

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1164
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Criminal Justice
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Judicial Commission on Mental Health (JCMH) works with judges, law enforcement, healthcare professionals, and policymakers to develop legislative solutions that improve Texas' mental health system. Based on its findings, JCMH has proposed reforms to enhance emergency detention procedures, court-ordered mental health services, and law enforcement protocols to ensure better access to treatment and public safety.

Emergency detention, for instance, is a critical tool for diverting persons experiencing mental health crises from the criminal justice system, yet its application varies across the state. Currently, the emergency detention form required under the Health and Safety Code lacks necessary prompts, often leading to incomplete documentation regarding a person's mental illness, risk of harm, and need for temporary restraint. What's more, peace officers who transport persons under emergency detention without a warrant must remain at the facility, unlike those transporting persons under a judge's warrant, which creates inefficiencies in law enforcement resources. Also, the current venue statute for court-ordered mental health services is ambiguous, leading some counties to reject applications due to uncertainty over jurisdiction. Lastly, persons suffering from anosognosia—a condition where a person is unaware of their mental illness—often do not receive treatment until they pose an imminent danger, limiting opportunities for earlier intervention.

To address these issues, S.B. 1164 would revise the emergency detention form to ensure peace officers provide complete information regarding mental illness, risk of harm, and restraint. The bill would also clarify that peace officers do not have to remain at the facility once they have completed the necessary documentation, aligning procedures with those for warrant-based detentions. What's more, S.B. 1164 would amend the venue statute to clearly allow applications for court-ordered mental health services to be filed in either the county where the person was apprehended or where they are located at the time of filing, ensuring consistent jurisdictional application. To improve care for persons with anosognosia, the bill would add this condition to the criteria for determining whether someone presents a substantial risk of serious harm, facilitating earlier intervention and treatment.

By improving emergency detention procedures, clarifying officer responsibilities, ensuring jurisdictional consistency, and expanding criteria for early intervention in severe mental health cases, S.B. 1164 would enhance the effectiveness of Texas' mental health system. These reforms would not only strengthen public safety and judicial efficiency but also provide persons experiencing mental health crises with better access to timely and appropriate care.

The Committee Substitute:

Adds a person's lack of capacity to recognize their mental health symptoms or to appreciate the risks and benefits of treatment as a factor for emergency detention;

Maintains persons must be an immediate risk to themselves or others to qualify for emergency detention; and

Eliminates a prompt on peace officers' emergency detention intake forms regarding firearms.

C.S.S.B. 1164 amends current law relating to emergency detention of certain persons evidencing mental illness and to court-ordered inpatient and extended mental health services.

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(a), Health and Safety Code, as follows:

(a) Authorizes a peace officer, without a warrant, to take a person into custody, regardless of the age of the person, if the officer has reason to believe and does believe that:

(1) the person is a person with mental illness and because of that mental illness:

(A) there is a substantial risk of serious harm to the person or to others, rather than there is a substantial risk of serious harm to the person or to others unless the person is immediately restrained;

(B) the person evidences severe emotional distress and deterioration in the person's mental condition; or

(C) the person evidence an inability to recognize symptoms or appreciate the risks and benefits of treatment;

(2) the person is likely without immediate detention to suffer serious risk of harm or to inflict serious harm on another person; and

(3) creates this subdivision from existing text and makes a nonsubstantive change.

Makes nonsubstantive changes to this subsection.

SECTION 2. Amends the heading to Section 573.002, Health and Safety Code, to read as follows:

Sec. 573.002. PEACE OFFICER'S NOTIFICATION OF EMERGENCY DETENTION.

SECTION 3. Amends Section 573.002, Health and Safety Code, by amending Subsections (a), (b), (c), and (d) and adding Subsection (f), as follows:

(a) Requires a peace officer to immediately file with a facility a notification of emergency detention after transporting a person to that facility in accordance with Section 573.001 (Apprehension by Peace Officer Without Warrant). Makes a conforming change.

(b) Deletes existing text requiring that the notification of detention include a specific description of the risk of harm. Makes conforming and nonsubstantive changes.

(c) Makes a conforming change to this subsection.

(d) Requires the peace officer to provide the notification of emergency detention in substantially a certain form. Adds certain provisions regarding the person's behavior, medical history, and personal information and the peace officer to the form.

Deletes existing text from the form prohibiting a mental health facility or hospital emergency department from requiring a peace officer or emergency medical services personnel to execute any form other than the Notification—Emergency Detention form as a predicate to accepting for temporary admission a person detained by a peace officer under Section 573.001, Health and Safety Code, and transported by the officer under that

section or by emergency medical services personnel of an emergency medical services provider at the request of the officer made in accordance with a memorandum of understanding.

