

**HOUSE OF REPRESENTATIVES  
COMPILATION OF PUBLIC COMMENTS**

Submitted to the Committee on Public Health  
For HB 2506

Compiled on: Monday, April 24, 2023 2:53 PM

Note: Comments received by the committee reflect only the view of the individual(s) submitting the comment, who retain sole responsibility for the content of the comment. Neither the committee nor the Texas House of Representatives takes a position on the views expressed in any comment. The committee compiles the comments received for informational purposes only and does not exercise any editorial control over comments.

---

Hearing Date: April 24, 2023 8:00 AM

Linda Logan  
Texas Council for Developmental Disabilities  
Austin, TX

Thank you for the opportunity to provide comments on HB 2506. My name is Linda Logan, and I am the Senior Public Policy Analyst at the Texas Council for Developmental Disabilities (TCDD).

TCDD is established by state and federal law and is overseen by 27 Governor-appointed board members, 60% of whom are individuals with developmental disabilities or family members of individuals with disabilities. Its mission is to create change so that all people with disabilities are fully included in their communities and exercise control over their own lives.

The Council has adopted the following Policy Priority for the 88th Texas Legislature:  
Personal and Civil Rights: Increase the protections for the personal and civil rights of Texans with disabilities.

We appreciate how the substitute for HB 2506 has addressed several concerns raised by advocates. TCDD recommends the following additional adjustments:

#### Retain Applicability to Emergency Rooms

The bill currently deletes the term “identifiable part” from the definition of “inpatient mental health facility.” This phrase has been used to specifically identify mental health portions of a general hospital for broad purposes of state and Medicare regulation, standards, and monitoring specific to mental health and psychiatric services.

In particular, the term provides applicability to the emergency room of a general hospital, because that is the setting where people who are experiencing a mental illness emergency are often presented.

The Emergency Medical Treatment and Active Labor Act (EMTALA) requires hospitals with emergency departments to provide medical screening, stabilization, treatment, and transfer of individuals with emergency medical conditions (including psychiatric conditions). It prohibits a hospital with an emergency department from refusing to examine or treat such a person and can impose fines of up to \$100,000 per violation and/or terminate the Medicare Provider Agreement.

In recognition of this overarching federal requirement, it is necessary to specifically include emergency rooms in HB 2506 to make clear that emergency rooms of general hospitals are considered appropriate places to take persons who are in a psychiatric emergency such as those experienced by people who are the subject of emergency detention. Moreover, this clarification is important to ensure that an individual’s mental health rights are taken into account in that setting.

#### Limit Consecutive Emergency Detentions to Safeguard Due Process

As drafted, the bill would allow for consecutive emergency detentions without any new claims of intent to harm self or others. Extended restraint would currently require an Order of Protective Custody to be sought. This provision of HB 2506 should be adjusted so as not to allow the circumvention of commitment procedures or the patient’s due process rights.

Please contact us with any questions.

Linda Logan  
Senior Public Policy Analyst  
Texas Council for Developmental Disabilities

