

BILL ANALYSIS

Senate Research Center
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H.B. 1072
By: Farabee (Moncrief)
Health & Human Services
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Engrossed

DIGEST AND PURPOSE

The 76th Legislature enacted legislation to clarify procedures for retrieving a patient absent without permission from a mental facility in which the patient was placed by court order. Under current law, a peace officer may take into custody, detain, and return a patient to a facility only when a court orders the patient's return. This court process often makes the return of absent patients to the facilities burdensome. H.B. 1072 authorizes a peace officer, at the request of the facility administrator, to apprehend, detain, and return absent patients who are within the municipality or county in which the facility is located, with an administrative certificate or a court order. It also authorizes a magistrate to order any peace or health officer in the state to take into custody, detain, and return a patient to a facility.

RULEMAKING AUTHORITY

This bill does not expressly 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 CERTIFICATE OF FACILITY ADMINISTRATOR OR COURT ORDER. (a) Authorizes the facility administrator of a facility to which a patient was admitted for court-ordered inpatient health care services to authorize a peace officer of the municipality or county in which the facility is located to take an absent patient into custody, detain the patient, and return the patient to the facility by issuing a certificate as prescribed by Subsection (c) to a law enforcement agency of the municipality or county. Deletes text regarding the administrator having a patient taken into custody and filing an affidavit.

(b) Authorizes the facility administrator, if there is reason to believe that an absent patient may be outside the municipality or county in which the facility is located, to file an affidavit as prescribed by Subsection (c) with a magistrate requesting the magistrate to issue an order for the patient's return. Authorizes the magistrate with whom the affidavit is filed to issue an order directing a peace or health officer to take an absent patient into custody and return the patient to the facility. Deletes text regarding the facility administrator filing an affidavit. Provides that an order issued 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, take the patient into custody, detain the patient, and return the patient to the facility.

(c) Requires the certificate issued or affidavit filed under Subsection (a) or (b) to set out facts establishing that the patient is receiving certain services.

(d) Makes conforming changes.

(e) Makes a conforming change.

SECTION 2. Amends Section 593.012(a), Health and Safety Code, to make conforming changes.

SECTION 3. Effective date: September 1, 2001.