

BILL ANALYSIS

Senate Research Center
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S.B. 718
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Health & Human Services
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Texas law is clear that the age of consent for inpatient mental health services for an individual is 16 years of age or older, but silent on the age of consent for outpatient mental health services. Because outpatient services can be used earlier in a mental health crisis, often avoiding the need for more costly and involved inpatient services, it should be made explicit in the Health and Safety Code that the age of consent is the same for both. S.B. 718 does that.

Also, current law states that foster parents and Child Protective Services (CPS) staff cannot enroll a minor in inpatient mental health services without the minor's consent, but does not explicitly state what should be done when the minor refuses. S.B. 718 clarifies that admission is not permissible under such circumstances, and directs foster parents, CPS, and involved medical staff to obtain a court order for treatment should the minor refuse.

Finally, the bill provides that minors should be voluntarily enrolled in services by a parent, guardian, or conservator, rather than civilly committed, unless commitment is required under a statute or rule.

As proposed, S.B. 718 amends current law relating to voluntary and involuntary mental health services.

[**Note:** While the statutory reference in this bill is to the Texas Department of Mental Health and Mental Retardation (TXMHMR), the following amendments affect the Department of State Health Services, as the successor agency to TXMHMR.]

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Texas Department of Mental Health and Mental Retardation is modified in SECTION 2 (Section 572.001, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading to Chapter 572, Health and Safety Code, to read as follows:

CHAPTER 572. VOLUNTARY MENTAL HEALTH SERVICES

SECTION 2. Amends Section 572.001, Health and Safety Code, by amending Subsections (a), (c), and (d) and adding Subsection (c-1), as follows:

- (a) Authorizes a person 16 years of age or older or a person younger than 16 years of age who is or has been married to request admission to an inpatient mental health facility or for outpatient mental health services by filing a request with the administrator of the facility where admission is requested. Authorizes the parent, managing conservator, or guardian of a person younger than 18 years of age who is not and has not been married to request admission of the person to an inpatient mental health facility or for outpatient mental health services by filing a request with the administrator of the facility where admission is requested. Makes nonsubstantive changes.

(c) Authorizes a person younger than 18 years of age, if the person does not consent, to be admitted for inpatient or outpatient services only pursuant to an application for court-ordered mental health services or emergency detention or an order for protective custody.

(c-1) Authorizes a person younger than 18 years of age who is not and has not been married to be involuntarily committed under this subtitle (Texas Mental Health Code) only if the person may not be voluntarily admitted under this chapter as provided by this chapter, other state law, or Texas Department of Mental Health and Mental Retardation rule.

(d) Authorizes the administrator of an inpatient or outpatient mental health facility to admit a minor who is 16 years of age or older or a person younger than 16 years of age who is or has been married to an inpatient or outpatient mental health facility as a voluntary patient without the consent of the parent, managing conservator, or guardian.

SECTION 3. Amends Section 572.002, Health and Safety Code, as follows:

Sec. 572.002. **ADMISSION.** Authorizes the facility administrator or the administrator's authorized, qualified designee to admit a person for whom a proper request for voluntary inpatient or outpatient services is filed if the administrator or the designee determines certain information, including from a preliminary examination that the person has symptoms of mental illness and will benefit from inpatient or outpatient services.

SECTION 4. Effective date: upon passage or September 1, 2013.