

BILL ANALYSIS

Senate Research Center
76R9705 SMJ-F

H.B. 2892
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Health Services
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Engrossed

DIGEST

Current law is unclear regarding the jurisdiction of law enforcement officers and certain residential care facility representatives with respect to the retrieval of escaped mental patients. H.B. 2892 clarifies procedures by which superintendents of residential care facilities, facility administrators, and law enforcement officials may retrieve an escaped mental patient.

PURPOSE

As proposed, H.B. 2892 clarifies procedures by which superintendents of residential care facilities, facility administrators, and law enforcement officials may retrieve an escaped mental patient.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 574.083, Health and Safety Code, as follows:

Sec. 574.083. New heading: RETURN TO FACILITY UNDER COURT ORDER. Authorizes the facility administrator (administrator) of a facility to which a patient was admitted for court-ordered inpatient health care services to have an absent patient taken into custody, detained, and returned to the facility by filing an affidavit as prescribed by Subsection (c). Deletes the provision that an administrator may attain this goal by signing a certificate authorizing the patient's return. Authorizes a magistrate to issue an order directing a peace or health officer to take a patient into custody and return the patient to the facility if the administrator files with the magistrate an affidavit, rather than a certificate, prescribed by Subsection (c). Provides that an order under this subsection extends to any part of this state and authorizes any peace officer to whom the order is directed or transferred to execute the order. Provides that an affidavit filed under Subsection (a) must set out facts establishing that the patient is receiving court-ordered inpatient mental health services at a facility, in addition to showing that the facility administrator reasonably believes that the patient is absent without authority, has violated the conditions of a pass or furlough, or that the patient's condition has deteriorated to the extent that the continued absence under a pass or furlough is inappropriate. Requires a peace officer or health officer who cannot immediately return a patient to a facility named in the order to transport the patient to a local facility for detention, with the exception of a nonmedical facility used to detain persons charged with or convicted of a crime, unless detention in that facility is warranted by an extreme emergency. Prohibits the patient, if detained at a nonmedical facility, from being detained there for more than 24 hours; requires that the patient be isolated from persons charged with or convicted of a crime; and requires the facility to notify the county health authority of the detention. Requires the county health authority to ensure that a patient detained in a nonmedical facility under Subsection (f) receives proper care and medical attention. Authorizes the administrator, notwithstanding other law regarding confidentiality of patient information, to release information about the patient to a law enforcement official if deemed necessary to facilitate the patient's return to the facility. Makes conforming and nonsubstantive changes.

SECTION 2. Amends Section 593.012, Health and Safety Code, as follows:

Sec. 593.012. New heading: ABSENT WITHOUT AUTHORITY. Authorizes the superintendent of a residential care facility (superintendent) to which a client has been admitted for

court-ordered care and treatment to have a client who is absent without authority taken into custody, detained, and returned to the facility by filing an affidavit with a magistrate in the manner prescribed by Section 574.083, Health and Safety Code. Deletes text authorizing the superintendent to immediately issue an order authorizing a peace officer to detain a resident committed to the facility under Subchapter C (Commitment to Residential Care Facility), Chapter 593 (Admission and Commitment to Mental Retardation Services), Health and Safety Code, who is absent from the facility without proper permission. Provides that the client is required to be returned to the residential care facility according to procedures prescribed in Section 574.083, Health and Safety Code. Deletes the requirement that a peace officer immediately notify the superintendent when taking a resident into custody and the requirement that the officer promptly arrange the return of the resident to the assigned facility on the superintendent's request.

SECTION 3. Emergency clause.
Effective date: upon passage.