

By: Hinojosa

S.B. No. 1433

A BILL TO BE ENTITLED

AN ACT

relating to procedures for the emergency detention of certain persons with mental illness.

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

SECTION 1. 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 2. Section 573.012, Health and Safety Code, is amended by amending Subsections (a), (e), and (h) and adding Subsection (h-2) to read as follows:

(a) Except as provided by Subsection (h), an applicant for emergency detention must present the application personally to a judge or magistrate. The judge or magistrate shall examine the application and may interview the applicant. Except as provided by

1 Subsections [~~Subsection~~] (g) and (h), the judge of a court with
2 probate jurisdiction by administrative order may provide that the
3 application must be:

4 (1) presented personally to the court; or

5 (2) retained by court staff and presented to another
6 judge or magistrate as soon as is practicable if the judge of the
7 court is not available at the time the application is presented.

8 (e) A person apprehended under this section who is not
9 physically located in a mental health facility at the time the
10 warrant is issued under Subsection (h-1) shall be transported for a
11 preliminary examination in accordance with Section 573.021 to:

12 (1) the nearest appropriate inpatient mental health
13 facility; or

14 (2) a mental health facility deemed suitable by the
15 local mental health authority, if an appropriate inpatient mental
16 health facility is not available.

17 (h) A judge or magistrate shall [~~may~~] permit an applicant
18 who is a physician to present an application by:

19 (1) e-mail with the application attached as a secure
20 document in a portable document format (PDF); or

21 (2) another secure electronic means, including:

22 (A) satellite transmission;

23 (B) closed-circuit television transmission; or

24 (C) any other method of two-way electronic
25 communication that:

26 (i) is secure;

27 (ii) is available to the judge or

magistrate; and

(iii) provides for a simultaneous, compressed full-motion video and interactive communication of image and sound between the judge or magistrate and the applicant.

(h-2) 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), the facility may detain the person to perform a preliminary examination in accordance with Section 573.021.

SECTION 3. 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 4. This Act takes effect September 1, 2023.