

By: Moody

H.B. No. 5463

A BILL TO BE ENTITLED

AN ACT

relating to emergency detention of certain persons evidencing mental illness and to court-ordered inpatient and extended mental health services.

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

SECTION 1. Section 573.001(b), Health and Safety Code, is amended to read as follows:

(b) A substantial risk of serious harm to the person or others under Subsection (a)(1)(B) may be demonstrated by:

(1) the person's behavior; or

(2) evidence of severe emotional distress and deterioration in the person's mental condition, including the person's inability to recognize symptoms or appreciate the risks and benefits of treatment, to the extent that the person cannot remain at liberty.

SECTION 2. The heading to Section 573.002, Health and Safety Code, is amended to read as follows:

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

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

(a) A peace officer shall immediately file with a facility a notification of emergency detention after transporting a person to

1 that facility in accordance with Section 573.001. Emergency
2 medical services personnel of an emergency medical services
3 provider who transport a person to a facility at the request of a
4 peace officer made in accordance with a memorandum of understanding
5 executed under Section 573.005 shall immediately file with the
6 facility the notification of emergency detention completed by the
7 peace officer who made the request.

8 (b) The notification of emergency detention must contain:

9 (1) a statement that the officer has reason to believe
10 and does believe that the person evidences mental illness;

11 (2) a statement that the officer has reason to believe
12 and does believe that the person evidences a substantial risk of
13 serious harm to the person or others;

14 (3) ~~[a specific description of the risk of harm,~~

15 ~~(4)]~~ a statement that the officer has reason to
16 believe and does believe that the risk of harm is imminent unless
17 the person is immediately restrained;

18 (4) ~~(5)]~~ a statement that the officer's beliefs are
19 derived from specific recent behavior, overt acts, attempts, or
20 threats that were observed by or reliably reported to the officer;

21 (5) ~~(6)]~~ a detailed description of the specific
22 behavior, acts, attempts, or threats; and

23 (6) ~~(7)]~~ the name and relationship to the apprehended
24 person of any person who reported or observed the behavior, acts,
25 attempts, or threats.

26 (c) The facility where the person is detained shall include
27 in the detained person's clinical file the notification of

1 emergency detention described by this section.

2 (d) The peace officer shall provide the notification of
3 emergency detention in substantially ~~[on]~~ the following form:

4 Notification--Emergency Detention NO. _____

5 DATE:_____ TIME:_____

6 THE STATE OF TEXAS

7 FOR THE BEST INTEREST AND PROTECTION OF:

8 _____

9 DOB:_____ RACE:_____ GENDER:_____

10 PHONE NUMBER:_____ ADDRESS:_____

11 NOTIFICATION OF EMERGENCY DETENTION

12 Now comes _____, a peace officer with
13 (name of agency) _____, of the State of
14 Texas, and states as follows:

15 ☐ ~~[1.]~~ I have reason to believe and do believe that (name of
16 person to be detained) _____ evidences mental
17 illness;i~~[-]~~

18 ☐ ~~[2.]~~ I have reason to believe and do believe that the
19 above-named person evidences a substantial risk of serious harm to
20 himself/herself or others based on the person's behavior or
21 evidence the person is experiencing severe emotional distress and
22 deterioration to the extent the person cannot remain at liberty;
23 and ~~[upon the following:]~~

24 _____

25 _____

26 _____

27 _____]

☐ [3.] I have reason to believe and do believe that the ~~[above]~~ risk of harm is imminent unless the above-named person is immediately restrained.

1. [4.] My above-stated beliefs are based upon the following recent behavior, severe emotional distress and deterioration, overt acts, attempts, statements, or threats observed by me or reliably reported to me (may use attachments to report additional information):

2. [5.] The names, addresses, phone numbers, and relationship to the above-named person of those persons who reported or observed recent behavior, acts, attempts, statements, or threats of the above-named person are (if applicable):

ADULT 65 YEARS OF AGE OR OLDER? ☐ YES ☐ NO If yes, age: _____

CHILD 17 YEARS OF AGE OR YOUNGER? ☐ YES ☐ NO If yes, age: _____

FOR A CHILD 17 YEARS OF AGE OR YOUNGER (if yes):

My belief the child is at risk of imminent serious harm unless immediately removed from the parents' custody is based on the

above-stated facts showing the parents or guardians are presently
unable to protect the child from imminent serious harm.

