

BILL ANALYSIS

Senate Research Center

C.S.S.B. 1582
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Criminal Justice
4/29/2005
Committee Report (Substituted)

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Current Texas law requires that the local mental health authority ensure that 24-hour emergency screening services, rapid crisis stabilization services, community-based crisis residential services, or hospitalization services are available in each service area. It requires that local mental health authorities maintain short-term detention facilities as the proper alternative to incarcerating the mentally ill.

Prisoners with mental illness frequently endure violence, exploitation, and extortion at the hands of other inmates, and neglect and mistreatment by prison staff. The experience is counter-therapeutic for such prisoners and many mental health experts believe it dramatically increases their chances of a psychiatric breakdown.

Incarcerating a person with mental illness who has not been charged with a crime can exacerbate the person's illness. Over 50 percent of suicides in jails are committed within the first 24 hours of incarceration, and 29 percent are committed within the first three hours. In order to address this occurrence, the state should take action to prevent the mentally ill from being incarcerated for an extended period of time, if they have not been charged with a crime.

C.S.S.B. 1582 limits the detention of a person for mental health purposes in a jail or non-medical facility to a maximum of 12 hours, and only if an emergency room or other appropriate facility, as determined by a local mental health authority, is over 75 miles away. C.S.S.B. 1582 prohibits the use of hog-ties, hobble restraints, or anything that binds, either loosely or tightly, any part of the arms to the legs behind a person's back when transporting people for mental health purposes to prevent accidental death.

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 573.001, Health and Safety Code, by amending Subsections (e) and (f) and adding Subsection (g) [sic], as follows:

(e) Prohibits a jail or other nonmedical facility used to detain persons charged with or convicted of a crime from being deemed suitable for purposes of Subsection (d)(2), except as a last resort and only if a hospital emergency room or other facility the local mental health authority deems suitable is not accessible to the apprehending officer within 75 miles. Prohibits a person from being detained in such a facility for more than 12 hours. Requires the sheriff or other officeholder responsible for the facility to document the time at which the person's detention begins, the duration of the detention, the reason for the detention, and the time a representative of the local mental authority arrives at the facility.

(f) Requires the sheriff or other officeholder responsible for a jail or other nonmedical facility used to detain persons charged with or convicted of a crime to ensure that a person detained in the jail or facility under Subsection (e) is kept separate from any person who is charged with or convicted of a crime.

[Bill as drafted does not contain Subsection (g).]

SECTION 2. Amends Section 573.012, Health and Safety Code, by adding Subsections (h)-(j) [sic], as follows:

(h) Prohibits a jail or other nonmedical facility used to detain persons charged with or convicted of a crime from being deemed suitable for purposes of Subsection (e)(2), except as a last resort and only if a hospital emergency room or other facility the local mental health authority deems suitable is not accessible to the apprehending officer within 75 miles. Prohibits a person from being detained in such a facility for more than 12 hours. Requires the sheriff or other officeholder responsible for the facility to document the time at which the person's detention begins, the duration of the detention, the reason for the detention, and the time a representative of the local mental authority arrive at the facility.

(i) Requires the sheriff or other officeholder responsible for a jail or other nonmedical facility used to detain persons charged with or convicted of a crime to ensure that a person detained in the jail or facility under Subsection (h) is kept separate from any person who is charged with or convicted of a crime.

[Bill as drafted does not contain Subsection (j).]

SECTION 3. Amends Section 574.027, Health and Safety Code, by amending Subsection (c) and adding Subsection (e) [sic], as follows:

(c) Prohibits a person under a protective custody order from being detained in a jail or other nonmedical facility used to detain persons who are charged with or convicted of a crime except as a last resort and only if a hospital emergency room or other facility the local mental health authority deems suitable is not accessible to the apprehending officer within 75 miles. Prohibits a person from being detained in such a facility for more than 12 hours. Requires the sheriff or other officeholder responsible for the facility to document the time at which the person's detention begins, the duration of the detention, the reason for the detention, and the time a representative of the local mental authority arrive at the facility. Requires the sheriff or other officeholder responsible for a jail or other nonmedical facility used to detain persons charged with or convicted of a crime to ensure that a person detained in the jail or facility under this subsection is kept separate from any person who is charged with or convicted of a crime. Deletes existing text providing an exemption for an extended duration during an extreme emergency for no longer than 72 hours.

[Bill as drafted does not contain Subsection (e).]

SECTION 4. Amends 574.045, Health and Safety Code, by adding Subsection (g)(1), to provide that the only restraints authorized to be used during the apprehension, detention, or transportation of a person suspected of having a mental illness, if a patient is restrained under Subsection (g), are those that will still enable the individual to sit in an upright position without undue difficulty.

SECTION 5. Effective date: upon passage or September 1, 2005.