTION 4. Section 573.025, Health and Safety Code, is  
3-11 amended to read as follows:

3-12 Sec. 573.025. RIGHTS OF PERSONS APPREHENDED, DETAINED, OR  
3-13 TRANSPORTED FOR EMERGENCY DETENTION. (a) A person apprehended,  
3-14 detained, or transported for emergency detention under this chapter  
3-15 has the right:

3-16 (1) to be advised of the location of detention, the  
3-17 reasons for the detention, and the fact that the detention could  
3-18 result in a longer period of involuntary commitment;

3-19 (2) to a reasonable opportunity to communicate with  
3-20 and retain an attorney;

3-21 (3) to be transported to a location as provided by  
3-22 Section 573.024 if the person is not admitted for emergency  
3-23 detention, unless the person is arrested or objects;

3-24 (4) to be released from a facility as provided by  
3-25 Section 573.023;

3-26 (5) to be advised that communications with a mental  
3-27 health professional may be used in proceedings for further  
3-28 detention; ~~and~~

3-29 (6) to be transported in accordance with Sections  
3-30 573.026 and 574.045, if the person is detained under Section  
3-31 573.022 or transported under an order of protective custody under  
3-32 Section 574.023; and

3-33 (7) to a reasonable opportunity to communicate with a  
3-34 relative or other responsible person who has a proper interest in  
3-35 the person's welfare.

3-36 (b) A person apprehended, detained, or transported for  
3-37 emergency detention under this subtitle shall be informed of the  
3-38 rights provided by this section and this subtitle:

3-39 (1) orally in simple, nontechnical terms, within 24  
3-40 hours after the time the person is admitted to a facility, and in  
3-41 writing in the person's primary language if possible; or

3-42 (2) through the use of a means reasonably calculated  
3-43 to communicate with a hearing or visually impaired person, if  
3-44 applicable.

3-45 (c) The executive commissioner of the Health and Human  
3-46 Services Commission by rule shall prescribe the manner in which the  
3-47 person is informed of the person's rights under this section and  
3-48 this subtitle.

3-49 SECTION 5. This Act takes effect September 1, 2013.

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