

By: Collier

H.B. No. 3149

A BILL TO BE ENTITLED

AN ACT

relating to an extension for the time a person may be detained in custody for a preliminary examination.

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

SECTION 1. Section 573.021(b), Health and Safety Code, is amended to read as follows:

(b) Except as provided by Section 573.0211, a [A] person accepted for a preliminary examination may be detained in custody for not longer than 48 hours after the time the person is presented to the facility unless a written order for protective custody is obtained. The 48-hour period allowed by this section includes any time the patient spends waiting in the facility for medical care before the person receives the preliminary examination. If the 48-hour period ends on a Saturday, Sunday, legal holiday, or before 4 p.m. on the first succeeding business day, the person may be detained until 4 p.m. on the first succeeding business day. If the 48-hour period ends at a different time, the person may be detained only until 4 p.m. on the day the 48-hour period ends. If extremely hazardous weather conditions exist or a disaster occurs, the presiding judge or magistrate may, by written order made each day, extend by an additional 24 hours the period during which the person may be detained. The written order must declare that an emergency exists because of the weather or the occurrence of a disaster.

SECTION 2. Subchapter C, Chapter 573, Health and Safety

1 Code, is amended by adding Section 573.0211 to read as follows:

2 Sec. 573.0211. PRELIMINARY EXAMINATION EXTENSION. (a) A
3 county may adopt the procedure provided by this section to extend
4 the period for a preliminary examination if a majority of the judges
5 of courts that have probate jurisdiction in the county approve the
6 adoption.

7 (b) If during the examination required under Section
8 573.021(c) the physician determines that there is a reasonable
9 medical probability that additional evaluation, observation, or
10 treatment is needed to properly assess the person and determine if
11 the person needs court-ordered mental health services, the
12 physician and the person may agree to extend the detention beyond
13 the 48-hour period allowed under Section 573.021(b). The physician
14 and person may agree to a new extension for the detention period
15 only if:

16 (1) the person is represented by an attorney;
17 (2) the physician and the person, after consultation
18 with the person's attorney, agree that extending the detention
19 period is in the best interest of the person;

20 (3) the agreement is reflected in writing;
21 (4) the new extension period does not exceed 96 hours;

22 and

23 (5) the person and the person's attorney are provided a
24 copy of the written agreement.

25 (c) A judge of a court having probate jurisdiction in the
26 county may appoint an attorney to represent a person who requests an
27 extension under this section. An attorney appointed under this

1 section is subject to the requirements of Section 574.004.

2 SECTION 3. This Act takes effect September 1, 2013.