

By: Naishtat

H.B. No. 2212

A BILL TO BE ENTITLED

AN ACT

relating to court-ordered outpatient mental health services.

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

SECTION 1. Subchapter A, Chapter 574, Health and Safety Code, is amended by adding Section 574.0125 to read as follows:

Sec. 574.0125. IDENTIFICATION OF PERSON RESPONSIBLE FOR COURT-ORDERED OUTPATIENT MENTAL HEALTH SERVICES. Not later than the third day before the date of a hearing that may result in the judge ordering the patient to receive court-ordered outpatient mental health services, the judge shall identify the person the judge intends to designate to be responsible for those services under Section 574.037.

SECTION 2. Section 574.037, Health and Safety Code, is amended by amending Subsections (a) and (b) and adding Subsections (b-1), (c-1), and (c-2) to read as follows:

(a) The court, in an order that directs a patient to participate in outpatient mental health services, shall designate the person identified under Section 574.0125 as [identify a person who is] responsible for those services or may designate a different person if necessary. The person designated [~~identified~~] must be the facility administrator or an individual involved in providing court-ordered outpatient services. A person may not be designated as responsible for the ordered services without the person's consent unless the person is the facility administrator of a

1 department facility or the facility administrator of a community
2 center that provides mental health services in the region in which
3 the committing court is located.

4 (b) The person responsible for the services shall submit to
5 the court [~~within two weeks after the court enters the order~~] a
6 general program of the treatment to be provided as required by this
7 subsection and Subsection (b-1). The program must be incorporated
8 into the court order. The program must include:

9 (1) services to provide care coordination; and

10 (2) any other treatment or services considered
11 clinically necessary by a licensed physician or the person
12 responsible for the services to assist the patient in functioning
13 safely in the community, including clinically necessary medication
14 and supported housing.

15 (b-1) The person responsible for the services shall submit
16 the program to the court before the hearing under Section 574.034 or
17 574.035 or before the court modifies an order under Section
18 574.061, as appropriate.

19 (c-1) A patient subject to court-ordered assisted
20 outpatient treatment may petition the court for specific
21 enforcement of the court order.

22 (c-2) A court may, on its own motion, set a status
23 conference with the person responsible for the services, the
24 patient, or the patient's attorney, if applicable, to ensure
25 specific enforcement of the court order.

26 SECTION 3. Section 574.061(f), Health and Safety Code, is
27 amended to read as follows:

1 (f) If the court modifies the order, the court shall
2 designate [~~identify~~] a person to be responsible for the outpatient
3 services as prescribed by Section 574.037.

4 SECTION 4. Section 574.063(b), Health and Safety Code, is
5 amended to read as follows:

6 (b) The application must state the applicant's opinion and
7 detail the reasons for the applicant's opinion that:

8 (1) the patient meets the criteria described by
9 Section 574.064(a-1) [~~574.065(a)~~]; and

10 (2) detention in an inpatient mental health facility
11 is necessary to evaluate the appropriate setting for continued
12 court-ordered services.

13 SECTION 5. Section 574.064, Health and Safety Code, is
14 amended by adding Subsections (a-1) and (a-2) and amending
15 Subsections (b) and (e) to read as follows:

16 (a-1) A physician shall evaluate the patient as soon as
17 possible within 24 hours after the time detention begins to
18 determine whether the patient, due to mental illness, presents a
19 substantial risk of serious harm to the patient or others so that
20 the patient cannot be at liberty pending the probable cause hearing
21 under Subsection (b). The determination that the patient presents
22 a substantial risk of serious harm to the patient or others may be
23 demonstrated by:

24 (1) the patient's behavior; or

25 (2) evidence of severe emotional distress and
26 deterioration in the patient's mental condition to the extent that
27 the patient cannot live safely in the community.

1 (a-2) If the physician who conducted the evaluation
2 determines that the patient does not present a substantial risk of
3 serious harm to the patient or others, the facility shall:

4 (1) notify:

5 (A) the person designated under Section 574.037
6 as responsible for providing outpatient mental health services or
7 the facility administrator of the outpatient facility treating the
8 patient; and

9 (B) the court that entered the order directing
10 the patient to receive court-ordered outpatient mental health
11 services; and

12 (2) release the patient.

13 (b) A patient who is not released under Subsection (a-2) may
14 be detained under a temporary detention order for more than 72
15 hours, excluding Saturdays, Sundays, legal holidays, and the period
16 prescribed by Section 574.025(b) for an extreme emergency only if,
17 after a hearing held before the expiration of that period, the
18 court, a magistrate, or a designated associate judge finds that
19 there is probable cause to believe that:

20 (1) the patient, due to mental illness, presents a
21 substantial risk of serious harm to the patient or others, using the
22 criteria prescribed by Subsection (a-1), to the extent that the
23 patient cannot be at liberty pending the final hearing under
24 Section 574.062 [~~meets the criteria described by Section~~
25 ~~574.065(a)~~]; and

26 (2) detention in an inpatient mental health facility
27 is necessary to evaluate the appropriate setting for continued

1 court-ordered services.

2 (e) A patient released from an inpatient mental health
3 facility under Subsection (a-2) or (d) continues to be subject to
4 the order for court-ordered outpatient services, if the order has
5 not expired.

6 SECTION 6. Section 574.065(a), Health and Safety Code, is
7 amended to read as follows:

8 (a) The court may modify an order for outpatient services at
9 the modification hearing if the court determines that the patient
10 meets the applicable criteria for court-ordered inpatient mental
11 health services prescribed by Section 574.034(a) or 574.035(a).

12 SECTION 7. The heading to Subchapter G, Chapter 574, Health
13 and Safety Code, is amended to read as follows:

14 SUBCHAPTER G. ADMINISTRATION OF MEDICATION TO PATIENT UNDER COURT
15 ORDER FOR [~~INPATIENT~~] MENTAL HEALTH SERVICES

16 SECTION 8. Section 574.102, Health and Safety Code, is
17 amended to read as follows:

18 Sec. 574.102. APPLICATION OF SUBCHAPTER. This subchapter
19 applies to the application of medication to a patient subject to a
20 court [~~an~~] order for [~~inpatient~~] mental health services under this
21 chapter or other law.

22 SECTION 9. Section 574.103, Health and Safety Code, is
23 amended by amending Subsection (b) and adding Subsection (c) to
24 read as follows:

25 (b) A person may not administer a psychoactive medication to
26 a patient under court-ordered inpatient mental health services who
27 refuses to take the medication voluntarily unless:

1 (1) the patient is having a medication-related
2 emergency;

3 (2) the patient is under an order issued under Section
4 574.106 authorizing the administration of the medication
5 regardless of the patient's refusal; or

6 (3) the patient is a ward who is 18 years of age or
7 older and the guardian of the person of the ward consents to the
8 administration of psychoactive medication regardless of the ward's
9 expressed preferences regarding treatment with psychoactive
10 medication.

11 (c) A person may not administer a psychoactive medication to
12 a patient under court-ordered outpatient mental health services who
13 refuses to take medication voluntarily unless:

14 (1) the person is having a medication-related
15 emergency; and

16 (2) the psychoactive medication does not include
17 long-acting injectable medications.

18 SECTION 10. The change in law made by this Act applies only
19 to an application for court-ordered mental health services or
20 temporary detention filed on or after the effective date of this
21 Act. An application filed before the effective date of this Act is
22 governed by the law in effect when the application was filed, and
23 the former law is continued in effect for that purpose.

24 SECTION 11. This Act takes effect September 1, 2013.