

1-1 By: West, LaMantia S.B. No. 2287
1-2 (In the Senate - Filed March 10, 2023; March 22, 2023, read
1-3 first time and referred to Committee on Criminal Justice;
1-4 May 15, 2023, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 6, Nays 0; May 15, 2023,
1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	Whitmire	X		
1-10	Flores	X		
1-11	Bettencourt		X	
1-12	Hinojosa	X		
1-13	Huffman	X		
1-14	King	X		
1-15	Miles	X		

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 2287 By: Flores

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to the authority of a peace officer to apprehend a person
1-20 for emergency detention and the authority of certain facilities and
1-21 physicians to temporarily detain a person with mental illness.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. The heading to Subchapter A, Chapter 573, Health
1-24 and Safety Code, is amended to read as follows:

1-25 SUBCHAPTER A. APPREHENSION, ~~[BY PEACE OFFICER OR]~~ TRANSPORTATION,
1-26 OR DETENTION WITHOUT JUDGE'S OR MAGISTRATE'S ORDER ~~[FOR EMERGENCY~~
1-27 ~~DETENTION BY GUARDIAN]~~

1-28 SECTION 2. Section 573.001(a), Health and Safety Code, is
1-29 amended to read as follows:

1-30 (a) A peace officer, without a warrant, may take a person
1-31 into custody, regardless of the age or location of the person, if
1-32 the officer:

1-33 (1) has reason to believe and does believe that:

1-34 (A) the person is a person with mental illness;
1-35 and

1-36 (B) because of that mental illness there is a
1-37 substantial risk of serious harm to the person or to others unless
1-38 the person is immediately restrained; and

1-39 (2) believes that there is not sufficient time to
1-40 obtain a warrant before taking the person into custody.

1-41 SECTION 3. Subchapter A, Chapter 573, Health and Safety
1-42 Code, is amended by adding Section 573.006 to read as follows:

1-43 Sec. 573.006. TEMPORARY DETENTION IN CERTAIN FACILITIES.

1-44 (a) In this section, "facility" means:

1-45 (1) an inpatient mental health facility other than a
1-46 community center, a facility operated by or under contract with a
1-47 community center, an entity that the executive commissioner
1-48 designates to provide mental health services, a local mental health
1-49 authority, or a facility operated by or under contract with a local
1-50 mental health authority, unless the facility is licensed under
1-51 Chapter 577;

1-52 (2) a hospital, or the emergency department of a
1-53 hospital, licensed under Chapter 241; and

1-54 (3) a freestanding emergency medical care facility
1-55 licensed under Chapter 254.

1-56 (b) The governing body of a facility may adopt and implement
1-57 a written policy that provides for the facility or a physician at
1-58 the facility to detain a person who voluntarily requested treatment
1-59 from the facility or who lacks the capacity to consent to treatment,
1-60 as provided by this section, if:

2-1 (1) the person expresses a desire to leave the
2-2 facility or attempts to leave the facility before the examination
2-3 or treatment is completed; and

2-4 (2) a physician at the facility:

2-5 (A) has reason to believe and does believe that:

2-6 (i) the person has a mental illness; and

2-7 (ii) because of that mental illness there
2-8 is a substantial risk of serious harm to the person or to others
2-9 unless the person is immediately restrained; and

2-10 (B) believes that there is not sufficient time to
2-11 file an application for emergency detention or for an order of
2-12 protective custody.

2-13 (c) A policy adopted and implemented by a facility under
2-14 this section may not allow the facility or a physician at the
2-15 facility to detain a person who has been transported to the facility
2-16 for emergency detention under this chapter.

2-17 (d) A policy adopted and implemented by a facility under
2-18 this section must require:

2-19 (1) the facility staff or the physician who intends to
2-20 detain the person under the policy to notify the person of that
2-21 intention;

2-22 (2) a physician to document a decision by the facility
2-23 or the physician to detain a person under the policy and to place a
2-24 notice of detention in the person's medical record that contains
2-25 the same information as required in a peace officer's notification
2-26 of detention under Section 573.002; and

2-27 (3) the period of a person's detention under the policy
2-28 to be less than four hours following the time the person first
2-29 expressed a desire to leave, or attempted to leave, the facility,
2-30 and the facility or physician to release the person not later than
2-31 the end of the four-hour period unless the facility staff or
2-32 physician arranges for a peace officer to take the person into
2-33 custody under Section 573.001 or an order of protective custody is
2-34 issued.

2-35 (e) Detention of a person under a policy adopted and
2-36 implemented by a facility under this section is not considered
2-37 involuntary psychiatric hospitalization for purposes of Section
2-38 411.172(e), Government Code.

2-39 (f) A physician, person, or facility that detains or does
2-40 not detain a person under a policy adopted and implemented by a
2-41 facility under this section and that acts in good faith and without
2-42 malice is not civilly or criminally liable for that action.

2-43 (g) A facility is not civilly or criminally liable for the
2-44 decision of the governing body of the facility to adopt or not to
2-45 adopt a policy under this section.

2-46 SECTION 4. This Act takes effect September 1, 2023.

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