

By: Menendez

H.B. No. 39

A BILL TO BE ENTITLED

AN ACT

relating to a court's authority to order a proposed patient to receive extended outpatient mental health services.

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

SECTION 1. Section 574.035(b), Health and Safety Code, is amended to read as follows:

(b) The judge may order a proposed patient to receive court-ordered extended outpatient mental health services only if:

(1) the judge finds that appropriate mental health services are available to the patient; and

(2) the jury, or the judge if the right to a jury is waived, finds from clear and convincing evidence that:

(A) the proposed patient is mentally ill;

(B) the nature of the mental illness is severe and persistent;

(C) as a result of the mental illness, the proposed patient will, if not treated, continue to:

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

(ii) experience deterioration of the ability to function independently to the extent that the proposed patient will be unable to live safely in the community without court-ordered outpatient mental health services;

(D) the proposed patient has an inability to

1 participate in outpatient treatment services effectively and
2 voluntarily, demonstrated by:

3 (i) any of the proposed patient's actions
4 occurring within the two-year period which immediately precedes the
5 hearing; or

6 (ii) specific characteristics of the
7 proposed patient's clinical condition that make impossible a
8 rational and informed decision whether to submit to voluntary
9 outpatient treatment;

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

12 (F) the proposed patient has received:

13 (i) court-ordered inpatient mental health
14 services under this subtitle or under Subchapter D or E, Chapter
15 46B, Code of Criminal Procedure, for a total of at least 60
16 [consecutive] days during the preceding 12 months; or

17 (ii) court-ordered outpatient mental
18 health services under this subtitle or under Subchapter D or E,
19 Chapter 46B, Code of Criminal Procedure, during the preceding 60
20 days.

21 SECTION 2. Section 574.002(b), Health and Safety Code, is
22 amended to read as follows:

23 (b) The application must state whether the application is
24 for temporary or extended mental health services. An application
25 for extended inpatient mental health services must state that the
26 person has received court-ordered inpatient mental health services
27 under this subtitle or under Subchapter D or E, Chapter 46B, Code of

Criminal Procedure, for at least 60 consecutive days during the preceding 12 months. An application for extended outpatient mental health services must state that the person has received:

(1) court-ordered inpatient mental health services under this subtitle or under Subchapter D or E, Chapter 46B, Code of Criminal Procedure, for a total of at least 60 days during the preceding 12 months; or

(2) court-ordered outpatient mental health services under this subtitle or under Subchapter D or E, Chapter 46B, Code of Criminal Procedure, during the preceding 60 days.

SECTION 3. This Act takes effect September 1, 2011.