

1-1 By: West, Huffman S.B. No. 359  
1-2 (In the Senate - Filed January 27, 2015; February 2, 2015,  
1-3 read first time and referred to Committee on Health and Human  
1-4 Services; April 7, 2015, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 9, Nays 0;  
1-6 April 7, 2015, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	<u>X</u>			
1-10	<u>X</u>			
1-11	<u>X</u>			
1-12	<u>X</u>			
1-13	<u>X</u>			
1-14	<u>X</u>			
1-15	<u>X</u>			
1-16	<u>X</u>			
1-17	<u>X</u>			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 359 By: Rodríguez

1-19 A BILL TO BE ENTITLED  
1-20 AN ACT

1-21 relating to the authority of a peace officer to apprehend a person  
1-22 for emergency detention and the authority of certain facilities to  
1-23 temporarily detain a person with mental illness.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. The heading to Subchapter A, Chapter 573, Health  
1-26 and Safety Code, is amended to read as follows:

1-27 SUBCHAPTER A. APPREHENSION, ~~[BY PEACE OFFICER OR]~~ TRANSPORTATION,  
1-28 OR DETENTION WITHOUT JUDGE'S OR MAGISTRATE'S ORDER [FOR EMERGENCY  
1-29 DETENTION BY GUARDIAN]

1-30 SECTION 2. Section 573.001, Health and Safety Code, is  
1-31 amended by adding Subsection (i) to read as follows:

1-32 (i) A peace officer may take a person who has been admitted  
1-33 to a facility into custody under this section. For purposes of this  
1-34 subsection, "facility" has the meaning assigned by Section 573.005.

1-35 SECTION 3. Subchapter A, Chapter 573, Health and Safety  
1-36 Code, is amended by adding Section 573.005 to read as follows:

1-37 Sec. 573.005. TEMPORARY DETENTION BY CERTAIN FACILITIES.

1-38 (a) In this section, "facility" means:

1-39 (1) a mental health facility;

1-40 (2) a hospital, or the emergency department of a  
1-41 hospital, licensed under Chapter 241; and

1-42 (3) a freestanding emergency medical care facility  
1-43 licensed under Chapter 254.

1-44 (b) This section does not apply to a person who has been  
1-45 transported to a facility for emergency detention under this  
1-46 chapter.

1-47 (c) A facility may detain a person who voluntarily requested  
1-48 treatment from the facility or who lacks the capacity to consent to  
1-49 treatment, as provided by this section, if:

1-50 (1) the person expresses a desire to leave the  
1-51 facility or attempts to leave the facility before the examination  
1-52 or treatment is completed; and

1-53 (2) a physician at the facility:

1-54 (A) has reason to believe and does believe that:

1-55 (i) the person has a mental illness; and

1-56 (ii) because of that mental illness there  
1-57 is a substantial risk of serious harm to the person or to others  
1-58 unless the person is immediately restrained; and

1-59 (B) believes that there is not sufficient time to  
1-60 file an application for emergency detention or for an order of

2-1 protective custody.

2-2 (d) The facility staff or physician shall notify the person  
2-3 if the facility intends to detain the person under this section.

2-4 (e) The physician shall document a decision to detain a  
2-5 person under this section and place that notice of detention in the  
2-6 person's medical record. The notice of detention must contain:

2-7 (1) a statement that the physician has reason to  
2-8 believe and does believe that the person evidences mental illness;

2-9 (2) a statement that the physician has reason to  
2-10 believe and does believe that the person evidences a substantial  
2-11 risk of serious harm to the person or others;

2-12 (3) a specific description of the risk of harm;

2-13 (4) a statement that the physician has reason to  
2-14 believe and does believe that the risk of harm is imminent unless  
2-15 the person is immediately restrained;

2-16 (5) a statement that the physician's beliefs are  
2-17 derived from specific recent behavior, overt acts, attempts, or  
2-18 threats that were observed by or reliably reported to the  
2-19 physician; and

2-20 (6) a detailed description of the specific behavior,  
2-21 acts, attempts, or threats.

2-22 (f) The period of a person's detention authorized by this  
2-23 section may not exceed four hours following the time the person  
2-24 first expressed a desire to leave, or attempted to leave, the  
2-25 facility. The facility shall release the person not later than the  
2-26 end of the four-hour period unless the facility arranges for a peace  
2-27 officer to take the person into custody under Section 573.001 or an  
2-28 order of protective custody is issued.

2-29 (g) A physician, person, or facility that detains or fails  
2-30 to detain a person under this section and who acts in good faith and  
2-31 without malice is not civilly or criminally liable for that action.

2-32 (h) Detention of a person under this section is not  
2-33 considered involuntary psychiatric hospitalization for purposes of  
2-34 Section 411.172(e), Government Code.

2-35 SECTION 4. This Act takes effect September 1, 2015.

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