

By: Zaffirini, et al.
(Moody)

S.B. No. 1164

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(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 of the person, if the officer

~~[(1)]~~ has reason to believe and does believe that:

(1) ~~[(A)]~~ the person is a person with mental
illness~~+~~ and

~~[(B)]~~ because of that mental illness:

(A) 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 evidences an inability to
recognize symptoms or appreciate the risks and benefits of
treatment; ~~and~~

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

1 (3) ~~[believes that]~~ there is not sufficient time to
2 obtain a warrant before taking the person into custody.

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

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

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

10 (a) A peace officer shall immediately file with a facility a
11 notification of emergency detention after transporting a person to
12 that facility in accordance with Section 573.001. Emergency
13 medical services personnel of an emergency medical services
14 provider who transport a person to a facility at the request of a
15 peace officer made in accordance with a memorandum of understanding
16 executed under Section 573.005 shall immediately file with the
17 facility the notification of emergency detention completed by the
18 peace officer who made the request.

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

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

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

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

26 ~~(4)]~~ a statement that the officer has reason to
27 believe and does believe that the risk of harm is imminent unless

the person is immediately restrained;

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

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

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

(c) The facility where the person is detained shall include in the detained person's clinical file the notification of emergency detention described by this section.

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

Notification--Emergency Detention NO. _____

DATE:_____ TIME:_____

THE STATE OF TEXAS

FOR THE BEST INTEREST AND PROTECTION OF:

DOB:_____ RACE:_____ GENDER:_____

PHONE NUMBER:_____ ADDRESS:_____

NOTIFICATION OF EMERGENCY DETENTION

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

☐ ~~[1-]~~ I have reason to believe and do believe that (name of person to be detained) _____ evidences mental

1 illness;~~[-]~~

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

8 [_____
9 _____
10 _____
11 _____]

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

15 1. [4.] My above-stated beliefs are based upon the following
16 recent behavior, severe emotional distress and deterioration,
17 overt acts, attempts, statements, or threats observed by me or
18 reliably reported to me (may use attachments to report additional
19 information):

20 _____
21 _____
22 _____
23 _____

24 2. [5.] The names, addresses, phone numbers, and relationship to
25 the above-named person of those persons who reported or observed
26 recent behavior, acts, attempts, statements, or threats of the
27 above-named person are (if applicable):

1

2

3

4

5

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

6

age: _____

7

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

8

age: _____

9

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

10

My belief the child is at risk of imminent serious harm unless

11

immediately removed from the parents' custody is based on the

12

above-stated facts showing the parents or guardians are presently

13

unable to protect the child from imminent serious harm.

14

☐ I provided notice to the child's parents or guardians of my

15

intention to file this notification.

16

☐ I was not able to provide notice to the child's parents or

17

guardians of my intention to file this notification because:

18

19

20

Parent/Guardian Contact Information: _____

21

22

USE OF RESTRAINT

23

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

24

If yes, reason for physical restraint? ☐ Officer Safety

25

☐ Person's Safety ☐ Other _____

26

CALL ORIGINATED AT:

27

☐ Public Area ☐ Residence ☐ School/University

1

☐ Group Home

☐ Hospital

2

☐ Other

3

OBSERVATIONS/HISTORY

4

If YES to any question below, provide additional information:

5

YES

NO

UNKNOWN

NOTES

6

Harm to self

7

or stating an

8

intention to

9

harm self?

10

Previous

11

attempt to

12

commit

13

suicide?

14

Harm to

15

others or

16

stating an

17

intention to

18

harm others?

19

Previous

20

serious harm

21

or injury to

22

others?

23

Previous

24

psychiatric

25

hospital

26

treatment?

1 Reported
2 mental health
3 diagnosis?
4 Prescribed
5 psychiatric
6 medications?
7 Current
8 psychiatric
9 medications
10 taken?
11 Sleeping
12 difficulty?
13 Substance use
14 disorder?

15 TRANSPORTED TO:

16 ☐ Hospital/Emergency Room ☐ Mental Health Facility
17 ☐ Other _____

18 For the above reasons, I present this notification to seek
19 temporary admission to the (name of facility)
20 _____ inpatient mental health facility or
21 hospital facility for the detention of (name of person to be
22 detained) _____ on an emergency basis.