(f) Provides that a peace officer who transports an apprehended person to a facility under Section 573.001(d)(1) (relating to requiring a peace officer who takes a person into custody to immediately transport the apprehended person to certain mental health facilities) or emergency medical services personnel of an emergency services provider who transports a person to a facility under Section 573.001(d)(2) (relating to requiring a peace officer to immediately transfer the apprehended person to emergency medical services personnel):

(1) is not required to remain at the facility while the apprehended person is medically screened or treated or while the person's insurance coverage is verified; and

(2) is authorized to leave the facility immediately after the person is taken into custody by appropriate facility staff and the notification of emergency detention required by Section 573.002 (Peace Officer's Notification of Detention) is provided to the facility.

SECTION 4. Amends Section 573.003(a), Health and Safety Code, as follows:

(a) Authorizes a guardian of the person of a ward who is 18 years of age or older, without the assistance of a peace officer, to transport the ward to an inpatient mental health facility for a preliminary examination in accordance with Section 573.021 (Preliminary Examination) if the guardian has reason to believe and does believe that the ward is a person with mental illness and because of that mental illness there is a substantial risk of serious harm to the ward or to others, the ward evidences severe emotional distress and deterioration in the ward's mental condition, or the ward evidences an inability to recognize symptoms or appreciate the risks and benefits of treatment, and the ward is likely without immediate detention to suffer serious risk of harm or to inflict serious harm on another, rather than there is a substantial risk of serious harm to the ward or to others unless the ward is immediately restrained. Makes nonsubstantive changes.

SECTION 5. Amends Section 573.012(b), Health and Safety Code, to make conforming changes.

SECTION 6. Amends Section 573.022(a), Health and Safety Code, as follows:

(a) Deletes existing text providing that a person is authorized to be admitted to a facility for emergency detention only if the physician who conducted the preliminary examination of the person makes a written statement that includes a specific description of the risk of harm the person evidences that may be demonstrated either by the person's behavior or by evidence of severe emotional distress and deterioration in the person's mental condition to the extent that the person cannot remain at liberty. Makes a conforming change.

SECTION 7. Amends Section 574.001(b), Health and Safety Code, as follows:

(b) Requires that the application for court-ordered mental health services, except as provided by Subsection (f) (relating to authorizing an application in which the proposed patient is a child in custody of the Texas Juvenile Justice Department to be filed in the county in which the child's commitment was ordered), be filed with the county clerk in the county in which the proposed patient resides; is located at the time the application is filed, rather than is found; was apprehended under Chapter 573 (Emergency Detention); or is receiving mental health services by court order under Subchapter A (Apprehension by Peace Officer or Transportation for Emergency Detention by Guardian), Chapter 573. Makes nonsubstantive changes.

SECTION 8. Amends Section 574.011(a) and (b), Health and Safety Code, as follows:

(a) Requires that a certificate of medical examination for mental illness include certain information, including the examining physician's opinion that, as a result of the mental illness the examined person is evidencing an inability to recognize symptoms or appreciate the risks and benefits of treatment and, in the absence of inpatient mental health treatment, the examined person is likely to suffer serious risk of harm or to inflict serious harm on another person. Makes nonsubstantive changes.

(b) Makes a conforming change to this subsection.

SECTION 9. Amends Sections 574.034(a) and (d), Health and Safety Code, as follows:

(a) Provides that the judge is authorized to order a proposed patient to receive court-ordered temporary inpatient mental health services only if the judge or jury finds, from clear and convincing evidence, that:

(1) makes no change to this subdivision; and

(2) as a result of mental illness the proposed patient is evidencing an inability to recognize symptoms or to appreciate the risks and benefits of treatment and, in the absence of court-ordered temporary outpatient mental health services, is likely to suffer serious risk of harm or to inflict serious harm on another person.

Makes conforming and nonsubstantive changes to this subsection.

(d) Requires that the evidence, to be clear and convincing under Subsection (a), include expert testimony and, unless waived, evidence of a recent overt act or continuing pattern of behavior that tends to confirm the likelihood of serious harm to the proposed patient or others and the proposed patient's distress and, rather than or, the deterioration of the proposed patient's ability to function, or the proposed patient's inability to recognize symptoms or appreciate the risks and benefits of treatment.

SECTION 10. Amends Sections 574.035(a) and (e), Health and Safety Code, to make conforming and nonsubstantive changes.

SECTION 11. Amends Section 574.064(a-1), Health and Safety Code, to make a conforming change.

SECTION 12. Repealers: Sections 573.001(b) (relating to authorizing a substantial risk of serious harm to the person or other to be demonstrated by the person's behavior or certain evidence) and 573.003(b) (relating to authorizing a substantial risk of serious harm to the ward or other to be demonstrated by the ward's behavior or certain evidence), Health and Safety Code.

Repealer: Section 573.012(c) (relating to authorizing a substantial risk of serious harm to the person or other to be demonstrated by the person's behavior or certain evidence), Health and Safety Code.

SECTION 13. Makes application of Chapter 573, Health and Safety Code, as amended by this Act, prospective.

SECTION 14. Makes application of Chapter 574, Health and Safety code, as amended by this Act, prospective.

SECTION 15. Effective date: September 1, 2025.