Lillian Gonzales  
Self  
San Antonio, TX

Dear Sirs and Madams,

1st I ask your understanding and forgiveness for not being educated enough to understand this system enough to use it appropriately. I also apologize if my comment appears repetitively in other areas. I feel I need to be heard and I wasn't sure how to accomplish that here in the format I have been presented with. So I have done the best that I knew how to do. I am a 55 y/o surviving widow of deceased in active duty soldier. I have knowingly and willingly sacrificed more than most in representation of this country my country. I sacrificed my husband for this country my country our country and My Husband knowingly and willingly sacrificed His Life for his country this country OUR COUNTRY. So please forgive my entitlement to be heard whether I am educated enough to do it correctly or not. I want no misunderstanding despite the following statements or complaints I am about to make. I love my country. I am grateful to have the UNITED STATES OF AMERICA as my country. However I am disturbed and saddened at the refusal to acknowledge the failure of the systems that are currently in place. Please don't be offended by what I have said. I am not speaking on the people in charge of running these systems but if the systems themselves. Much like an automobile if the mechanical systems of a car are not correctly maintained by each owner. It's eventually going to breakdown no matter who's behind the wheel. I come to you today not about the inevitable breakdown of our systems that this country is trying to pretend isn't possible. I am coming to you today about an immediate life threatening defect within a particular system among these systems that keep our country running. The Justice system. The quite literal life threatening defect that needs immediate emergency attention is the system within this system referred to TDCJ as Ad. seg or Administrative Segregation or in reality as Solitary Confinement. It is quite literally taking the lives of Men and Women who were never been convicted of a life sentence. Really for real no exaggeration for dramatic effect. PEOPLE ARE DYING. Those that are blessed enough to physically survive Ad. Seg or Administrative Segregation or Solitary Confinement or torture or whatever you want to call it may not feel as blessed as you might assume they should. All is still not known about the permanent and lasting effects to a Man or Woman's psyche. What we do know thus far is that once this damage is done it's done. In MANY cases there is no coming back from the damage that Ad. Seg or Administrative Segregation or Solitary Confinement or torture or whatever it is you want to call what is currently and actively being done to Men and Women in the state of Texas. It is inhumane and cruel. It is often carried out in unusual ways and many times is done in an illegal manner. These facts alone make these common place procedure's of "rehabilitation" unconstitutional. I am begging you to please make this stop please.

Shawn Barnes, Crisis Coordinator  
Coastal Bend Regional Crisis Initiatives (CBRCI)  
Corpus Christi, TX  
CBRCI DISSENT

CBRCI dissent is within the proposed changes to Health and Safety Code Sec. 573.001 as listed in Section 2 of House Bill 2506. Section 2 of this bill has potential to significantly detriment the entire crisis response system of the state of Texas.

Section 2 (d) restricts officers' permitted distance of transport to just one hundred miles of the original location of detention. This will be highly detrimental to all persons subject to emergency detention, with the highest detrimental impacts being to those detentions occurring in rural areas. Due to the widely diverse array of populations, circumstance, symptoms, and other medical needs, there will often not be a facility within one hundred miles that has an available psychiatric bed and/or clinical capability to accept a specific patient demographic or treat various co-occurring symptom presentations.

Section 2 (d) also removes the authority of local mental health authorities to deem a suitable location when inpatient mental health facilities are not available. In a state landscape highly lacking psychiatric bed space, emergency departments are often utilized for the physician evaluation required by Health and Safety code Sec 573.021 (c).

Furthermore, the section institutes "shall" type verbiage that absent of medical emergency, statutorily restricts permitted locations of peace officers to transport persons under emergency detention. Emergency departments have also been removed from the current enacted section of 573.001.

EMTALA regulations require emergency departments to accept this population. This bill does not change EMTALA, but instead creates a scenario in which a peace officer would be violating state law by transporting a person under emergency detention (absent of medical emergency) to the emergency department. This also arms the emergency departments to push back on peace officers by citing state statute when the officer has nowhere else to deliver the person (despite federal assistance accepting facilities falling under EMTALA regulations that supersede). Although inappropriate on many levels, it has become necessary for emergency departments in many areas to be utilized. Emergency departments have unfortunately become the gatekeepers to potential inpatient psychiatric care.

CBRCI implores the Representatives of the House to deeply consider seeking additional advisement prior to making any decision on H.B. 2506. Upon request, CBRCI will provide subject matter experts to the Representatives of the House.

Thank you for your time, leadership, and the carried decision-making burdens as Representatives of the House.