☐ I provided notice to the child's parents or guardians of my
intention to file this notification.

☐ I was not able to provide notice to the child's parents or
guardians of my intention to file this notification because:

Parent/Guardian Contact Information:

USE OF RESTRAINT

Was the person physically restrained in any way? Yes ☐ No ☐

If yes, reason for physical restraint? ☐ Officer Safety

☐ Person's Safety ☐ Other

CALL ORIGINATED AT:

☐ Public Area ☐ Residence ☐ School/University

☐ Group Home ☐ Hospital

☐ Other

OBSERVATIONS/HISTORY

If YES to any question below, provide additional information:

	<u>YES</u>	<u>NO</u>	<u>UNKNOWN</u>	<u>NOTES</u>
<u>Harm to self</u>				
<u>or stating an</u>				
<u>intention to</u>				
<u>harm self?</u>				

1 Previous
2 attempt to
3 commit
4 suicide?
5 Harm to
6 others or
7 stating an
8 intention to
9 harm others?
10 Previous
11 serious harm
12 or injury to
13 others?
14 Previous
15 psychiatric
16 hospital
17 treatment?
18 Reported
19 mental health
20 diagnosis?
21 Prescribed
22 psychiatric
23 medications?
24 Current
25 psychiatric
26 medications
27 taken?

1 Sleeping
2 difficulty?
3 Substance use
4 disorder?

5 FIREARMS/WEAPONS

6 If YES to any question below, provide additional information:

7	<u>YES</u>	<u>NO</u>	<u>UNKNOWN</u>	<u>NOTES</u>
8	<u>Possession of</u>			
9	<u>firearm at</u>			
10	<u>time of</u>			
11	<u>contact?</u>			
12	<u>If yes, was</u>			
13	<u>firearm</u>			
14	<u>seized in</u>			
15	<u>accordance</u>			
16	<u>with Article</u>			
17	<u>18.191, Code</u>			
18	<u>of Criminal</u>			
19	<u>Procedure?</u>			

20 TRANSPORTED TO:

21 ☐ Hospital/Emergency Room ☐ Mental Health Facility
22 ☐ Other _____

23 For the above reasons, I present this notification to seek
24 temporary admission to the (name of facility)
25 _____ inpatient mental health facility or
26 hospital facility for the detention of (name of person to be
27 detained) _____ on an emergency basis.

1 ~~[6. Was the person restrained in any way? Yes ☐ No ☐~~

2 PEACE OFFICER'S PRINTED NAME: _____

3 BADGE NO. _____

4 PEACE OFFICER'S SIGNATURE _____

5 Address: _____ Zip Code: _____

6 Telephone: _____

7 [_____]

8 SIGNATURE OF EMERGENCY MEDICAL SERVICES PERSONNEL (if applicable)

9 _____ PRINTED NAME OF PERSONNEL: _____

10 Address: _____ Zip Code: _____

11 Telephone: _____

12 A mental health facility or hospital emergency department may
13 not require a peace officer or emergency medical services personnel
14 to execute any form other than this form as a predicate to accepting
15 for temporary admission a person detained by a peace officer under
16 Section 573.001, Health and Safety Code~~[, and transported by the~~
17 ~~officer under that section or by emergency medical services~~
18 ~~personnel of an emergency medical services provider at the request~~
19 ~~of the officer made in accordance with a memorandum of~~
20 ~~understanding executed under Section 573.005, Health and Safety~~
21 ~~Code].~~

22 (f) A peace officer who transports an apprehended person to
23 a facility under Section 573.001(d)(1) or emergency medical
24 services personnel of an emergency medical services provider who
25 transports a person to a facility under Section 573.001(d)(2):

26 (1) is not required to remain at the facility while the
27 apprehended person is medically screened or treated or while the

1 person's insurance coverage is verified; and

2 (2) may leave the facility immediately after:

3 (A) the person is taken into custody by
4 appropriate facility staff; and

5 (B) the notification of emergency detention
6 required by this section is provided to the facility.

