

By: West, Huffman

S.B. No. 359

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

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

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

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

Sec. 573.005. TEMPORARY DETENTION BY CERTAIN FACILITIES.

(a) In this section, "facility" means:

(1) a mental health facility;

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

(3) a freestanding emergency medical care facility licensed under Chapter 254.

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

4 (c) A facility may detain a person who voluntarily requested
5 treatment from the facility or who lacks the capacity to consent to
6 treatment, as provided by this section, if:

7 (1) the person expresses a desire to leave the
8 facility or attempts to leave the facility before the examination
9 or treatment is completed; and

10 (2) a physician at the facility:

11 (A) has reason to believe and does believe that:

12 (i) the person has a mental illness; and

13 (ii) because of that mental illness there
14 is a substantial risk of serious harm to the person or to others
15 unless the person is immediately restrained; and

16 (B) believes that there is not sufficient time to
17 file an application for emergency detention or for an order of
18 protective custody.

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

21 (e) The physician shall document a decision to detain a
22 person under this section and place that notice of detention in the
23 person's medical record. The notice of detention must contain:

24 (1) a statement that the physician has reason to
25 believe and does believe that the person evidences mental illness;

26 (2) a statement that the physician has reason to
27 believe and does believe that the person evidences a substantial

1 risk of serious harm to the person or others;

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

3 (4) a statement that the physician has reason to
4 believe and does believe that the risk of harm is imminent unless
5 the person is immediately restrained;

6 (5) a statement that the physician's beliefs are
7 derived from specific recent behavior, overt acts, attempts, or
8 threats that were observed by or reliably reported to the
9 physician; and

10 (6) a detailed description of the specific behavior,
11 acts, attempts, or threats.

12 (f) The period of a person's detention authorized by this
13 section may not exceed four hours following the time the person
14 first expressed a desire to leave, or attempted to leave, the
15 facility. The facility shall release the person not later than the
16 end of the four-hour period unless the facility arranges for a peace
17 officer to take the person into custody under Section 573.001 or an
18 order of protective custody is issued.

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

22 (h) Detention of a person under this section is not
23 considered involuntary psychiatric hospitalization for purposes of
24 Section 411.172(e), Government Code.

25 SECTION 4. This Act takes effect September 1, 2015.