

By: West

S.B. No. 937

A BILL TO BE ENTITLED

AN ACT

relating to the authority of certain facilities to temporarily detain a person with mental illness.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Subchapter A, Chapter 573, Health and Safety Code, is amended to read as follows:

SUBCHAPTER A. APPREHENSION, ~~[BY PEACE OFFICER OR]~~
TRANSPORTATION, OR DETENTION WITHOUT JUDGE'S OR MAGISTRATE'S ORDER
~~[FOR EMERGENCY DETENTION BY GUARDIAN]~~

SECTION 2. Subchapter A, Chapter 573, Health and Safety Code, is amended by adding Section 573.005 to read as follows:

Sec. 573.005. TEMPORARY DETENTION BY CERTAIN FACILITIES.

(a) In this section, "facility" means:

(1) a mental health facility;

(2) a hospital licensed under Chapter 241; and

(3) a freestanding emergency medical care facility licensed under Chapter 254.

(b) A facility that is examining or treating a person who requested treatment from the facility may detain the person as provided by Subsection (c) 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) the facility:

1 (A) has reason to believe and does believe that:

2 (i) the person has a mental illness; and

3 (ii) because of that mental illness there
4 is a substantial risk of serious harm to the person or to others
5 unless the person is immediately restrained; and

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

9 (c) The period of a person's detention authorized by
10 Subsection (b) may not exceed four hours following the time the
11 person first expressed a desire to leave, or attempted to leave, the
12 facility. The facility shall have a physician examine the person
13 during that period to determine if there is reasonable cause to
14 believe that the person might meet the criteria for court-ordered
15 mental health services or emergency detention.

16 (d) The physician examining the person under Subsection (c)
17 shall discharge the person on completion of the examination and
18 before the end of the four-hour period unless the physician
19 determines that the person meets the criteria for court-ordered
20 mental health services or emergency detention. If the examining
21 physician determines that the person meets those criteria, the
22 facility may continue to detain the person until not later than
23 4 p.m. on the next business day after the date of the examination to
24 allow time for the issuance of a warrant of emergency detention or
25 an order of protective custody. The facility shall release the
26 person before the end of that period unless the warrant or order is
27 issued.

1 (e) The facility shall notify the person if the facility
2 intends to detain the person under this section. The examining
3 physician shall notify the person if the examining physician
4 intends to pursue the issuance of a warrant for emergency detention
5 or an order of protective custody.

6 (f) The facility shall document in writing a decision to
7 detain a person under this section and the reasons for that decision
8 and shall make the document a part of the person's clinical record.

9 SECTION 3. This Act takes effect September 1, 2013.