

By: Lalani

H.B. No. 1538

A BILL TO BE ENTITLED

AN ACT

relating to the authority of a peace officer to apprehend a person for emergency detention and 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, Health and Safety Code, is amended by adding Subsection (i) to read as follows:

(i) A peace officer may take into custody under this section a person who has been admitted as a patient to a facility listed in Section 573.006.

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 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

1 health authority, unless the facility is licensed under Chapter
2 577;

3 (2) a hospital, or the emergency department of a
4 hospital, licensed under Chapter 241; and

5 (3) a freestanding emergency medical care facility
6 licensed under Chapter 254.

7 (b) The governing body of a facility may adopt and implement
8 a written policy authorizing a physician at the facility to
9 temporarily detain a person who voluntarily requested treatment
10 from the facility or who lacks the capacity to consent to treatment,
11 as provided by this section, if:

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

15 (2) the physician:

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

17 (i) the person has a mental illness; and

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

21 (B) believes there is insufficient time to file
22 an application for emergency detention or for an order of
23 protective custody.

24 (c) A policy a facility adopts and implements under this
25 section may not authorize a physician at the facility to detain a
26 person who has been transported to the facility for emergency
27 detention under this chapter.

1 (d) A policy a facility adopts and implements under this
2 section must require:

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

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

11 (3) the period of a person's detention under the policy
12 to be less than four hours following the time the person first
13 expressed a desire to leave or attempted to leave the facility, and
14 the physician to release the person not later than the end of the
15 four-hour period unless the facility staff or physician arranges
16 for a peace officer to take the person into custody under Section
17 573.001 or a judge or magistrate issues an order of protective
18 custody.

19 (e) Detention of a person under a policy a facility adopts
20 and implements under this section is not considered involuntary
21 psychiatric hospitalization for purposes of Section 411.172(e),
22 Government Code.

23 (f) A physician, facility staff, or facility that detains or
24 does not detain a person under a policy a facility adopts and
25 implements under this section and that acts in good faith and
26 without malice is not civilly or criminally liable for that action.

27 (g) A facility is not civilly or criminally liable for the

1 decision of the facility's governing body to adopt or not to adopt a
2 policy under this section.

3 SECTION 4. This Act takes effect September 1, 2025.