

By: Uresti

S.B. No. 773

A BILL TO BE ENTITLED

AN ACT

relating to the authority of a judge to compel a criminal defendant who lacks capacity to take psychoactive medication.

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

SECTION 1. Section 574.106(a-1), Health and Safety Code, is amended to read as follows:

(a-1) The court may issue an order under this section only if the court finds by clear and convincing evidence after the hearing:

(1) that the patient lacks the capacity to make a decision regarding the administration of the proposed medication and treatment with the proposed medication is in the best interest of the patient; or

(2) if the patient was ordered to receive inpatient mental health services by a criminal court with jurisdiction over the patient, that treatment with the proposed medication is in the best interest of the patient and ~~[either]~~:

(A) the patient presents a danger to the patient or others in the inpatient mental health facility in which the patient is being treated as a result of a mental disorder or mental defect as determined under Section 574.1065; ~~[or]~~

(B) the patient:

(i) has remained confined in a correctional facility, as defined by Section 1.07, Penal Code, for a period

1 exceeding 72 hours while awaiting transfer for competency  
2 restoration treatment; and

3 (ii) presents a danger to the patient or  
4 others in the correctional facility as a result of a mental disorder  
5 or mental defect as determined under Section [574.1065](#); or

6 (C) the patient lacks the capacity to make a  
7 decision regarding the administration of the proposed medication.

8 SECTION 2. This Act takes effect September 1, 2017.