

1-1 By: Moody (Senate Sponsor - Rodríguez) H.B. No. 1318
 1-2 (In the Senate - Received from the House April 26, 2019;
 1-3 April 29, 2019, read first time and referred to Committee on Health
 1-4 & Human Services; May 19, 2019, reported adversely, with favorable
 1-5 Committee Substitute by the following vote: Yeas 8, Nays 1;
 1-6 May 19, 2019, sent to printer.)

1-7 COMMITTEE VOTE

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

1-18 COMMITTEE SUBSTITUTE FOR H.B. No. 1318 By: Perry

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

1-21 relating to the provision of mental health services to persons
 1-22 younger than 18 years of age.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Subtitle A, Title 2, Family Code, is amended by
 1-25 adding Chapter 35A to read as follows:

1-26 CHAPTER 35A. TEMPORARY AUTHORIZATION FOR INPATIENT MENTAL HEALTH
 1-27 SERVICES FOR MINOR CHILD

1-28 Sec. 35A.001. APPLICABILITY. This chapter applies to a
 1-29 person whose relationship to a child would make the person eligible
 1-30 to consent to treatment under Section 32.001(a)(1), (2), or (3),
 1-31 and who has had actual care, custody, and control of the child for
 1-32 the six months preceding the filing of a petition under this
 1-33 chapter.

1-34 Sec. 35A.002. TEMPORARY AUTHORIZATION. A person described
 1-35 by Section 35A.001 may seek a court order for temporary
 1-36 authorization to consent to voluntary inpatient mental health
 1-37 services for a child by filing a petition in the district court in
 1-38 the county in which the person resides.

1-39 Sec. 35A.003. PETITION FOR TEMPORARY AUTHORIZATION. A
 1-40 petition for temporary authorization to consent to voluntary
 1-41 inpatient mental health services for a child must:

1-42 (1) be styled "ex parte" and be in the name of the
 1-43 child;

1-44 (2) be verified by the petitioner;

1-45 (3) state:

1-46 (A) the name, date of birth, and current physical
 1-47 address of the child;

1-48 (B) the name, date of birth, and current physical
 1-49 address of the petitioner; and

1-50 (C) the name and, if known, the current physical
 1-51 and mailing addresses of the child's parents, conservators, or
 1-52 guardians;

1-53 (4) describe the status and location of any court
 1-54 proceeding in this or another state with respect to the child;

1-55 (5) describe the petitioner's relationship to the
 1-56 child;

1-57 (6) provide the dates during the preceding six months
 1-58 that the child has resided with the petitioner;

1-59 (7) contain a certificate of medical examination for
 1-60 mental illness prepared by a physician who has examined the child

2-1 not earlier than the third day before the date the petition is filed
 2-2 and be accompanied by a sworn statement containing the physician's
 2-3 opinion, and the detailed reasons for that opinion, that the child
 2-4 is a person:

2-5 (A) with mental illness or who demonstrates
 2-6 symptoms of a serious emotional disorder; and

2-7 (B) who presents a risk of serious harm to self or
 2-8 others if not immediately restrained or hospitalized; and

2-9 (8) state any reason that the petitioner is unable to
 2-10 obtain signed, written documentation from a parent, conservator, or
 2-11 guardian of the child.

2-12 Sec. 35A.004. NOTICE; HEARING. (a) On receipt of the
 2-13 petition, the court shall set a hearing.

2-14 (b) A copy of the petition and notice of the hearing shall be
 2-15 delivered to the parent, conservator, or guardian of the child by
 2-16 personal service or by certified mail, return receipt requested, at
 2-17 the last known address of the parent, conservator, or guardian.

2-18 Sec. 35A.005. ORDER FOR TEMPORARY AUTHORIZATION. (a) At
 2-19 the hearing on the petition, the court may hear evidence relating to
 2-20 the child's need for inpatient mental health services by the
 2-21 petitioner, any other matter raised in the petition, and any
 2-22 objection or other testimony of the child's parent, conservator, or
 2-23 guardian.

2-24 (b) The court shall dismiss the petition for temporary
 2-25 authorization if an objection is made by the child's parent,
 2-26 conservator, or guardian.

