

BILL ANALYSIS

C.S.H.B. 2506
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Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Texas Mental Health Code permits a peace officer to take a person with mental illness into protective custody if there is a substantial risk of serious harm to the person or to others due to that mental illness. The law does not sufficiently address the transport, preliminary examination, and detention of a person once the person is taken into protective custody. This can lead to uncertainty for peace officers, unnecessary delays, and complications when screening, evaluating, and providing appropriate treatment to those in protective custody. C.S.H.B. 2506 seeks to reduce uncertainty regarding the appropriate process for emergency detention of an individual experiencing a mental health emergency and ensure the person in protective custody receives the appropriate screening, examination, and treatment at the correct facility for their circumstances. The bill makes changes regarding the order of priority for location of treatment for an individual experiencing a mental health emergency, requires the development of best practices for courts with jurisdiction over emergency mental health matters, and clarifies existing statute to ensure individuals have access to mental health services while preserving their civil liberties.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2506 amends the Health and Safety Code to revise procedures applicable to the emergency detention of a person with a mental illness at a mental health facility. The bill revises the definition of "mental health facility" under the Texas Mental Health Code to specify that the term includes a mental health or psychiatric unit of a state-licensed general hospital in which diagnosis, treatment, and care for persons with mental illness is provided, rather than an identifiable part of such a hospital as specified in current law. The bill makes the same change in the definition of "inpatient mental health facility."

C.S.H.B. 2506 removes the option for a person taken into custody by a peace officer without a warrant for the purpose of emergency detention to be transported to a mental health facility deemed suitable by the local mental health authority instead of to an inpatient mental health facility if an appropriate inpatient mental health facility is not available. The bill provides an exception to the requirement for the person to be transported to the nearest appropriate inpatient mental health facility if the person requires stabilization due to an emergency medical condition. The bill authorizes a local mental health authority that determines a person detained by a peace

officer without a warrant should be transported to an appropriate mental health facility before the expiration of the 48-hour period for emergency detention to submit a request for an officer to provide transportation. The bill provides the following with respect to such transportation:

- on a peace officer's receipt of notice of the request from the officer's supervisor, the officer must immediately transport the detained person to the appropriate mental health facility;
- a copy of the notification of emergency detention that was completed by the peace officer who took the person into custody must accompany the detained person to the receiving facility;
- the receiving facility may not require any form other than the copy of the officer's notification of detention as a predicate to accepting a person for emergency detention.

C.S.H.B. 2506 specifies that mental health facilities are the type of facility required to temporarily accept for preliminary examination a person for whom an application for detention is filed or for whom a peace officer or emergency medical services personnel of an emergency medical services provider transporting the person in accordance with a memorandum of understanding files a notification of detention completed by the peace officer. The bill also authorizes a general hospital to temporarily accept and detain a person for whom a warrant for emergency detention is issued or for whom a peace officer's notification of detention is filed.

C.S.H.B. 2506 changes the time at which a person apprehended, detained, or transported for emergency detention must be informed of their rights under the Texas Mental Health Code from within 24 hours after the time the person is admitted to a facility to the following times:

- at the time the person is admitted to a facility; and
- before the person is questioned, assessed, or examined.

The bill makes related changes to the requirement for a peace officer who takes a person into custody without a warrant to immediately inform the person that a facility staff member will inform the person of their rights. The bill further requires the peace officer to immediately inform the person orally in simple, nontechnical terms of a certain warning prescribed under the Code of Criminal Procedure regarding Miranda rights.

C.S.H.B. 2506 establishes that a judge or magistrate is not prohibited from issuing a warrant for emergency detention for a person for whom a previous such warrant was issued unless the person was detained pursuant to the previously issued warrant for a preliminary examination for a period that exceeded the permitted maximum custodial period.

C.S.H.B. 2506 requires the Office of Court Administration of the Texas Judicial System (OCA) to develop and provide to each court in Texas with jurisdiction to hear emergency mental health matters best practices and procedures for ensuring that a judge or magistrate is available 24 hours a day, seven days a week to respond to applications for emergency detention by a physician. OCA must develop those best practices and procedures as soon as practicable after the bill's effective date.

C.S.H.B. 2506 establishes that its changes to provisions governing emergency detentions apply to an emergency detention that begins on or after the bill's effective date.

EFFECTIVE DATE

September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 2506 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

Both the introduced and the substitute remove the option for a peace officer to transport a person the officer takes into custody without a warrant to a mental health facility deemed suitable by the local mental health authority if an appropriate inpatient mental health facility is not available. However, with respect to the remaining requirement to transport the person to an appropriate inpatient mental health facility, the substitute omits the specification added by the introduced that the facility must be located within 100 miles from where the person was apprehended. Moreover, while the introduced removed statutory language providing the option for a peace officer to transfer the apprehended person to emergency medical services personnel in accordance with a certain memorandum of understanding for transport to an applicable facility, the substitute retains that option.

Both the introduced and the substitute provide an exception to the requirement to transport a person taken into custody without a warrant to the nearest appropriate inpatient mental health facility for a person who requires stabilization due to an emergency medical condition. However, the introduced specified that the applicable condition is a physical one, whereas the substitute does not.

The substitute includes the following provisions that did not appear in the introduced:

- provisions changing the time at which a person apprehended, detained, or transported for emergency detention must be informed of their rights under the Texas Mental Health Code and accordingly revising a related requirement for peace officers to inform detained persons that they will be informed of those rights;
- require a peace officer who takes a person into custody without a warrant to immediately inform the person orally in simple, nontechnical terms of a certain warning prescribed under the Code of Criminal Procedure regarding Miranda rights.

Whereas the introduced established that a prior emergency detention does not prohibit a judge or magistrate from issuing a warrant for emergency detention unless the person for whom the warrant is sought has continually been detained at a mental health facility, the substitute establishes that a judge or magistrate is not prohibited from issuing a warrant for emergency detention for a person for whom a previous such warrant was issued unless the person was detained pursuant to the previously issued warrant for a preliminary examination for a period that exceeded the permitted maximum custodial period.

The substitute includes a provision absent from the introduced authorizing a general hospital to temporarily accept and detain a person for whom a warrant for emergency detention is issued or for whom a peace officer's notification of detention is filed.