

By: Naishtat

H.B. No. 2618

A BILL TO BE ENTITLED

AN ACT

relating to the emergency detention of persons with mental illness.

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

SECTION 1. Section 571.018(a), Health and Safety Code, is amended to read as follows:

(a) The costs for a hearing or proceeding under this subtitle shall be paid by:

(1) the county in which [~~that initiates~~] emergency detention procedures are initiated under Subchapter A [~~or B~~], Chapter 573; or

(2) if no emergency detention procedures are initiated, the county that accepts an application for court-ordered mental health services, issues an order for protective custody, or issues an order for temporary mental health services.

SECTION 2. Section 572.004, Health and Safety Code, is amended by amending Subsections (d) and (f) and adding Subsections (d-1) and (d-2) to read as follows:

(d) A physician who has reasonable cause to believe that a patient might meet the criteria for court-ordered mental health services or emergency detention shall examine the patient as soon as possible within 24 hours after the time the request for discharge is filed. The physician shall discharge the patient on completion of the examination unless the physician determines that the person meets the criteria for court-ordered mental health services or

1 emergency detention. If the physician makes a determination that  
2 the patient meets the criteria for court-ordered mental health  
3 services or emergency detention, the physician shall, not later  
4 than 4 p.m. on the next succeeding business day after the date on  
5 which the examination occurs:

6 (1) [~~either~~] discharge the patient; [~~or~~]

7 (2) file an application for court-ordered mental  
8 health services [~~or emergency detention~~] and obtain a written order  
9 for further detention; or

10 (3) arrange for the patient to be apprehended by a  
11 peace officer or transported for emergency detention under  
12 Subchapter A, Chapter 573.

13 (d-1) The physician shall notify the patient if the  
14 physician intends to:

15 (1) detain the patient under Subsection (d);

16 (2) [~~this subsection or intends to~~] file an  
17 application for court-ordered mental health services; or

18 (3) arrange for the patient to be apprehended by a  
19 peace officer or transported for emergency detention under  
20 Subchapter A, Chapter 573 [~~emergency detention~~].

21 (d-2) A decision to detain a patient under Subsection (d)  
22 [~~this subsection~~] and the reasons for the decision shall be made a  
23 part of the patient's clinical record.

24 (f) The patient is not entitled to leave the facility if  
25 before the end of the period prescribed by this section:

26 (1) a written withdrawal of the request for discharge  
27 is filed; [~~or~~]

1 (2) an application for court-ordered mental health  
2 services [~~or emergency detention~~] is filed and the patient is  
3 detained in accordance with this subtitle; or

4 (3) the patient is apprehended by a peace officer or  
5 transported for emergency detention under Subchapter A, Chapter  
6 573, and detained in accordance with this subtitle.

7 SECTION 3. The heading to Section 573.001, Health and  
8 Safety Code, is amended to read as follows:

9 Sec. 573.001. APPREHENSION BY PEACE OFFICER [~~WITHOUT~~  
10 ~~WARRANT~~].

11 SECTION 4. Sections 573.001(a) and (b), Health and Safety  
12 Code, are amended to read as follows:

13 (a) A peace officer shall [~~, without a warrant, may~~] take a  
14 person into custody if the officer [~~+~~

15 [~~(1)~~] has reason to believe and does believe that:

16 (1) [~~(A)~~] the person is mentally ill; and

17 (2) [~~(B)~~] because of that mental illness there is a  
18 substantial risk of serious harm to the person or to others unless  
19 the person is immediately restrained [~~, and~~

20 [~~(2) believes that there is not sufficient time to~~  
21 ~~obtain a warrant before taking the person into custody~~].

22 (b) A substantial risk of serious harm to the person or  
23 others under Subsection (a)(2) [~~(a)(1)(B)~~] may be demonstrated by:

24 (1) the person's behavior; or

25 (2) evidence of severe emotional distress and  
26 deterioration in the person's mental condition to the extent that  
27 the person cannot remain at liberty.

1 SECTION 5. Section 573.023(a), Health and Safety Code, is  
2 amended to read as follows:

3 (a) A person apprehended by a peace officer or transported  
4 for emergency detention under Subchapter A [~~or detained under~~  
5 ~~Subchapter B~~] shall be released on completion of the preliminary  
6 examination unless the person is admitted to a facility under  
7 Section 573.022.

8 SECTION 6. Section 573.024(c), Health and Safety Code, is  
9 amended to read as follows:

10 (c) If the person was apprehended by a peace officer under  
11 Subchapter A, arrangements must be made to immediately transport  
12 the person. If the person was transported for emergency detention  
13 under Subchapter A [~~or detained under Subchapter B~~], the person is  
14 entitled to reasonably prompt transportation.

15 SECTION 7. The following provisions are repealed:

- 16 (1) Section 54.1358(c), Government Code;
- 17 (2) Section 54.858(c), Government Code; and
- 18 (3) Subchapter B, Chapter 573, Health and Safety Code.

19 SECTION 8. This Act takes effect September 1, 2013.