2-27 (c) The court shall grant the petition for temporary
 2-28 authorization only if the court finds:

2-29 (1) by a preponderance of the evidence that the child
 2-30 does not have available a parent, conservator, guardian, or other
 2-31 legal representative to give consent under Section 572.001, Health
 2-32 and Safety Code, for voluntary inpatient mental health services;
 2-33 and

2-34 (2) by clear and convincing evidence that the child is
 2-35 a person:

2-36 (A) with mental illness or who demonstrates
 2-37 symptoms of a serious emotional disorder; and

2-38 (B) who presents a risk of serious harm to self or
 2-39 others if not immediately restrained or hospitalized.

2-40 (d) Subject to Subsection (e), the order granting temporary
 2-41 authorization under this chapter expires on the earliest of:

2-42 (1) the date the petitioner requests that the child be
 2-43 discharged from the inpatient mental health facility;

2-44 (2) the date a physician determines that the criteria
 2-45 listed in Subsection (c)(2) no longer apply to the child; or

2-46 (3) subject to Subsection (e), the 10th day after the
 2-47 date the order for temporary authorization is issued under this
 2-48 section.

2-49 (e) The order granting temporary authorization continues in
 2-50 effect until the earlier occurrence of an event described by
 2-51 Subsection (d)(1) or (2) if the petitioner obtains an order for
 2-52 temporary managing conservatorship before the order expires as
 2-53 provided by Subsection (d)(3).

2-54 (f) A copy of an order granting temporary authorization
 2-55 must:

2-56 (1) be filed under the cause number in any court that
 2-57 has rendered a conservatorship or guardian order regarding the
 2-58 child; and

2-59 (2) be sent to the last known address of the child's
 2-60 parent, conservator, or guardian.

2-61 SECTION 2. Section 572.001, Health and Safety Code, is
 2-62 amended by amending Subsections (a), (a-1), and (c-1) and adding
 2-63 Subsection (a-2) to read as follows:

2-64 (a) A person 16 years of age or older may request admission
 2-65 to an inpatient mental health facility or for outpatient mental
 2-66 health services by filing a request with the administrator of the
 2-67 facility where admission or outpatient treatment is
 2-68 requested. Subject to Subsection (c-1), the [The] parent,
 2-69 managing conservator, or guardian of a person younger than 18 years

3-1 of age may request the admission of the person to an inpatient
3-2 mental health facility or for outpatient mental health services by
3-3 filing a request with the administrator of the facility where
3-4 admission or outpatient treatment is requested.

3-5 (a-1) A person eligible to consent to treatment for the
3-6 person under Section 32.001(a)(1), (2), or (3), Family Code, may
3-7 request temporary authorization for the admission of the person to
3-8 an inpatient mental health facility by petitioning under Chapter
3-9 35A, Family Code, in the district court in the county in which the
3-10 person resides for an order for temporary authorization to consent
3-11 to voluntary mental health services under this section. The
3-12 petitioner for temporary authorization may be represented by the
3-13 county attorney or district attorney.

3-14 (a-2) Except as provided by Subsection (c-1) [~~(e)~~], an
3-15 inpatient mental health facility may admit or provide services to a
3-16 person 16 years of age or older and younger than 18 years of age if
3-17 the person's parent, managing conservator, or guardian consents to
3-18 the admission or services, even if the person does not consent to
3-19 the admission or services.

3-20 (c-1) A person younger than 18 years of age may not be
3-21 involuntarily committed unless provided by this chapter, Chapter
3-22 55, Family Code, [~~other state law,~~] or department rule.

3-23 SECTION 3. Section 573.001(a), Health and Safety Code, is
3-24 amended to read as follows:

3-25 (a) A peace officer, without a warrant, may take a person
3-26 into custody, regardless of the age of the person, if the officer:

3-27 (1) has reason to believe and does believe that:

3-28 (A) the person is a person with mental illness;
3-29 and

3-30 (B) because of that mental illness there is a
3-31 substantial risk of serious harm to the person or to others unless
3-32 the person is immediately restrained; and

3-33 (2) believes that there is not sufficient time to
3-34 obtain a warrant before taking the person into custody.

3-35 SECTION 4. Section 572.001(c), Health and Safety Code, is
3-36 repealed.

3-37 SECTION 5. This Act takes effect September 1, 2019.

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