By:  West, LaMantia S.B. No. 2287

(In the Senate - Filed March 10, 2023; March 22, 2023, read first time and referred to Committee on Criminal Justice; May 15, 2023, reported adversely, with favorable Committee Substitute by the following vote: Yeas 6, Nays 0; May 15, 2023, sent to printer.)

COMMITTEE VOTE

               Yea Nay Absent  PNV

Whitmire        X

Flores          X

Bettencourt               X

Hinojosa        X

Huffman         X

King            X

Miles           X

COMMITTEE SUBSTITUTE FOR S.B. No. 2287 By:  Flores

A BILL TO BE ENTITLED

AN ACT

relating to the authority of a peace officer to apprehend a person for emergency detention and the authority of certain facilities and physicians 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 573.001(a), Health and Safety Code, is amended to read as follows:

(a)  A peace officer, without a warrant, may take a person into custody, regardless of the age or location of the person, if the officer:

(1)  has reason to believe and does believe that:

(A)  the person is a person with mental illness; and

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

(2)  believes that there is not sufficient time to obtain a warrant before taking the person into custody.

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

Sec. 573.006.  TEMPORARY DETENTION IN CERTAIN FACILITIES. (a) In this section, "facility" means:

(1)  an inpatient mental health facility other than a community center, a facility operated by or under contract with a community center, an entity that the executive commissioner designates to provide mental health services, a local mental health authority, or a facility operated by or under contract with a local mental health authority, unless the facility is licensed under Chapter 577;

(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.

(b)  The governing body of a facility may adopt and implement a written policy that provides for the facility or a physician at the facility to detain a person who voluntarily requested treatment from the facility or who lacks the capacity to consent to treatment, as provided by this section, if:

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

(2)  a physician at the facility:

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

(i)  the person has a mental illness; and

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

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

(c)  A policy adopted and implemented by a facility under this section may not allow the facility or a physician at the facility to detain a person who has been transported to the facility for emergency detention under this chapter.

(d)  A policy adopted and implemented by a facility under this section must require:

(1)  the facility staff or the physician who intends to detain the person under the policy to notify the person of that intention;

(2)  a physician to document a decision by the facility or the physician to detain a person under the policy and to place a notice of detention in the person's medical record that contains the same information as required in a peace officer's notification of detention under Section 573.002; and

(3)  the period of a person's detention under the policy to be less than four hours following the time the person first expressed a desire to leave, or attempted to leave, the facility, and the facility or physician to release the person not later than the end of the four-hour period unless the facility staff or physician arranges for a peace officer to take the person into custody under Section 573.001 or an order of protective custody is issued.

(e)  Detention of a person under a policy adopted and implemented by a facility under this section is not considered involuntary psychiatric hospitalization for purposes of Section 411.172(e), Government Code.

(f)  A physician, person, or facility that detains or does not detain a person under a policy adopted and implemented by a facility under this section and that acts in good faith and without malice is not civilly or criminally liable for that action.

(g)  A facility is not civilly or criminally liable for the decision of the governing body of the facility to adopt or not to adopt a policy under this section.

SECTION 4.  This Act takes effect September 1, 2023.

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