

SENATE AMENDMENTS

2nd Printing

By: Naishtat, Burkett

H.B. No. 1738

A BILL TO BE ENTITLED

AN ACT

relating to a standard form of notification for the detention of a person with mental illness.

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

SECTION 1. Section 573.002, Health and Safety Code, is amended to read as follows:

Sec. 573.002. PEACE OFFICER'S NOTIFICATION OF [~~APPLICATION FOR~~] DETENTION. (a) A peace officer shall immediately file with a facility a notification of [~~an application for~~] detention after transporting a person to that [~~a~~] facility in accordance with [~~under~~] Section 573.001.

(b) The notification of [~~application for~~] detention must contain:

(1) a statement that the officer has reason to believe and does believe that the person evidences mental illness;

(2) a statement that the officer has reason to believe and does believe that the person evidences a substantial risk of serious harm to himself or others;

(3) a specific description of the risk of harm;

(4) a statement that the officer has reason to believe and does believe that the risk of harm is imminent unless the person is immediately restrained;

(5) a statement that the officer's beliefs are derived from specific recent behavior, overt acts, attempts, or threats

1 that were observed by or reliably reported to the officer;

2 (6) a detailed description of the specific behavior,
3 acts, attempts, or threats; and

4 (7) the name and relationship to the apprehended
5 person of any person who reported or observed the behavior, acts,
6 attempts, or threats.

7 (c) The facility where the person is detained shall include
8 in the detained person's clinical file the notification of
9 detention described by this section.

10 (d) The peace officer shall give the notification of
11 detention on the following form:

12 Notification--Emergency Detention NO. _____

13 THE STATE OF TEXAS

14 FOR THE BEST INTEREST AND PROTECTION OF:

15 _____

16 NOTIFICATION OF EMERGENCY DETENTION

17 Now comes _____, a peace officer with
18 (name of agency) _____, of the State of
19 Texas, and states as follows:

20 1. I have reason to believe and do believe that (name of person to
21 be detained) _____ evidences mental illness.

22 2. I have reason to believe and do believe that the above-named
23 person evidences a substantial risk of serious harm to

1 himself/herself or others based upon the following:

2 _____
3 _____
4 _____
5 _____

6 3. I have reason to believe and do believe that the above risk of
7 harm is imminent unless the above-named person is immediately
8 restrained.

9 4. My beliefs are based upon the following recent behavior, overt
10 acts, attempts, statements, or threats observed by me or reliably
11 reported to me:

12 _____
13 _____
14 _____
15 _____

16 5. The names, addresses, and relationship to the above-named
17 person of those persons who reported or observed recent behavior,
18 acts, attempts, statements, or threats of the above-named person
19 are (if applicable):

20 _____
21 _____
22 _____
23 _____

24 For the above reasons, I present this notification to seek
25 temporary admission to the (name of facility)

ADOPTED

MAY 13 2013

Atty. Gen.
Secretary of the Senate

By: NAISHTAT / ZAFFIRINI

H.B. No. 1738

Substitute the following for H.B. No. 1738:

By: Zaffirini

C.S. H.B. No. 1738

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the emergency detention by a peace officer of a person
3 who may have mental illness, including information provided to the
4 person subject to detention and a standard form of notification of
5 detention to be provided to a facility by a peace officer.

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

7 SECTION 1. Section 573.001, Health and Safety Code, is
8 amended by adding Subsection (g) to read as follows:

9 (g) A peace officer who takes a person into custody under
10 Subsection (a) shall immediately inform the person orally in
11 simple, nontechnical terms:

12 (1) of the reason for the detention; and

13 (2) that a staff member of the facility will inform the
14 person of the person's rights within 24 hours after the time the
15 person is admitted to a facility, as provided by Section
16 573.025(b).