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

24 PEACE OFFICER'S PRINTED NAME: _____

25 BADGE NO. _____

26 PEACE OFFICER'S SIGNATURE _____

27 Address: _____ Zip Code: _____

1 Telephone: _____

2 [_____]

3 SIGNATURE OF EMERGENCY MEDICAL SERVICES PERSONNEL (if applicable)

4 _____ PRINTED NAME OF PERSONNEL: _____

5 Address: _____ Zip Code: _____

6 Telephone: _____

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

17 (f) A peace officer who transports an apprehended person to
18 a facility under Section 573.001(d)(1) or emergency medical
19 services personnel of an emergency medical services provider who
20 transports a person to a facility under Section 573.001(d)(2):

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

24 (2) may leave the facility immediately after:

25 (A) the person is taken into custody by
26 appropriate facility staff; and

27 (B) the notification of emergency detention

1 required by this section is provided to the facility.

2 SECTION 4. Section 573.003(a), Health and Safety Code, is
3 amended to read as follows:

4 (a) A guardian of the person of a ward who is 18 years of age
5 or older, without the assistance of a peace officer, may transport
6 the ward to an inpatient mental health facility for a preliminary
7 examination in accordance with Section 573.021 if the guardian has
8 reason to believe and does believe that:

9 (1) the ward is a person with mental illness~~[+]~~ and

10 ~~[(2)]~~ because of that mental illness:

11 (A) there is a substantial risk of serious harm
12 to the ward or to others;

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

15 (C) the ward evidences an inability to recognize
16 symptoms or appreciate the risks and benefits of treatment; and

17 (2) the ward is likely without immediate detention to
18 suffer serious risk of harm or to inflict serious harm on another
19 person ~~[unless the ward is immediately restrained]~~.

20 SECTION 5. Section 573.012(b), Health and Safety Code, is
21 amended to read as follows:

22 (b) The magistrate shall deny the application unless the
23 magistrate finds that there is reasonable cause to believe that:

24 (1) the person evidences mental illness and because of
25 that mental illness~~[+]~~

26 ~~[(2)]~~ the person evidences:

27 (A) a substantial risk of serious harm to himself

or others;

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

(C) 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;

(3) the risk of harm is imminent unless the person is
immediately restrained; and

(4) the necessary restraint cannot be accomplished
without emergency detention.

SECTION 6. Section 573.022(a), Health and Safety Code, is
amended to read as follows:

(a) A person may 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:

(1) is acceptable to the facility;

(2) states ~~[that]~~ after a preliminary examination it
is the physician's opinion that:

(A) the person is a person with mental illness
and because of that mental illness~~+~~

~~[(B)]~~ the person evidences:

(i) a substantial risk of serious harm to
the person or to others;

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

1 (iii) an inability to recognize symptoms or
2 appreciate the risks and benefits of treatment;

3 (B) [~~(C)~~] the described risk of harm is imminent
4 unless the person is immediately restrained; and

5 (C) [~~(D)~~] emergency detention is the least
6 restrictive means by which the necessary restraint may be
7 accomplished; and

8 (3) includes:

9 (A) a description of the nature of the person's
10 mental illness;

11 (B) a specific description of the risk of harm
12 the person evidences [~~that may be demonstrated either by the~~
13 ~~person's behavior or by evidence of severe emotional distress and~~
14 ~~deterioration in the person's mental condition]~~ to the extent that
15 the person cannot remain at liberty; and

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

18 SECTION 7. Section 574.001(b), Health and Safety Code, is
19 amended to read as follows:

20 (b) Except as provided by Subsection (f), the application
21 must be filed with the county clerk in the county in which the
22 proposed patient:

23 (1) resides;

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

26 (3) was apprehended under Chapter 573; or

27 (4) is receiving mental health services by court order

or under Subchapter A, Chapter 573.

