

- SUBJECT:** Temporary detention of a person with mental illness
- COMMITTEE:** Public Health — committee substitute recommended
- VOTE:** 10 ayes — Crossover, Naishtat, Blanco, Coleman, S. Davis, Guerra, R. Miller, Sheffield, Zedler, Zerwas
- 0 nays
- 1 absent — Collier
- WITNESSES:** For — Greg Hansch, National Alliance on Mental Illness Texas; Lee Johnson, Texas Council of Community Centers; Robert Greenberg, Texas Medical Association, Texas College of Emergency Physicians, Federation of Texas Psychiatrists; Charlzetta McMurray-Horton, THA; (*Registered, but did not testify*: Donald Baker, Austin Police Association; Frank Dixon, Austin Police Department; Jim Allison, County Judges and Commissioners Association of Texas; John McGee, ER Centers of America, Inc.; Sandy Ward and Angela Smith, Fredericksburg Tea Party; Tim Schauer, Harris County Healthcare Alliance; Neftali Partida, Houston Methodist Hospital System; Coby Chase, Meadows Mental Health Policy Institute; AJ Louderback, Sheriffs' Association of Texas; Richard Glancey, Tenet Healthcare; Brad Shields, Texas Association of Freestanding Emergency Centers; Dudley Wait, Texas EMS Alliance; Stacy Wilson, Texas Hospital Association; Don McBeath, Texas Organization of Rural and Community Hospitals; Andrew Smith, University Health System; and five individuals)
- Against — Lee Spiller, Citizens Commission on Human Rights; Robert Crosley; (*Registered, but did not testify*: Judy Powell, Parent Guidance Centers; and 19 individuals.)
- On — (*Registered, but did not testify*: Kerry Raymond, Department of State Health Services)
- BACKGROUND:** Health and Safety Code, ch. 573 establishes 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.

Some have said that certain health care facilities are not authorized to hold a person who initially voluntarily requests services and who subsequently seeks to leave the facility, even if there is substantial concern that the person poses a danger to self or others.

**DIGEST:**

CSHB 3677 would allow certain medical facilities to detain a person with mental illness who poses a risk to self or others for up to four hours. The facility would be required to release the person at the end of the four-hour period unless the facility staff or physician arranged for a peace officer to take the person into custody or an order of protective custody was issued.

**Written policy.** A “facility” would include a hospital, a licensed emergency medical care facility, or certain applicable facilities providing mental health services. The governing body of a facility could adopt and implement a written policy that provides for the facility or a physician to detain a person who voluntarily requested treatment or who lacks the capacity to consent if:

- the person expressed a desire to leave or attempted to leave before an examination or treatment was completed;
- the physician believed that the person had a mental illness and was at substantial risk of serious harm to the person or others unless immediately restrained; and
- the physician believed there was insufficient time to file an application for emergency detention or seek an order of protective custody.

A facility’s policy could not allow the facility or a physician at the facility to detain a person who had been transported to the facility for emergency detention. The policy would have to require:

- facility staff or physician to notify the person of the facility’s intention to detain the person;

- a physician to document a decision to detain a person and place notice of detention in the person's medical record; and
- the period of detention to be less than four hours following the time the person first expressed a desire to leave or attempted to leave.

Detention under a policy adopted by a facility would not be considered involuntary psychiatric hospitalization. A physician, person, or facility that detained or did not detain a person under the policy in good faith and without malice would not be civilly or criminally liable. A facility would not be civilly or criminally liable for its governing body's decision to adopt or not adopt a policy.

This bill would take effect September 1, 2015.