By: Campos H.B. No. 1231

A BILL TO BE ENTITLED

AN ACT

relating to preliminary examination periods for mental health protective custody and the criteria for and duration of certain court-ordered mental health services.

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

SECTION 1. Section 573.021(b), Health and Safety Code, is amended to read as follows:

(b) A person accepted for a preliminary examination may be detained in custody for not longer than 72 [~~48~~] hours after the time the person is presented to the facility unless a written order for protective custody is obtained. The 72-hour [~~48-hour~~] period allowed by this section includes any time the patient spends waiting in the facility for medical care before the person receives the preliminary examination. If the 72-hour [~~48-hour~~] period ends on a Saturday, Sunday, legal holiday, or before 4 p.m. on the first succeeding business day, the person may be detained until 4 p.m. on the first succeeding business day. If the 72-hour [~~48-hour~~] period ends at a different time, the person may be detained only until 4 p.m. on the day the 72-hour [~~48-hour~~] period ends. If extremely hazardous weather conditions exist or a disaster occurs, the presiding judge or magistrate may, by written order made each day, extend by an additional 24 hours the period during which the person may be detained. The written order must declare that an emergency exists because of the weather or the occurrence of a disaster.

SECTION 2. Sections 574.034(a) and (d), Health and Safety Code, are amended to read as follows:

(a) The judge may 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) the proposed patient is a person with mental illness; and

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

(A) poses a substantial risk of causing [~~is likely to cause~~] serious harm to the proposed patient, as evidenced by serious threats of attempting suicide, a suicide attempt, or other significant self-inflicted bodily harm;

(B) poses a substantial risk of causing [~~is likely to cause~~] serious harm to others, as evidenced by violent behavior directed toward 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

(D) is experiencing severe mental or physical deterioration that, without immediate intervention, poses a substantial risk of severe impairment or injury to the proposed patient.

(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 substantial risk [~~likelihood~~] of serious harm to the proposed patient or others; [~~or~~]

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

(3) the severe deterioration of the proposed patient that poses a substantial risk of impairment or injury to the proposed patient.

SECTION 3. Section 574.0345(c), Health and Safety Code, is amended to read as follows:

(c) An order for temporary outpatient mental health services shall state that treatment is authorized for not longer than 90 [~~45~~] days, except that the order may specify a period not to exceed 180 [~~90~~] days if the judge finds that the longer period is necessary.

SECTION 4. 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) poses a substantial risk of causing [~~is likely to cause~~] serious harm to the proposed patient, as evidenced by serious threats of attempting suicide, a suicide attempt, or other significant self-inflicted bodily harm;

(B) poses a substantial risk of causing [~~is likely to cause~~] serious harm to others, as evidenced by violent behavior directed toward 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

(D) is experiencing severe mental or physical deterioration that, without immediate intervention, poses a substantial risk of severe impairment or injury to the proposed patient;

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

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

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

(1) the substantial risk [~~likelihood~~] of serious harm to the proposed patient or others; [~~or~~]

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

(3) the severe deterioration of the proposed patient that poses a substantial risk of impairment or injury to the proposed patient.

SECTION 5. The change in law made by this Act to Section 573.021, Health and Safety Code, applies to an emergency detention that begins on or after the effective date of this Act. An emergency detention that begins before the effective date of this Act is governed by the law as it existed immediately before that date, and that law is continued in effect for that purpose.

SECTION 6. The changes in law made by this Act to Chapter 574, Health and Safety Code, apply only to a proceeding for court-ordered mental health services that occurs on or after the effective date of this Act, regardless of when an offense with which the defendant is charged was committed.

SECTION 7. This Act takes effect September 1, 2027.