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

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

- (1) the name and address of the examining physician;
- (2) the name and address of the person examined;
- (3) the date and place of the examination;
- (4) a brief diagnosis of the examined person's physical and mental condition;
- (5) the period, if any, during which the examined person has been under the care of the examining physician;
- (6) an accurate description of the mental health treatment, if any, given by or administered under the direction of the examining physician; and
- (7) the examining physician's opinion that:

(A) the examined person is a person with mental illness~~+~~ and

~~[(B)]~~ as a result of that illness the examined person is:

(i) likely to cause serious harm to the person or to others; ~~[or is+]~~

(ii) ~~[(i)]~~ suffering severe and abnormal mental, emotional, or physical distress;

(iii) ~~[(ii)]~~ experiencing substantial mental or physical deterioration of the proposed patient's ability

1 to function independently, which is exhibited by the proposed
2 patient's inability, except for reasons of indigence, to provide
3 for the proposed patient's basic needs, including food, clothing,
4 health, or safety; ~~and~~

5 (iv) ~~(iii)~~ not able to make a rational
6 and informed decision as to whether to submit to treatment; or

7 (v) evidencing an inability to recognize
8 symptoms or appreciate the risks and benefits of treatment; and

9 (B) in the absence of inpatient mental health
10 treatment, the examined person is likely to suffer serious risk of
11 harm or to inflict serious harm on another person.

12 (b) The examining physician must specify in the certificate
13 which criterion listed in Subsection (a)(7) ~~[(a)(7)(B)]~~ forms the
14 basis for the physician's opinion.

15 SECTION 9. Sections [574.034](#)(a) and (d), Health and Safety
16 Code, are amended to read as follows:

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

20 (1) the proposed patient is a person with mental
21 illness; and

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

24 (A) is likely to cause serious harm to the
25 proposed patient;

26 (B) is likely to cause serious harm to others;

27 ~~[or]~~

(C) is:

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

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

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

(iv) evidencing an inability to recognize symptoms or to appreciate the risks and benefits of treatment; and

(D) in the absence of court-ordered temporary inpatient mental health services, is likely to suffer serious risk of harm or to inflict serious harm on another person.

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

(1) the likelihood of serious harm to the proposed patient or others and ~~or~~

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

(2) the proposed patient's inability to recognize symptoms or appreciate the risks and benefits of treatment.

SECTION 10. Sections [574.035](#)(a) and (e), Health and Safety

Code, are amended to read as follows:

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

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

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

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

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

(C) is:

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

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

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

(iv) evidencing an inability to recognize symptoms or appreciate the risks and benefits of treatment; and

(D) in the absence of court-ordered extended

1 inpatient mental health services, is likely to suffer serious risk
2 of harm or to inflict serious harm on another person;

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 and ~~or~~

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

16 (2) the proposed patient's inability to recognize
17 symptoms or appreciate the risks and benefits of treatment.

18 SECTION 11. Section 574.064(a-1), Health and Safety Code,
19 is amended to read as follows:

20 (a-1) A physician shall evaluate the patient as soon as
21 possible within 24 hours after the time detention begins to
22 determine whether the patient, due to mental illness:

23 (1) [7] presents a substantial risk of serious harm to
24 the patient or others;

25 (2) evidences severe emotional distress and
26 deterioration in the person's mental condition;

27 (3) evidences an inability to recognize symptoms or

1 appreciate the risks and benefits of treatment; and

2 (4) is likely without immediate detention to suffer
3 serious risk of harm or to inflict serious harm on another person to
4 the extent ~~[so]~~ that the patient cannot be at liberty pending the
5 probable cause hearing under Subsection (b). ~~[The determination~~
6 ~~that the patient presents a substantial risk of serious harm to the~~
7 ~~patient or others may be demonstrated by:~~

8 ~~[(1) the patient's behavior; or~~

9 ~~[(2) evidence of severe emotional distress and~~
10 ~~deterioration in the patient's mental condition to the extent that~~
11 ~~the patient cannot live safely in the community.]~~

12 SECTION 12. The following provisions of the Health and
13 Safety Code are repealed:

14 (1) Section 573.001(b);

15 (2) Section 573.003(b); and

16 (3) Section 573.012(c).

17 SECTION 13. Chapter 573, Health and Safety Code, as amended
18 by this Act, applies only to an emergency detention that begins on
19 or after the effective date of this Act. An emergency detention
20 that begins before the effective date of this Act is governed by the
21 law as it existed immediately before the effective date of this Act,
22 and that law is continued in effect for that purpose.

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

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