88R13945 EAS-D

By:  Reynolds H.B. No. 4009

A BILL TO BE ENTITLED

AN ACT

relating to procedures applicable to the emergency detention of a person with mental illness at a mental health facility, including the detention, transportation, and transfer of the person and to certain best practices for courts with jurisdiction over emergency mental health matters.

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

SECTION 1.  Section 573.001(d), Health and Safety Code, is amended to read as follows:

(d)  A peace officer who takes a person into custody under Subsection (a) shall immediately[~~:~~

[~~(1)~~]  transport the apprehended person to:

(1) [~~(A)~~]  the nearest appropriate inpatient mental health facility located within 100 miles from where the person was apprehended; or

(2)  the nearest hospital emergency department, if the person is in need of emergency medical care [~~(B) a mental health facility deemed suitable by the local mental health authority, if an appropriate inpatient mental health facility is not available; or~~

[~~(2)  transfer the apprehended person to emergency medical services personnel of an emergency medical services provider in accordance with a memorandum of understanding executed under Section 573.005 for transport to a facility described by Subdivision (1)(A) or (B)~~].

SECTION 2.  Subchapter B, Chapter 573, Health and Safety Code, is amended by adding Section 573.013 to read as follows:

Sec. 573.013.  JUDICIAL BEST PRACTICES AND PROCEDURES. The Office of Court Administration of the Texas Judicial System shall develop and provide to each court in the state with jurisdiction to hear emergency mental health matters under this chapter 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 under Section 573.012(h).

SECTION 3.  Sections 573.021(a), (b), and (d), Health and Safety Code, are amended to read as follows:

(a)  A mental health facility shall temporarily accept 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 executed under Section 573.005 files a notification of detention completed by the peace officer under Section 573.002(a).

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

(d)  A mental health facility must comply with this section only to the extent that the commissioner determines that a mental health facility has sufficient resources to perform the necessary services under this section.

SECTION 4.  Section 573.022, Health and Safety Code, is amended by amending Subsection (c) and adding Subsections (d) and (e) to read as follows:

(c)  A facility that has admitted a person for emergency detention under Subsection (a) or to which a person has been transported under Subsection (b) may transfer the person to an appropriate mental hospital with the written consent of the treating physician or hospital administrator.

(d)  A peace officer may transport a person approved for transfer under Subsection (c) without a court order if the person is still subject to an unexpired notification of detention filed under Section 573.002. A copy of the notification must accompany the person to the receiving facility. This subsection applies only in a county with a population of 550,000 or more that is adjacent to a county with a population of 3.3 million or more.

(e)  A treating physician or hospital administrator who recommends the transfer of a person under Subsection (c) to a more appropriate mental hospital is immune from civil liability if the recommendation was made based on a reasonable and prudent medical decision to ensure care for the person.

SECTION 5.  The changes in law made by this Act apply to an emergency detention under Chapter 573, Health and Safety Code, that begins on or after the effective date of this Act. An emergency detention under Chapter 573, Health and Safety Code, that begins before the effective date of this Act is governed by the law as it existed immediately before that date, and that law is continued in effect for that purpose.

SECTION 6.  As soon as practicable after the effective date of this Act, the Office of Court Administration of the Texas Judicial System shall develop the best practices and procedures as required by Section 573.013, Health and Safety Code, as added by this Act.

SECTION 7.  This Act takes effect September 1, 2023.