

SUBJECT: Time limits in jail for defendants needing medical attention

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 5 ayes — Keel, Riddle, Ellis, Hodge, Talton

0 nays

4 absent — Denny, Dunnam, P. Moreno, Pena

WITNESSES: For — Chuck Noll, Harris County District Attorney's Office

Against — None

BACKGROUND: Code of Criminal Procedure, art. 17.033 requires that a person arrested without a warrant for a misdemeanor be released on bond within 24 hours of the arrest if a magistrate has not determined whether probable cause exists to believe that the person committed the offense. A person arrested for a felony must be released within 48 hours in this circumstance.

DIGEST: HB 2795 would exempt from the 24- and 48-hour requirements a person who is taken to a hospital, clinic, or other medical facility before being taken before a magistrate. The 24- and 48-hour time limits would begin to run when, after the person was released from the hospital, clinic, or other medical facility, the person was taken before the magistrate and the magistrate completed his or her required duties.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2003.

SUPPORTERS SAY: HB 2795 would help ensure that people who are arrested receive medical attention if they need it, while also ensuring that the criminal justice system has enough time to operate. Currently, an arrested person can be held for only 24 or 48 hours under some circumstances, and this is not enough time for the necessary jail and court procedures if the person also needs medical attention. The medical attention is for the defendant's benefit, and time spent obtaining

the services should not be counted as time spent in the criminal justice pipeline. The purpose of current law is to ensure that defendants do not languish in jail, and HB 2795 would not undermine that purpose.

HB 2795 would not be abused by law enforcement or court officers trying to hold a person for longer than the 24- and 48-hour time limits, because it would be easy find out whether an arrested person actually needed medical attention and when the person was released from a medical facility.

**OPPONENTS
SAY:**

HB 2795 is unnecessary. No statewide problem exists with arrested people being taken for medical attention and then claiming that the time spent in a medical facility should count toward the 24- or 48-hour time limit.