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H.B. No. 1947

A BILL TO BE ENTITLED

AN ACT

relating to the criteria for commitment of a person with mental illness.

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

SECTION 1. Section 571.003, Health and Safety Code, is amended by adding Subdivision (7-a) to read as follows:

(7-a) "Gravely disabled" means a person who, as a result of mental illness, is:

(A) suffering severe and ongoing mental, emotional, or physical distress;

(B) 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

(C) unable to make a rational and informed decision as to whether to submit to treatment.

SECTION 2. Section 573.001(b), Health and Safety Code, is amended to read as follows:

(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) evidence of the person being gravely disabled

1 [~~severe emotional distress and deterioration in the person's mental~~
2 ~~condition~~] to the extent that the person cannot remain at liberty.

3 SECTION 3. Section 573.003(b), Health and Safety Code, is
4 amended to read as follows:

5 (b) A substantial risk of serious harm to the ward or others
6 under Subsection (a)(2) may be demonstrated by:

7 (1) the ward's behavior; or

8 (2) evidence of the ward being gravely disabled
9 [~~severe emotional distress and deterioration in the ward's mental~~
10 ~~condition~~] to the extent that the ward cannot remain at liberty.

11 SECTION 4. Section 573.012(c), Health and Safety Code, is
12 amended to read as follows:

13 (c) A substantial risk of serious harm to the person or
14 others under Subsection (b)(2) may be demonstrated by:

15 (1) the person's behavior; or

16 (2) evidence of the person being gravely disabled
17 [~~severe emotional distress and deterioration in the person's mental~~
18 ~~condition~~] to the extent that the person cannot remain at liberty.

19 SECTION 5. Section 573.022(a), Health and Safety Code, is
20 amended to read as follows:

21 (a) A person may be admitted to a facility for emergency
22 detention only if the physician who conducted the preliminary
23 examination of the person makes a written statement that:

24 (1) is acceptable to the facility;

25 (2) states that after a preliminary examination it is
26 the physician's opinion that:

27 (A) the person is mentally ill;

1 (B) the person evidences a substantial risk of
2 serious harm to himself or others;

3 (C) the described risk of harm is imminent unless
4 the person is immediately restrained; and

5 (D) emergency detention is the least restrictive
6 means by which the necessary restraint may be accomplished; and

7 (3) includes:

8 (A) a description of the nature of the person's
9 mental illness;

10 (B) a specific description of the risk of harm
11 the person evidences that may be demonstrated either by the
12 person's behavior or by evidence of the person being gravely
13 disabled [~~severe emotional distress and deterioration in the~~
14 ~~person's mental condition~~] to the extent that the person cannot
15 remain at liberty; and

16 (C) the specific detailed information from which
17 the physician formed the opinion in Subdivision (2).

18 SECTION 6. Section 574.011(d), Health and Safety Code, is
19 amended to read as follows:

20 (d) If the certificate is offered in support of a motion for
21 a protective custody order, the certificate must also include the
22 examining physician's opinion that the examined person presents a
23 substantial risk of serious harm to himself or others if not
24 immediately restrained. The harm may be demonstrated by the
25 examined person's behavior or by evidence of the person being
26 gravely disabled [~~severe emotional distress and deterioration in~~
27 ~~the examined person's mental condition~~] to the extent that the

1 examined person cannot remain at liberty.

2 SECTION 7. Section 574.022(b), Health and Safety Code, is
3 amended to read as follows:

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

10 SECTION 8. Sections 574.034(a) and (d), Health and Safety
11 Code, are amended to read as follows:

12 (a) The judge may order a proposed patient to receive
13 court-ordered temporary inpatient mental health services only if
14 the judge or jury finds, from clear and convincing evidence, that:

- 15 (1) the proposed patient is mentally ill; and
16 (2) as a result of that mental illness the proposed
17 patient:

- 18 (A) is likely to cause serious harm to himself;
19 (B) is likely to cause serious harm to others; or
20 (C) is gravely disabled [+

21 [~~(i) suffering severe and abnormal mental,~~
22 ~~emotional, or physical distress,~~

23 [~~(ii) experiencing substantial mental or~~
24 ~~physical deterioration of the proposed patient's ability to~~
25 ~~function independently, which is exhibited by the proposed~~
26 ~~patient's inability, except for reasons of indigence, to provide~~
27 ~~for the proposed patient's basic needs, including food, clothing,~~

1 ~~health, or safety; and~~

2 ~~[(iii) unable to make a rational and~~
3 ~~informed decision as to whether or not to submit to treatment].~~

4 (d) To be clear and convincing under Subsection (a), the
5 evidence must include expert testimony and, unless waived, evidence
6 of a recent overt act or a continuing pattern of behavior that tends
7 to confirm:

8 (1) the likelihood of serious harm to the proposed
9 patient or others; or

10 (2) the proposed patient being gravely disabled
11 ~~[patient's distress and the deterioration of the proposed patient's~~
12 ~~ability to function].~~

13 SECTION 9. Sections 574.035(a) and (e), Health and Safety
14 Code, are amended to read as follows:

15 (a) The judge may order a proposed patient to receive
16 court-ordered extended inpatient mental health services only if the
17 jury, or the judge if the right to a jury is waived, finds, from
18 clear and convincing evidence, that:

19 (1) the proposed patient is mentally ill;

20 (2) as a result of that mental illness the proposed
21 patient:

22 (A) is likely to cause serious harm to himself;

23 (B) is likely to cause serious harm to others; or

24 (C) is gravely disabled [+

25 ~~[(i) suffering severe and abnormal mental,~~
26 ~~emotional, or physical distress,~~

27 ~~[(ii) experiencing substantial mental or~~

1 ~~physical deterioration of the proposed patient's ability to~~
2 ~~function independently, which is exhibited by the proposed~~
3 ~~patient's inability, except for reasons of indigence, to provide~~
4 ~~for the proposed patient's basic needs, including food, clothing,~~
5 ~~health, or safety; and~~

6 ~~[(iii) unable to make a rational and~~
7 ~~informed decision as to whether or not to submit to treatment];~~

8 (3) the proposed patient's condition is expected to
9 continue for more than 90 days; and

10 (4) the proposed patient has received court-ordered
11 inpatient mental health services under this subtitle or under
12 Chapter 46B, Code of Criminal Procedure, for at least 60
13 consecutive days during the preceding 12 months.

14 (e) To be clear and convincing under Subsection (a), the
15 evidence must include expert testimony and evidence of a recent
16 overt act or a continuing pattern of behavior that tends to confirm:

17 (1) the likelihood of serious harm to the proposed
18 patient or others; or

19 (2) the proposed patient being gravely disabled
20 ~~[patient's distress and the deterioration of the proposed patient's~~
21 ~~ability to function]~~.

22 SECTION 10. This Act takes effect September 1, 2013.