7 SECTION 4. Section 573.003(b), Health and Safety Code, is
8 amended to read as follows:

9 (b) A substantial risk of serious harm to the ward or others
10 under Subsection (a)(2) may be demonstrated by:

11 (1) the ward's behavior; or

12 (2) evidence of severe emotional distress and
13 deterioration in the ward's mental condition, including the ward's
14 inability to recognize symptoms or appreciate the risks and
15 benefits of treatment, to the extent that the ward cannot remain at
16 liberty.

17 SECTION 5. Section 573.012(c), Health and Safety Code, is
18 amended to read as follows:

19 (c) A substantial risk of serious harm to the person or
20 others under Subsection (b)(2) may be demonstrated by:

21 (1) the person's behavior; or

22 (2) evidence of severe emotional distress and
23 deterioration in the person's mental condition, including the
24 person's inability to recognize symptoms or appreciate the risks
25 and benefits of treatment, to the extent that the person cannot
26 remain at liberty.

27 SECTION 6. Section 573.022(a), Health and Safety Code, is

1 amended to read as follows:

2 (a) A person may be admitted to a facility for emergency
3 detention only if the physician who conducted the preliminary
4 examination of the person makes a written statement that:

5 (1) is acceptable to the facility;

6 (2) states that after a preliminary examination it is
7 the physician's opinion that:

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

9 (B) the person evidences a substantial risk of
10 serious harm to the person or to others;

11 (C) the described risk of harm is imminent unless
12 the person is immediately restrained; and

13 (D) emergency detention is the least restrictive
14 means by which the necessary restraint may be accomplished; and

15 (3) includes:

16 (A) a description of the nature of the person's
17 mental illness;

18 (B) a specific description of the risk of harm
19 the person evidences that may be demonstrated either by the
20 person's behavior or by evidence of severe emotional distress and
21 deterioration in the person's mental condition, including the
22 person's inability to recognize symptoms or appreciate the risks
23 and benefits of treatment, to the extent that the person cannot
24 remain at liberty; and

25 (C) the specific detailed information from which
26 the physician formed the opinion in Subdivision (2).

27 SECTION 7. Section [574.001\(b\)](#), Health and Safety Code, is

1 amended to read as follows:

2 (b) Except as provided by Subsection (f), the application
3 must be filed with the county clerk in the county in which the
4 proposed patient:

5 (1) resides;

6 (2) is located at the time the application is filed [~~is~~
7 ~~found~~]; [~~or~~]

8 (3) was apprehended under Chapter 573; or

9 (4) is receiving mental health services by court order
10 or under Subchapter A, Chapter 573.

11 SECTION 8. Sections 574.011(a) and (d), Health and Safety
12 Code, are amended to read as follows:

13 (a) A certificate of medical examination for mental illness
14 must be sworn to, dated, and signed by the examining physician. The
15 certificate must include:

16 (1) the name and address of the examining physician;

17 (2) the name and address of the person examined;

18 (3) the date and place of the examination;

19 (4) a brief diagnosis of the examined person's
20 physical and mental condition;

21 (5) the period, if any, during which the examined
22 person has been under the care of the examining physician;

23 (6) an accurate description of the mental health
24 treatment, if any, given by or administered under the direction of
25 the examining physician; and

26 (7) the examining physician's opinion that:

27 (A) the examined person is a person with mental

1 illness; and

2 (B) as a result of that illness the examined
3 person:

4 (i) is likely to cause serious harm to the
5 person or to others; ~~or~~

6 (ii) is:

7 (a) ~~(i)~~ suffering severe and
8 abnormal mental, emotional, or physical distress;

