

House Bill 1738
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

No equivalent provision.

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 that were observed by or reliably reported to the officer;

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

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

(1) of the reason for the detention; and

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

SECTION 2. 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 the person ~~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 that were observed by or reliably reported to the officer;

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- (6) a detailed description of the specific behavior, acts, attempts, or threats; and
- (7) the name and relationship to the apprehended person of any person who reported or observed the behavior, acts, attempts, or threats.
- (c) The facility where the person is detained shall include in the detained person's clinical file the notification of detention described by this section.
- (d) The peace officer shall give the notification of detention on the following form:

Notification--Emergency _____ DetentionNO. _____

THE STATE OF TEXAS
FOR THE BEST INTEREST AND PROTECTION OF:

NOTIFICATION OF EMERGENCY DETENTION

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

- 1. I have reason to believe and do believe that (name of person to be detained) _____ evidences mental illness.
- 2. I have reason to believe and do believe that the above-

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- (6) a detailed description of the specific behavior, acts, attempts, or threats; and
- (7) the name and relationship to the apprehended person of any person who reported or observed the behavior, acts, attempts, or threats.
- (c) The facility where the person is detained shall include in the detained person's clinical file the notification of detention described by this section.
- (d) The peace officer shall give the notification of detention on the following form:

Notification--Emergency _____ DetentionNO. _____
DATE: _____
TIME: _____

THE STATE OF TEXAS
FOR THE BEST INTEREST AND PROTECTION OF:

NOTIFICATION OF EMERGENCY DETENTION

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

- 1. I have reason to believe and do believe that (name of person to be detained) _____ evidences mental illness.
- 2. I have reason to believe and do believe that the above-

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named person evidences a substantial risk of serious harm to himself/herself or others based upon the following:

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

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

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

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named person evidences a substantial risk of serious harm to himself/herself or others based upon the following:

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

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

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

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

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

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

_____ BADGE NO.

_____ BADGE NO.

PEACE OFFICER'S SIGNATURE

PEACE OFFICER'S SIGNATURE

Address: _____ Zip Code: _____

Address: _____ Zip Code: _____

Telephone: _____

Telephone: _____

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

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

(e) A mental health facility or hospital emergency department may not require a peace officer to execute any form other than the form provided by Subsection (d) as a predicate to accepting for temporary admission a person detained under Section 573.001.

(e) A mental health facility or hospital emergency department may not require a peace officer to execute any form other than the form provided by Subsection (d) as a predicate to accepting for temporary admission a person detained under Section 573.001.

SECTION 2. Section 573.021(a), Health and Safety Code, is amended to read as follows:

SECTION 3. Same as House version.

(a) A facility shall temporarily accept a person for whom an

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application for detention is filed or for whom a peace officer files a notification of detention under Section 573.002(a).

No equivalent provision.

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

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

- (1) to be advised of the location of detention, the reasons for the detention, and the fact that the detention could result in a longer period of involuntary commitment;
- (2) to a reasonable opportunity to communicate with and retain an attorney;
- (3) to be transported to a location as provided by Section 573.024 if the person is not admitted for emergency detention, unless the person is arrested or objects;
- (4) to be released from a facility as provided by Section 573.023;
- (5) to be advised that communications with a mental health professional may be used in proceedings for further detention; ~~and~~
- (6) to be transported in accordance with Sections 573.026 and 574.045, if the person is detained under Section 573.022 or transported under an order of protective custody under Section 574.023; and
- (7) to a reasonable opportunity to communicate with a relative or other responsible person who has a proper interest in the person's welfare.

(b) A person apprehended, detained, or transported for

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emergency detention under this subtitle shall be informed of the rights provided by this section and this subtitle:

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

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

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

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

SECTION 5. Same as House version.