

SUBJECT: Assessing counties for mental health hearings in other counties

COMMITTEE: Public Health — committee substitute recommended

VOTE: 5 ayes — Gray, Coleman, Capelo, Glaze, Longoria
0 nays
4 absent — Delisi, Maxey, Uresti, Wohlgemuth

SENATE VOTE: On final passage, March 29 — 30-0, on Local and Uncontested Calendar

WITNESSES: For — None
Against — (*Registered, not did not testify*): Guy Herman, Judges of Statutory Probate Courts of Texas

BACKGROUND: Health and Safety Code, sec. 574.031 describes the procedure for court-ordered mental health services. Health and Safety Code, sec. 571.018 (a) requires that a county that initiates emergency detention procedures under an emergency order or order of protective custody is responsible for the costs of the hearing.

Eight state hospitals serve the entire state. The county where the hospitals are located is responsible for holding the mental health hearings for those sent to the state hospital and for the costs of those hearings. Health and Safety Code sec. 574.031 (k) allows judges who hold mental health hearings to assess a fee for the prosecuting attorney of up to \$50 against the county responsible for the mental health hearing.

Government Code 44.343(b) provides that the Wichita County criminal district attorney may receive a fee in addition to the maximum \$50 fee allowed under Health and Safety Code sec. 574.031 (k) from the county of any Wichita County non-resident subject to a Health and Safety Code Chapter 574 mental hearing.

DIGEST: CSSB 581 would amend Health and Safety Code sec. 574.031 (k) to provide that the maximum \$50 fee assessed a county for mental health hearings held in one of the eight counties with state hospitals would also cover any document preparation costs.

The bill also would amend Government Code, sec. 44.343 (b) to delete specific authority for the Wichita County criminal district attorney to collect additional fees.

CSSB 581 also would exempt from liability counties that collected any mental health document preparations fees without adequate legal authority before September 1, 2001.

The bill would be effective on September 1, 2001.

SUPPORTERS SAY: CSSB 581 would end an existing practice in which the eight counties with state hospitals that hold mental health hearings and prepare the necessary documents bill other counties for all statutory fees, plus document preparation fees. This long-standing gentleman's agreement among counties should not be placed into state law.

CSSB 581 would end the disparity of charges among the eight counties with state hospitals. Wilbarger County now charges \$475 per case, an amount that includes document preparation charges, while Travis County charges only the \$50 in judicial and prosecutor fees authorized under current law.

The eight counties with state hospitals receive overall benefits in terms of jobs and other state expenditures that are paid for by all state taxpayers. Some of the counties' costs are offset by state expenditures for the hospitals. A separate document processing fee for mental health hearings should not be charged.

OPPONENTS SAY: Counties with state hospitals should receive equitable compensation for services provided for other counties. For example, Howard County, home of Big Spring State Hospital, provides services for a 78-county region in West Texas. Preparation of necessary documents and holding mental health hearings require many hours of staff time for various Howard County offices. However, centralizing these services in Howard County is more

efficient than having other counties, particularly sparsely populated rural counties such as Loving County, handling the hearing. It is only reasonable that the eight counties with state hospitals be compensated for these services.

Citizens in the counties with state hospitals should not be assessed the costs associated with mental health proceedings for citizens of other counties. There should be a mechanism to ensure that the full expenses of mental health proceedings are paid by the appropriate county.

**OTHER
OPPONENTS
SAY:**

SB 581, as passed by the Senate, would allow counties in which a state mental hospital is located to charge other counties for the preparation of documents for hearings related to their citizens. CSSB 581 should be revised to reflect the original intention of the legislation, which was to allow the eight counties to charge more than \$50 to recover their actual costs of holding these hearings.

NOTES:

Rep. Counts is expected to offer a floor amendment that would permit counties in which a state mental hospital is located to charge a document preparation fee in addition to the maximum \$50 fee now permitted by Health and Safety Code, sec. 574.031(k).

The Senate-passed version of SB 581 would have allowed a county with a state mental hospital to assess a separate document preparation fee. The House committee substitute would require that document preparation be included in the maximum \$50 fee assessed for the prosecuting attorney's services. The substitute also would delete the extra fees for the Wichita County criminal district attorney as well as add the "hold harmless" provision concerning liability for charging previously collected fees.