

## **BILL ANALYSIS**

Senate Research Center  
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C.S.S.B. 1433  
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Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

In 2019, S.B. 362 (86R) directed the Supreme Court of Texas to (1) adopt rules to streamline and promote the efficiency of court processes under Chapter 573, Health and Safety Code (the Texas emergency detention statute), and (2) adopt rules or implement other measures to create consistency and increase access to the judicial branch for mental health issues. This charge led to the creation of the S.B. 362 task force by the Judicial Commission on Mental Health. The task force's earliest efforts focused on the emergency detention warrant process.

Under Texas' emergency detention statute (Chapter 573, Health and Safety Code), a person with a mental illness and who because of that mental illness is at substantial risk of serious harm to themselves or to others, may only be detained either by a peace officer (see Section 573.001) or through an application for a warrant for an emergency detention through the court system (see Section 573.012).

#### **Why This Bill Is Necessary:**

Physicians and health care providers have no legal authority to hold a patient who meets the emergency criteria set forth above unless one of those two processes has been initiated. The routine delays in obtaining detention authority can have devastating consequences if a patient who is undergoing a qualifying psychiatric crisis wants to leave the emergency department and there is no legal authority to hold them.

Peace officer-initiated warrantless detentions are an effective tool but may not always be suited for detentions that must be initiated in a hospital emergency department under exigent circumstances, for example, after hours or on weekends, or when a peace officer is unavailable to come to the hospital to initiate the warrantless process. With organized medicine's support, in 2019 the Task Force recommended improvements to the warrant process involving the development of an electronic application submission platform that can be utilized by providers to afford direct, rapid access to a judge any time of day. The goal of this legislation is to ensure that physicians have the ability to submit emergency detention orders applications electronically across the state.

#### **What This Bill Accomplishes:**

- S.B. 1433 would ensure that the emergency detention statute allows electronic applications for emergency detention orders in all counties.
- S.B. 1433 would require a judge or magistrate to permit a physician who applies for a mental illness warrant to do so electronically rather than in person.
- S.B. 1433 provides that if a judge or magistrate transmits a warrant for the detention of a person who has been admitted to a facility at the time the application for emergency detention is presented, the facility may detain the person to perform a preliminary examination.

#### **Committee Substitute:**

- Deletes lines 7-9 from the bill and instead amends Section 573.001(a), Health and Safety Code, to specify that a peace officer, without a warrant, may take a person into custody, regardless of location.

- Amendment will ensure that a peace officer can execute a warrantless detention order for a patient who is currently located in a hospital.
- The change was made to address unintended consequences and concerns presented by the National Rifle Association (NRA). The language change was agreed to by the NRA and the Texas Hospital Association. The Combined Law Enforcement Associations of Texas signed off and remains on neutral on the bill.

C.S.S.B. 1433 amends current law relating to procedures for the emergency detention of certain persons with mental illness.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 573.001, Health and Safety Code, to authorize a peace officer, without a warrant, to take a person into custody, regardless of the age or location of the person, in certain circumstances.

SECTION 2. Amends Section 573.012, Health and Safety Code, by amending Subsections (a), (e), and (h) and adding Subsection (h-2), as follows:

(a) Creates an exception under Subsection (h). Makes a nonsubstantive change.

(e) Requires a person apprehended under Section 573.012 (Issuance of Warrant) who is not physically located in a mental health facility at the time the warrant is issued under Subsection (h-1) (relating to authorizing a judge or magistrate to permit an applicant who is a physician to present an application electronically or by email) to be transported for a preliminary examination in accordance with Section 573.021 (Preliminary Examination) to certain mental health facilities.

(h) Requires, rather than authorizes, a judge or magistrate to permit an applicant who is a physician to present an application by:

(1) makes no changes to this subdivision; or

(2) another secure electronic means, including certain means of transmission.

(h-2) Authorizes a facility to detain a person to perform a preliminary examination in accordance with Section 573.021 if a judge or magistrate transmits a warrant under Subsection (h-1) for the detention of a person who is physically located in a facility at the time the application is presented under Subsection (h).

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2023.