

By: Rose

H.B. No. 4274

A BILL TO BE ENTITLED

AN ACT

relating to the criteria for court-ordered inpatient and extended inpatient mental health services.

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

SECTION 1. Sections 574.034(a) and (d), Health and Safety Code, are amended to read as follows:

(a) The judge may order a proposed patient to receive court-ordered temporary inpatient mental health services only if the judge or jury finds, from clear and convincing evidence, that:

(1) the proposed patient is a person with mental illness; and

(2) as a result of that mental illness the proposed patient:

(A) is likely to cause serious bodily harm to the proposed patient or others;

(B) is unable, except for reasons of indigence, to provide for the proposed patient's basic needs, including food, clothing, health, or safety [~~likely to cause serious harm to others~~]; or

(C) is:

(i) suffering severe and abnormal mental, emotional, or physical distress;

(ii) experiencing substantial [~~mental or physical~~] deterioration of the proposed patient's judgment,

1 reasoning, or ability to control behavior [~~ability to function~~
2 ~~independently, which is exhibited by the proposed patient's~~
3 ~~inability, except for reasons of indigence, to provide for the~~
4 ~~proposed patient's basic needs, including food, clothing, health,~~
5 ~~or safety~~]; and

6 (iii) unable to make a rational and
7 informed decision as to whether or not to submit to treatment.

8 (d) To be clear and convincing under Subsection (a), the
9 evidence must include expert testimony and, unless waived, evidence
10 of a recent overt act or a continuing pattern of behavior that tends
11 to confirm:

12 (1) the likelihood of serious bodily harm to the
13 proposed patient or others; [~~or~~]

14 (2) the proposed patient's inability to provide for
15 the proposed patient's basic needs; or

16 (3) the proposed patient's distress and the
17 deterioration of the proposed patient's ability to function.

18 SECTION 2. Sections 574.035(a) and (e), Health and Safety
19 Code, are amended to read as follows:

20 (a) The judge may order a proposed patient to receive
21 court-ordered extended inpatient mental health services only if the
22 jury, or the judge if the right to a jury is waived, finds, from
23 clear and convincing evidence, that:

24 (1) the proposed patient is a person with mental
25 illness;

26 (2) as a result of that mental illness the proposed
27 patient:

1 (A) is likely to cause serious bodily harm to the
2 proposed patient or others;

3 (B) is unable, except for reasons of indigence,
4 to provide for the proposed patient's basic needs, including food,
5 clothing, health, or safety [~~likely to cause serious harm to~~
6 ~~others~~]; or

7 (C) is:

8 (i) suffering severe and abnormal mental,
9 emotional, or physical distress;

10 (ii) experiencing substantial [~~mental or~~
11 ~~physical~~] deterioration of the proposed patient's judgment,
12 reasoning, or ability to control behavior [~~ability to function~~
13 ~~independently, which is exhibited by the proposed patient's~~
14 ~~inability, except for reasons of indigence, to provide for the~~
15 ~~proposed patient's basic needs, including food, clothing, health,~~
16 ~~or safety~~]; and

17 (iii) unable to make a rational and
18 informed decision as to whether or not to submit to treatment;

19 (3) the proposed patient's condition is expected to
20 continue for more than 90 days; and

21 (4) the proposed patient has received court-ordered
22 inpatient mental health services under this subtitle or under
23 Chapter 46B, Code of Criminal Procedure, for at least 60
24 consecutive days during the preceding 12 months.

25 (e) To be clear and convincing under Subsection (a), the
26 evidence must include expert testimony and evidence of a recent
27 overt act or a continuing pattern of behavior that tends to confirm:

1 (1) the likelihood of serious bodily harm to the
2 proposed patient or others; [~~or~~]

3 (2) the proposed patient's inability to provide for
4 the proposed patient's basic needs; or

5 (3) the proposed patient's distress and the
6 deterioration of the proposed patient's ability to function.

7 SECTION 3. The changes in law made by this Act to Sections
8 574.034 and 574.035, Health and Safety Code, apply to a proceeding
9 for court-ordered mental health services that occurs on or after
10 the effective date of this Act, regardless of when an offense with
11 which the defendant is charged was committed.

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