17 SECTION 2. Section 573.002, Health and Safety Code, is
18 amended to read as follows:

19 Sec. 573.002. PEACE OFFICER'S NOTIFICATION OF [APPLICATION
20 FOR] DETENTION. (a) A peace officer shall immediately file with a
21 facility a notification of [an application for] detention after
22 transporting a person to that [a] facility in accordance with
23 [under] Section 573.001.

24 (b) The notification of [application for] detention must

1 contain:

2 (1) a statement that the officer has reason to believe
3 and does believe that the person evidences mental illness;

4 (2) a statement that the officer has reason to believe
5 and does believe that the person evidences a substantial risk of
6 serious harm to the person [~~himself~~] or others;

7 (3) a specific description of the risk of harm;

8 (4) a statement that the officer has reason to believe
9 and does believe that the risk of harm is imminent unless the person
10 is immediately restrained;

11 (5) a statement that the officer's beliefs are derived
12 from specific recent behavior, overt acts, attempts, or threats
13 that were observed by or reliably reported to the officer;

14 (6) a detailed description of the specific behavior,
15 acts, attempts, or threats; and

16 (7) the name and relationship to the apprehended
17 person of any person who reported or observed the behavior, acts,
18 attempts, or threats.

19 (c) The facility where the person is detained shall include
20 in the detained person's clinical file the notification of
21 detention described by this section.

22 (d) The peace officer shall give the notification of
23 detention on the following form:

24 Notification--Emergency Detention NO. _____

25 DATE:_____ TIME:_____

26 THE STATE OF TEXAS

1 FOR THE BEST INTEREST AND PROTECTION OF:

2 _____

3 NOTIFICATION OF EMERGENCY DETENTION

4 Now comes _____, a peace officer with
5 (name of agency) _____, of the State of
6 Texas, and states as follows:

7 1. I have reason to believe and do believe that (name of person to
8 be detained) _____ evidences mental illness.

9 2. I have reason to believe and do believe that the above-named
10 person evidences a substantial risk of serious harm to
11 himself/herself or others based upon the following:

12 _____
13 _____
14 _____
15 _____

16 3. I have reason to believe and do believe that the above risk of
17 harm is imminent unless the above-named person is immediately
18 restrained.

19 4. My beliefs are based upon the following recent behavior, overt
20 acts, attempts, statements, or threats observed by me or reliably
21 reported to me:

22 _____
23 _____

1 _____
2 _____

3 5. The names, addresses, and relationship to the above-named
4 person of those persons who reported or observed recent behavior,
5 acts, attempts, statements, or threats of the above-named person
6 are (if applicable):

7 _____
8 _____
9 _____
10 _____

11 For the above reasons, I present this notification to seek
12 temporary admission to the (name of facility)
13 _____ inpatient mental health facility or
14 hospital facility for the detention of (name of person to be
15 detained) _____ on an emergency basis.

16 6. Was the person restrained in any way? Yes No

17 _____ BADGE NO. _____
18 PEACE OFFICER'S SIGNATURE

19 Address: _____ Zip Code: _____
20 Telephone: _____

21 A mental health facility or hospital emergency department may not
22 require a peace officer to execute any form other than this form as
23 a predicate to accepting for temporary admission a person detained
24 under Section 573.001, Texas Health and Safety Code.

25 (e) A mental health facility or hospital emergency

1 department may not require a peace officer to execute any form other
2 than the form provided by Subsection (d) as a predicate to accepting
3 for temporary admission a person detained under Section 573.001.

4 SECTION 3. Section 573.021(a), Health and Safety Code, is
5 amended to read as follows:

6 (a) A facility shall temporarily accept a person for whom an
7 application for detention is filed or for whom a peace officer files
8 a notification of detention under Section 573.002(a).