Steve Wohleb, General Counsel  
Texas Hospital Association  
Austin, TX

On behalf of our over 450 hospital and hospital system members, the Texas Hospital Association appreciates the opportunity to provide this written testimony on House Bill 2506 with concerns. HB 2506 is an attempt to reform the emergency detention statute (chapter 573, Health and Safety Code) by requiring that persons in psychiatric crisis be taken by a peace officer to a psychiatric hospital or a general hospital with a licensed psychiatric unit. THA has advocated strongly for these patients to receive the right care in the right setting as quickly as possible, and has expressed concerns over the years in various forums over the inability of hospitals to timely transfer behavioral health patients out of the general hospital emergency department so that the patient can begin receiving beneficial care in a therapeutic setting. However, due to the acuteness of the situation and the distance to a licensed psychiatric facility, sometimes the best option for a peace officer for initial stabilization of a person in psychiatric crisis may be a general hospital emergency department. Additionally, the lack of inpatient behavioral health resources across the state is well-documented, and it is unlikely that the existing capacity of the state will be adequate to take in all persons apprehended under chapter 573, and there is a substantial likelihood that psychiatric facilities will quickly become overwhelmed. Further, HB 2506's mandate will apply statewide, which may upset local arrangements that are working well.

Our other concerns with the committee substitute relate to the modifications to section 573.001(g), requiring a peace officer to give a "Miranda warning" as set forth in Code of Criminal Procedure art. 38.22(2)(a) to a person detained. Much of that section is inapplicable to a person under an emergency detention (for example that any statement may be used against the person detained at his trial – there is no trial under chapter 573; the right to have a lawyer present prior to and during any questioning – no such explicit right exists under chapter 573; and the right to have a lawyer appointed – a patient has the right to retain an attorney, but there is no such right to have one appointed). Moreover Miranda warnings are for persons accused of criminal offenses, which goes against the years-long effort the state has undertaken to destigmatize and decriminalize mental illness. The revisions to section 573.025(b) are also concerning in that they require the person to be advised of their rights immediately upon admission to a facility after a detention. The person will not have even been examined by a physician at that point to determine if continued detention is appropriate and the new timing of the requirement is likely to be disruptive to the intake process at the facility, particularly in a busy hospital emergency department.

Thank you for the opportunity to offer this testimony and express these concerns.

Shawn Barnes, Crisis Coordinator  
Coastal Bend Regional Crisis Initiatives  
Corpus Christi, TX

CBRCI dissent is within the proposed changes to Health and Safety Code Sec. 573.001 as listed in Section 2 of House Bill 2506. Section 2 of this bill has potential to significantly detriment the entire crisis response system of the state of Texas.

Section 2 (d) restricts officers' permitted distance of transport to just one hundred miles of the original location of detention. This will be highly detrimental to all persons subject to emergency detention, with the highest detrimental impacts being to those detentions occurring in rural areas. Due to the widely diverse array of populations, circumstance, symptoms, and other medical needs, there will often not be a facility within one hundred miles that has an available psychiatric bed and/or clinical capability to accept a specific patient demographic or treat various co-occurring symptom presentations.

Section 2 (d) also removes the authority of local mental health authorities to deem a suitable location when inpatient mental health facilities are not available. In a state landscape highly lacking psychiatric bed space, emergency departments are often utilized for the physician evaluation required by Health and Safety code Sec 573.021 (c).

Furthermore, the section institutes "shall" type verbiage that absent of medical emergency, statutorily restricts permitted locations of peace officers to transport persons under emergency detention. Emergency departments have also been removed from the current enacted section of 573.001.

EMTALA regulations require emergency departments to accept this population. This bill does not change EMTALA, but instead creates a scenario in which a peace officer would be violating state law by transporting a person under emergency detention (absent of medical emergency) to the emergency department. This also arms the emergency departments to push back on peace officers by citing state statute when the officer has nowhere else to deliver the person (despite federal assistance accepting facilities falling under EMTALA regulations that supersede). Although inappropriate on many levels, it has become necessary for emergency departments in many areas to be utilized. Emergency departments have unfortunately become the gatekeepers to potential inpatient psychiatric care.

CBRCI implores the Representatives of the House to deeply consider seeking additional advisement prior to making any decision on H.B. 2506. Upon request, CBRCI will provide subject matter experts to the Representatives of the House.

Thank you for your time, leadership, and the carried decision-making burdens as Representatives of the House.