

BILL ANALYSIS

Senate Research Center

C.S.S.B. 937
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Health & Human Services
4/17/2013
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, emergency departments and hospitals are not authorized to hold an individual who initially requests mental health services and subsequently requests to leave. This provides hospital employees with few options other than calling law enforcement in the case of an emergency.

C.S.S.B. 937 amends current law 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.

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 the heading to Subchapter A, Chapter 573, Health and Safety Code, to read as follows:

SUBCHAPTER A. APPREHENSION, TRANSPORTATION, OR DETENTION WITHOUT JUDGE'S OR MAGISTRATE'S ORDER

SECTION 2. Amends Section 573.001, Health and Safety Code, by adding Subsection (g), as follows:

(g) Authorizes a peace officer to take a person who has been admitted to a facility into custody under this section (Apprehension by Peace Officer Without Warrant). Defines "facility" for purposes of this subsection.

SECTION 3. Amends Subchapter A, Chapter 573, Health and Safety Code, by adding Section 573.005, as follows:

Sec. 573.005. TEMPORARY DETENTION BY CERTAIN FACILITIES. (a) Defines "facility" in this section.

(b) Provides that this section does not apply to a person who has been transported to a facility for emergency detention under this chapter (Emergency Detention).

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

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

(2) a physician at the facility:

(A) has reason to believe and does believe that the person has a mental illness, and because of that mental illness there is a substantial risk of serious harm to the person or to others unless the person is immediately restrained; and

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

(d) Requires the facility staff or physician to notify the person if the facility intends to detain the person under this section.

(e) Requires the facility staff or physician to document a decision to detain a person under this section and the reasons for that decision in the person's medical record.

(f) Prohibits the period of a person's detention authorized by this section from exceeding four hours following the time the person first expressed a desire to leave, or attempted to leave, the facility. Requires the facility to release the person not later than the end of the four-hour period unless the facility arranges for a peace officer to take the person into custody under Section 573.001 or an order of protective custody is issued.

SECTION 4. Amends Section 571.019(a), Health and Safety Code, as follows:

Sec. 571.019. LIMITATION OF LIABILITY. (a) Provides that a person who participates in the examination, certification, apprehension, custody, transportation, failure to detain, detention, treatment, or discharge of any person or in the performance of any other act required or authorized by this subtitle (Texas Mental Health Code) and who acts in good faith, reasonably, and without negligence is not criminally or civilly liable for that action. Provides that a person who is not criminally or civilly liable under this section is not subject to disciplinary action by the appropriate licensing authority.

SECTION 5. Effective date: September 1, 2013.