9 SECTION 4. Section 573.025, Health and Safety Code, is
10 amended to read as follows:

11 Sec. 573.025. RIGHTS OF PERSONS APPREHENDED, DETAINED, OR
12 TRANSPORTED FOR EMERGENCY DETENTION. (a) A person apprehended,
13 detained, or transported for emergency detention under this chapter
14 has the right:

15 (1) to be advised of the location of detention, the
16 reasons for the detention, and the fact that the detention could
17 result in a longer period of involuntary commitment;

18 (2) to a reasonable opportunity to communicate with
19 and retain an attorney;

20 (3) to be transported to a location as provided by
21 Section 573.024 if the person is not admitted for emergency
22 detention, unless the person is arrested or objects;

23 (4) to be released from a facility as provided by
24 Section 573.023;

25 (5) to be advised that communications with a mental
26 health professional may be used in proceedings for further
27 detention; ~~and~~

1 (6) to be transported in accordance with Sections
2 573.026 and 574.045, if the person is detained under Section
3 573.022 or transported under an order of protective custody under
4 Section 574.023; and

5 (7) to a reasonable opportunity to communicate with a
6 relative or other responsible person who has a proper interest in
7 the person's welfare.

8 (b) A person apprehended, detained, or transported for
9 emergency detention under this subtitle shall be informed of the
10 rights provided by this section and this subtitle:

11 (1) orally in simple, nontechnical terms, within 24
12 hours after the time the person is admitted to a facility, and in
13 writing in the person's primary language if possible; or

14 (2) through the use of a means reasonably calculated
15 to communicate with a hearing or visually impaired person, if
16 applicable.

17 (c) The executive commissioner of the Health and Human
18 Services Commission by rule shall prescribe the manner in which the
19 person is informed of the person's rights under this section and
20 this subtitle.

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

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 13, 2013

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1738 by Naishtat (Relating to the emergency detention by a peace officer of a person who may have mental illness, including information provided to the person subject to detention and a standard form of notification of detention to be provided to a facility by a peace officer.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend the Health and Safety Code to require a peace officer to immediately inform the person orally of the reason for the detention and to file a notification of emergency detention on a prescribed form with a facility. A mental health facility or hospital emergency department could not require a peace officer to execute any other form as a predicate to accepting a person for temporary admission.

The bill would require the executive commissioner of the Health and Human Services Commission to prescribe the manner in which the person is informed of the rights.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: UP, SD, CL, TP

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 8, 2013

TO: Honorable Jane Nelson, Chair, Senate Committee on Health & Human Services

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1738 by Naishtat (Relating to the emergency detention by a peace officer of a person who may have mental illness, including information provided to the person subject to detention and a standard form of notification of detention to be provided to a facility by a peace officer.), **Committee Report 2nd House, Substituted**

<p>No significant fiscal implication to the State is anticipated.</p>
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The bill would amend the Health and Safety Code to require a peace officer to immediately inform the person orally of the reason for the detention and to file a notification of emergency detention on a prescribed form with a facility. A mental health facility or hospital emergency department could not require a peace officer to execute any other form as a predicate to accepting a person for temporary admission.

The bill would require the executive commissioner of the Health and Human Services Commission to prescribe the manner in which the person is informed of the rights.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: UP, CL, TP

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

April 29, 2013

TO: Honorable Jane Nelson, Chair, Senate Committee on Health & Human Services

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1738 by Naishtat (Relating to a standard form of notification for the detention of a person with mental illness.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Health and Safety Code to require a peace officer to immediately file a notification of emergency detention on a prescribed form with a facility. A mental health facility or hospital emergency department could not require a peace officer to execute any other form as a predicate to accepting a person for temporary admission.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: UP, CL, TP

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

March 12, 2013

TO: Honorable Lois W. Kolkhorst, Chair, House Committee On Public Health

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1738 by Naishtat (Relating to a standard form of notification for the detention of a person with mental illness.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Health and Safety Code to require a peace officer to immediately file a notification of emergency detention on a prescribed form with a facility. A mental health facility or hospital emergency department could not require a peace officer to execute any other form as a predicate to accepting a person for temporary admission.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: UP, CL, TP