

By: Hinojosa

H.B. No. 3190

A BILL TO BE ENTITLED

AN ACT

relating to the administration of psychoactive medication to certain patients.

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

SECTION 1. Section 574.102, Health and Safety Code, is amended to read as follows:

Sec. 574.102. APPLICABILITY [~~APPLICATION~~] OF SUBCHAPTER. This subchapter applies to the application of medication to a patient subject to a court order for inpatient [~~mental health~~] services under this chapter, Chapter 841, or Chapter 46B or 46C, Code of Criminal Procedure [~~other law~~].

SECTION 2. The heading to Section 574.103, Health and Safety Code, is amended to read as follows:

Sec. 574.103. ADMINISTRATION OF MEDICATION TO PATIENT UNDER COURT-ORDERED INPATIENT [~~MENTAL HEALTH~~] SERVICES.

SECTION 3. Section 574.103(b), Health and Safety Code, is amended to read as follows:

(b) A person may not administer a psychoactive medication to a patient under court-ordered inpatient [~~mental health~~] services who refuses to take the medication voluntarily unless:

(1) the patient is having a medication-related emergency;

(2) the patient is under an order issued under Section 574.106 authorizing the administration of the medication

1 regardless of the patient's refusal; or

2 (3) the patient is a ward who is 18 years of age or
3 older and the guardian of the person of the ward consents to the
4 administration of psychoactive medication regardless of the ward's
5 expressed preferences regarding treatment with psychoactive
6 medication.

7 SECTION 4. Sections 574.104(a) and (b), Health and Safety
8 Code, are amended to read as follows:

9 (a) A physician who is treating a patient may, on behalf of
10 the state, file an application in a probate court or a court with
11 probate jurisdiction for an order to authorize the administration
12 of a psychoactive medication regardless of the patient's refusal
13 if:

14 (1) the physician believes that the patient lacks the
15 capacity to make a decision regarding the administration of the
16 psychoactive medication;

17 (2) the physician determines that the medication is
18 the proper course of treatment for the patient;

19 (3) the patient is under an order for inpatient
20 ~~[mental health]~~ services under this chapter, Chapter 841, or
21 Chapter 46B or 46C, Code of Criminal Procedure, ~~[other law]~~ or an
22 application for court-ordered mental health services under Section
23 574.034 or 574.035 has been filed for the patient; and

24 (4) the patient, verbally or by other indication,
25 refuses to take the medication voluntarily.

26 (b) An application filed under this section must state:

27 (1) that the physician believes that the patient lacks

1 the capacity to make a decision regarding administration of the
2 psychoactive medication and the reasons for that belief;

3 (2) each medication the physician wants the court to
4 compel the patient to take;

5 (3) whether an application for court-ordered mental
6 health services under Section 574.034 or 574.035 has been filed;

7 (4) whether a court order for inpatient [~~mental~~
8 ~~health~~] services for the patient has been issued and, if so, under
9 what authority it was issued;

10 (5) the physician's diagnosis of the patient; and

11 (6) the proposed method for administering the
12 medication and, if the method is not customary, an explanation
13 justifying the departure from the customary methods.

14 SECTION 5. Sections 574.106(a) and (a-1), Health and Safety
15 Code, are amended to read as follows:

16 (a) The court may issue an order authorizing the
17 administration of one or more classes of psychoactive medication to
18 a patient who:

19 (1) is under a court order to receive inpatient
20 [~~mental health~~] services; or

21 (2) is in custody awaiting trial in a criminal
22 proceeding and was ordered to receive inpatient [~~mental health~~]
23 services in the six months preceding a hearing under this section.

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

27 (1) that the patient lacks the capacity to make a

1 decision regarding the administration of the proposed medication
2 and treatment with the proposed medication is in the best interest
3 of the patient; or

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

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

13 (B) the patient:

14 (i) has remained confined in a correctional
15 facility, as defined by Section 1.07, Penal Code, for a period
16 exceeding 72 hours while awaiting transfer for competency
17 restoration treatment; and

18 (ii) presents a danger to the patient or
19 others in the correctional facility as a result of a mental illness
20 or intellectual disability ~~[disorder or mental defect]~~ as
21 determined under Section 574.1065.

22 SECTION 6. Section 574.1065, Health and Safety Code, is
23 amended to read as follows:

24 Sec. 574.1065. FINDING THAT PATIENT PRESENTS A DANGER. In
25 making a finding under Section 574.106(a-1)(2) that, as a result of
26 a mental illness or intellectual disability ~~[disorder or mental~~
27 ~~defect]~~, the patient presents a danger to the patient or others in

1 the inpatient [~~mental health~~] facility in which the patient is
2 being treated or in the correctional facility, as applicable, the
3 court shall consider:

4 (1) an assessment of the patient's present mental
5 condition;

6 (2) whether the patient has inflicted, attempted to
7 inflict, or made a serious threat of inflicting substantial
8 physical harm to the patient's self or to another while in the
9 facility; and

10 (3) whether the patient, in the six months preceding
11 the date the patient was placed in the facility, has inflicted,
12 attempted to inflict, or made a serious threat of inflicting
13 substantial physical harm to another that resulted in the patient
14 being placed in the facility.

15 SECTION 7. Section 574.107, Health and Safety Code, is
16 amended to read as follows:

17 Sec. 574.107. COSTS. (a) The costs for a hearing under
18 this subchapter for a patient committed under this chapter shall be
19 paid in accordance with Sections 571.017 and 571.018.

20 (b) The county in which the applicable criminal charges are
21 pending or were adjudicated shall pay as provided by Subsection (a)
22 the costs of a hearing that is held under Section 574.106 to
23 evaluate the court-ordered administration of psychoactive
24 medication to:

25 (1) a patient ordered to receive inpatient [~~mental~~
26 ~~health~~] services as described by Section 574.106(a)(1) after having
27 been determined to be incompetent to stand trial or having been

1 acquitted of an offense by reason of insanity; or

2 (2) a patient who:

3 (A) is awaiting trial after having been
4 determined to be competent to stand trial; and

5 (B) was ordered to receive inpatient [~~mental~~
6 ~~health~~] services as described by Section 574.106(a)(2).

7 (c) The costs for a hearing under this subchapter for a
8 patient committed under Chapter 841 shall be paid by the county that
9 ordered the commitment in accordance with that chapter.

10 SECTION 8. Section 574.110, Health and Safety Code, is
11 amended by amending Subsection (a) and adding Subsection (c) to
12 read as follows:

13 (a) Except as provided by Subsections [~~Subsection~~] (b) and
14 (c), an order issued under Section 574.106 expires on the
15 expiration or termination date of the order for inpatient
16 [~~temporary or extended mental health~~] services in effect when the
17 order for psychoactive medication is issued.

18 (c) An order issued under Section 574.106 for a patient
19 committed under Chapter 841 continues to be in effect until the
20 180th day after the date the person is released to the sex offender
21 treatment program.

22 SECTION 9. This Act takes effect immediately if it receives
23 a vote of two-thirds of all the members elected to each house, as
24 provided by Section 39, Article III, Texas Constitution. If this
25 Act does not receive the vote necessary for immediate effect, this
26 Act takes effect September 1, 2019.