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H.B. No. 1947

Substitute the following for H.B. No. 1947:

By: Fallon

C.S.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, Health and Safety Code, is amended to read as follows:

Sec. 573.001. APPREHENSION BY PEACE OFFICER WITHOUT WARRANT. (a) A peace officer, without a warrant, may take a person into custody if the officer:

(1) has reason to believe and does believe that:

1 (A) the person is mentally ill; and

2 (B) because of that mental illness there is a
3 substantial risk of serious harm to the person or to others unless
4 the person is immediately restrained; and

5 (2) believes that there is not sufficient time to
6 obtain a warrant before taking the person into custody.

7 (b) A substantial risk of serious harm to the person or
8 others under Subsection (a)(1)(B) may be demonstrated by:

9 (1) the person's behavior; or

10 (2) the person being gravely disabled [~~evidence of~~
11 ~~severe emotional distress and deterioration in the proposed~~
12 ~~patient's mental condition~~] to the extent that the person cannot
13 remain at liberty.

14 (c) The peace officer may form the belief that the person
15 meets the criteria for apprehension:

16 (1) from a representation of a credible person; or

17 (2) on the basis of the conduct of the apprehended
18 person or the circumstances under which the apprehended person is
19 found.

20 (d) A peace officer who takes a person into custody under
21 Subsection (a) shall immediately transport the apprehended person
22 to:

23 (1) the nearest appropriate inpatient mental health
24 facility; or

25 (2) a mental health facility deemed suitable by the
26 local mental health authority, if an appropriate inpatient mental
27 health facility is not available.

1 (e) A jail or similar detention facility may not be deemed
2 suitable except in an extreme emergency.

3 (f) A person detained in a jail or a nonmedical facility
4 shall be kept separate from any person who is charged with or
5 convicted of a crime.

6 SECTION 3. Section 574.022, Health and Safety Code, is
7 amended to read as follows:

8 Sec. 574.022. ISSUANCE OF ORDER. (a) The judge or
9 designated magistrate may issue a protective custody order if the
10 judge or magistrate determines:

11 (1) that a physician has stated his opinion and the
12 detailed reasons for his opinion that the proposed patient is
13 mentally ill; and

14 (2) the proposed patient presents a substantial risk
15 of serious harm to himself or others if not immediately restrained
16 pending the hearing.

17 (b) The determination that the proposed patient presents a
18 substantial risk of serious harm may be demonstrated by the
19 proposed patient's behavior or by the person being gravely disabled
20 [~~evidence of severe emotional distress and deterioration in the~~
21 ~~proposed patient's mental condition~~] to the extent that the
22 proposed patient cannot remain at liberty.

23 (c) The judge or magistrate may make a determination that
24 the proposed patient meets the criteria prescribed by Subsection
25 (a) from the application and certificate alone if the judge or
26 magistrate determines that the conclusions of the applicant and
27 certifying physician are adequately supported by the information

1 provided.

2 (d) The judge or magistrate may take additional evidence if
3 a fair determination of the matter cannot be made from
4 consideration of the application and certificate only.

5 (e) The judge or magistrate may issue a protective custody
6 order for a proposed patient who is charged with a criminal offense
7 if the proposed patient meets the requirements of this section and
8 the facility administrator designated to detain the proposed
9 patient agrees to the detention.

10 SECTION 4. Section 574.034(a), Health and Safety Code, is
11 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 SECTION 5. Section 574.035(a), Health and Safety Code, is
5 amended to read as follows:

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

10 (1) the proposed patient is mentally ill;

11 (2) as a result of that mental illness the proposed
12 patient:

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

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

15 (C) is gravely disabled[+

16 ~~[(i) suffering severe and abnormal mental,~~
17 ~~emotional, or physical distress,~~

18 ~~[(ii) experiencing substantial mental or~~
19 ~~physical deterioration of the proposed patient's ability to~~
20 ~~function independently, which is exhibited by the proposed~~
21 ~~patient's inability, except for reasons of indigence, to provide~~
22 ~~for the proposed patient's basic needs, including food, clothing,~~
23 ~~health, or safety, and~~

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

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

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

5 SECTION 6. This Act takes effect September 1, 2013.