9 (b) ~~(ii)~~ experiencing substantial
10 mental or physical deterioration of the proposed patient's ability
11 to function independently, which is exhibited by the proposed
12 patient's inability, except for reasons of indigence, to provide
13 for the proposed patient's basic needs, including food, clothing,
14 health, or safety; and

15 (c) ~~(iii)~~ not able to make a
16 rational and informed decision as to whether to submit to
17 treatment; or

18 (iii) lacks the capacity to recognize the
19 person is experiencing symptoms of a serious mental illness and is:

20 (a) unable to make a rational and
21 informed decision regarding voluntary mental health treatment;

22 (b) unable to appreciate the risks or
23 benefits of mental health treatment or understand, use, weigh, or
24 retain information relevant to making informed treatment
25 decisions; and

26 (c) in the absence of mental health
27 treatment, likely to experience a relapse or deterioration of the

1 examined person's mental or physical condition that would satisfy
2 the criteria under Subparagraph (i) or (ii).

3 (d) If the certificate is offered in support of a motion for
4 a protective custody order, the certificate must also include the
5 examining physician's opinion that the examined person presents a
6 substantial risk of serious harm to himself or others if not
7 immediately restrained. The harm may be demonstrated by the
8 examined person's behavior or by evidence of severe emotional
9 distress and deterioration in the examined person's mental
10 condition, including the examined person's inability to recognize
11 symptoms or appreciate the risks and benefits of treatment, to the
12 extent that the examined person cannot remain at liberty.

13 SECTION 9. Section 574.022(b), Health and Safety Code, is
14 amended to read as follows:

15 (b) The determination that the proposed patient presents a
16 substantial risk of serious harm may be demonstrated by the
17 proposed patient's behavior or by evidence of severe emotional
18 distress and deterioration in the proposed patient's mental
19 condition, including the proposed patient's inability to recognize
20 symptoms or appreciate the risks and benefits of treatment, to the
21 extent that the proposed patient cannot remain at liberty.

22 SECTION 10. Sections 574.034(a) and (d), Health and Safety
23 Code, are amended to read as follows:

24 (a) The judge may order a proposed patient to receive
25 court-ordered temporary inpatient mental health services only if
26 the judge or jury finds, from clear and convincing evidence, that:

27 (1) the proposed patient is a person with mental

1 illness; and

2 (2) as a result of that mental illness the proposed
3 patient:

4 (A) is likely to cause serious harm to the
5 proposed patient;

6 (B) is likely to cause serious harm to others;
7 ~~[or]~~

8 (C) is:

9 (i) suffering severe and abnormal mental,
10 emotional, or physical distress;

11 (ii) experiencing substantial mental or
12 physical deterioration of the proposed patient's ability to
13 function independently, which is exhibited by the proposed
14 patient's inability, except for reasons of indigence, to provide
15 for the proposed patient's basic needs, including food, clothing,
16 health, or safety; and

17 (iii) unable to make a rational and
18 informed decision as to whether or not to submit to treatment; or

19 (D) lacks the capacity to recognize the proposed
20 patient is experiencing symptoms of a serious mental illness and
21 is:

22 (i) unable to make a rational and informed
23 decision regarding voluntary inpatient mental health treatment;

24 (ii) unable to appreciate the risks or
25 benefits of mental health treatment or understand, use, weigh, or
26 retain information relevant to making informed treatment
27 decisions; and

1 (iii) in the absence of court-ordered
2 temporary inpatient mental health services, likely to experience a
3 relapse or deterioration of the proposed patient's mental or
4 physical condition that would satisfy the criteria under Paragraph
5 (A), (B), or (C).

6 (d) To be clear and convincing under Subsection (a), the
7 evidence must include expert testimony and, unless waived, evidence
8 of a recent overt act or a continuing pattern of behavior that tends
9 to confirm:

10 (1) the likelihood of serious harm to the proposed
11 patient or others; ~~or~~

12 (2) the proposed patient's distress and the
13 deterioration of the proposed patient's ability to function; or

14 (3) the proposed patient's lack of capacity or
15 inability to make or understand treatment decisions that will
16 likely result in the deterioration of the proposed patient's mental
17 or physical condition.

