

By: White

H.B. No. 3655

A BILL TO BE ENTITLED

AN ACT

relating to the authority of certain facilities to temporarily detain a person with mental illness.

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

SECTION 1. The heading to Subchapter A, Chapter 573, Health and Safety Code, is amended to read as follows:

SUBCHAPTER A. APPREHENSION, ~~[BY PEACE OFFICER OR]~~ TRANSPORTATION, OR DETENTION WITHOUT JUDGE'S OR MAGISTRATE'S ORDER ~~[FOR EMERGENCY DETENTION BY GUARDIAN]~~

SECTION 2. Section 573.0001, Health and Safety Code, is amended by adding Subdivision (3) to read as follows:

(3) "Medical professional" means a licensed doctor, nurse, physician assistant, or emergency medical services personnel.

SECTION 3. Subchapter A, Chapter 573, Health and Safety Code, is amended by adding Sections 573.006 and 573.007 to read as follows:

Sec. 573.006. EMERGENCY DETENTION BY CERTAIN FACILITIES.

(a) In this section, "facility" means:

(1) a mental health facility;

(2) a hospital, or the emergency department of a hospital, licensed under Chapter 241; and

(3) a freestanding emergency medical care facility licensed under Chapter 254.

1 (b) This section does not apply to a person who has been
2 transported to a facility for emergency detention under this
3 chapter.

4 (c) A person who voluntarily requested treatment from a
5 facility or who lacks the capacity to consent to treatment, as
6 provided by this section, may be detained in the facility if:

7 (1) the person expresses a desire to leave the
8 facility or attempts to leave the facility before the examination
9 or treatment is completed; and

10 (2) a medical professional at the facility:

11 (A) has reason to believe and does believe that:

12 (i) the person has a mental illness; and

13 (ii) because of that mental illness there
14 is a substantial risk of serious harm to the person or to others
15 unless the person is immediately restrained; and

16 (B) believes that there is not sufficient time to
17 file an application for emergency detention or for an order of
18 protective custody.

19 (d) The facility staff or medical professional shall notify
20 the person if the facility intends to detain the person in the
21 facility under this section.

22 Sec. 573.007. MEDICAL PROFESSIONAL'S NOTIFICATION OF
23 DETENTION. (a) A medical professional shall immediately file with
24 the facility a notification of detention after making a
25 determination under Section 573.006.

26 (b) The notification of detention must contain:

27 (1) a statement that the medical professional has

1 reason to believe and does believe that the person evidences mental
2 illness;

3 (2) a statement that the medical professional has
4 reason to believe and does believe that the person evidences a
5 substantial risk of serious harm to the person or others;

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

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

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

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

16 (7) the name and relationship to the detained person
17 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 medical professional shall provide the notification
23 of detention in the facility on the following form:

24 Notification--Emergency Detention NO. _____
25 DATE:_____ TIME:_____

26 THE STATE OF TEXAS

27 FOR THE BEST INTEREST AND PROTECTION OF:

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NOTIFICATION OF EMERGENCY DETENTION

Now comes _____, a medical professional with (name of facility) _____, in 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-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

1 are (if applicable):

2 _____
3 _____
4 _____
5 _____

6 For the above reasons, I present this notification to seek
7 temporary admission to (name of facility)
8 _____ for the detention of (name of person to
9 be detained) _____ on an emergency basis.

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

11 _____

12 SIGNATURE OF MEDICAL PROFESSIONAL

13 Address: _____ Zip Code: _____

14 Telephone: _____

15 A facility may not require a medical professional to execute any
16 form other than this form as a predicate to accepting for temporary
17 admission a person detained in the facility under Section 573.006,
18 Health and Safety Code.

19 (e) A facility may not require a medical professional to
20 execute any form other than the form provided by Subsection (d) as a
21 predicate to accepting for temporary admission a person detained in
22 the facility under Section 573.006.

23 SECTION 4. Subchapter C, Chapter 573, Health and Safety
24 Code, is amended by adding Section 573.0215 to read as follows:

25 Sec. 573.0215. PRELIMINARY EXAMINATION OF DETAINED PERSON
26 FOR WHOM AN APPLICATION IS FILED BY A MEDICAL PROFESSIONAL. (a) A
27 facility shall temporarily accept a person for whom an application

1 for detention is filed by a medical professional under Section
2 573.007.

3 (b) A person accepted for a preliminary examination may be
4 detained in custody for not longer than 48 hours after the time the
5 person is first detained in the facility unless a written order for
6 protective custody is obtained. The 48-hour period allowed by this
7 section includes any time the patient spends waiting in the
8 facility for medical care before the person receives the
9 preliminary examination. If the 48-hour period ends on a Saturday,
10 Sunday, legal holiday, or before 4 p.m. on the first succeeding
11 business day, the person may be detained until 4 p.m. on the first
12 succeeding business day. If the 48-hour period ends at a different
13 time, the person may be detained only until 4 p.m. on the day the
14 48-hour period ends. If extremely hazardous weather conditions
15 exist or a disaster occurs, the presiding judge or magistrate may,
16 by written order made each day, extend by an additional 24 hours the
17 period during which the person may be detained. The written order
18 must declare that an emergency exists because of the weather or the
19 occurrence of a disaster.

20 (c) A physician shall examine the person as soon as possible
21 within 12 hours after the time the person is first detained in the
22 facility.

23 SECTION 5. Section 573.022(b), Health and Safety Code, is
24 amended to read as follows:

25 (b) A [~~mental health~~] facility that has admitted a person
26 for emergency detention under this section may transport the person
27 to a mental health facility deemed suitable by the local mental

1 health authority for the area. On the request of the local mental
2 health authority, the judge may order that the proposed patient be
3 detained in a department mental health facility.

4 SECTION 6. This Act takes effect September 1, 2021.