18 SECTION 11. Sections 574.035(a) and (e), Health and Safety
19 Code, are amended to read as follows:

20 (a) The judge may order a proposed patient to receive
21 court-ordered extended inpatient mental health services only if the
22 jury, or the judge if the right to a jury is waived, finds, from
23 clear and convincing evidence, that:

24 (1) the proposed patient is a person with mental
25 illness;

26 (2) as a result of that mental illness the proposed
27 patient:

1 (A) is likely to cause serious harm to the
2 proposed patient;

3 (B) is likely to cause serious harm to others;
4 ~~[or]~~

5 (C) is:
6 (i) suffering severe and abnormal mental,
7 emotional, or physical distress;

8 (ii) experiencing substantial mental or
9 physical deterioration of the proposed patient's ability to
10 function independently, which is exhibited by the proposed
11 patient's inability, except for reasons of indigence, to provide
12 for the proposed patient's basic needs, including food, clothing,
13 health, or safety; and

14 (iii) unable to make a rational and
15 informed decision as to whether or not to submit to treatment; or

16 (D) lacks the capacity to recognize the proposed
17 patient is experiencing symptoms of a serious mental illness and
18 is:

19 (i) unable to make a rational and informed
20 decision regarding voluntary inpatient mental health treatment;

21 (ii) unable to appreciate the risks or
22 benefits of mental health treatment or understand, use, weigh, or
23 retain information relevant to making informed treatment
24 decisions; and

25 (iii) in the absence of court-ordered
26 extended inpatient mental health services, likely to experience a
27 relapse or deterioration of the proposed patient's mental or

1 physical condition that would satisfy the criteria under Paragraph
2 (A), (B), or (C);

3 (3) the proposed patient's condition is expected to
4 continue for more than 90 days; and

5 (4) the proposed patient has received court-ordered
6 inpatient mental health services under this subtitle or under
7 Chapter 46B, Code of Criminal Procedure, for at least 60
8 consecutive days during the preceding 12 months.

9 (e) To be clear and convincing under Subsection (a), the
10 evidence must include expert testimony and evidence of a recent
11 overt act or a continuing pattern of behavior that tends to confirm:

12 (1) the likelihood of serious harm to the proposed
13 patient or others; ~~or~~

14 (2) the proposed patient's distress and the
15 deterioration of the proposed patient's ability to function; or

16 (3) the proposed patient's lack of capacity or
17 inability to make or understand treatment decisions that will
18 likely result in the deterioration of the proposed patient's mental
19 or physical condition.

20 SECTION 12. Section 574.064(a-1), Health and Safety Code,
21 is amended to read as follows:

22 (a-1) A physician shall evaluate the patient as soon as
23 possible within 24 hours after the time detention begins to
24 determine whether the patient, due to mental illness, presents a
25 substantial risk of serious harm to the patient or others so that
26 the patient cannot be at liberty pending the probable cause hearing
27 under Subsection (b). The determination that the patient presents

1 a substantial risk of serious harm to the patient or others may be
2 demonstrated by:

- 3 (1) the patient's behavior; or
4 (2) evidence of severe emotional distress and
5 deterioration in the patient's mental condition, including the
6 patient's inability to recognize symptoms or appreciate the risks
7 and benefits of treatment, to the extent that the patient cannot
8 live safely in the community.

9 SECTION 13. Chapter 573, Health and Safety Code, as amended
10 by this Act, applies only to an emergency detention that begins on
11 or after the effective date of this Act. An emergency detention
12 that begins before the effective date of this Act is governed by the
13 law as it existed immediately before the effective date of this Act,
14 and that law is continued in effect for that purpose.

15 SECTION 14. Chapter 574, Health and Safety Code, as amended
16 by this Act, applies only to an application or proceeding for
17 court-ordered mental health services submitted or that occurs on or
18 after the effective date of this Act, regardless of when an offense
19 with which the defendant is charged was committed.

20 SECTION 15. This Act takes effect September 1, 2025.