

SUBJECT: Changing the administration of court-ordered mental health services

COMMITTEE: Public Health — committee substitute recommended

VOTE: 9 ayes — Kolkhorst, Naishtat, Collier, Cortez, S. Davis, Guerra, S. King, J.D. Sheffield, Zedler

1 nay — Laubenberg

1 absent — Coleman

SENATE VOTE: On final passage, April 18 — 31-0, on Local and Uncontested Calendar

WITNESSES: For — Lee Spiller, Citizens Commission on Human Rights; (*Registered, but did not testify*: Joel Ballew, Texas Health Resources; Dan Finch, Texas Medical Association; Leah Gonzalez, National Association of Social Workers Texas Chapter; Harry Holmes, Harris County Healthcare Alliance; Lee Johnson, Texas Council of Community Centers; Kathryn Lewis, Disability Rights Texas; Travis Lucas, Lone Star Circle of Care; Sandra Martinez, Methodist Healthcare Ministries of South Texas; Jacques Ntonme, Texas Appleseed; Leslie Secrest, Federation of Texas Psychiatry; Stacy Wilson, Texas Hospital Association; Eric Woome, Federation of Texas Psychiatry)

Against — None

On — (*Registered, but did not testify*: Lauren Lacefield Lewis, DSHS)

BACKGROUND: Health and Safety Code, ch. 574, governs court-ordered mental health services. It requires a court to identify a facility administrator or a person involved in providing court-ordered outpatient services to be responsible for a patient's outpatient care. The person must submit to the court a general treatment program.

Temporary detentions. If a patient is being held under a temporary detention, a judge can extend the detention if the patient is mentally ill and, as a result, the patient is likely to cause serious harm to the patient or others. The judge can also extend a detention if the patient is suffering

severe and abnormal mental, emotional, or physical distress, is experiencing substantial mental or physical deterioration, and is unable to make a rational and informed decision about whether to submit to treatment.

Medications. If a patient refuses a psychoactive medication, a person could not administer the medication to the patient unless there is an emergency, a court order for the medication, or consent is given by an authorized consenter.

DIGEST:

CSSB 646 would require that a judge designate a person responsible for court-ordered outpatient mental health services at least three days before a hearing in which those services might be ordered. The court order would have to identify that person or designate a different person. The court would have to designate, rather than identify, a person responsible for outpatient services, if applicable when modifying a court order.

Treatment program. Before a hearing in which an order might be issued or modified, the designated person would have to submit to the court a treatment program. The program would have to include care coordination services and any other services (such as supported housing) that would help the patient function safely in the community. The person responsible for the outpatient treatment would have to seek input from the patient's inpatient treatment providers, if applicable. A patient who had been ordered to obtain outpatient mental-health services could petition the court for specific enforcement. If necessary, the court could set a status conference with the designated person, the patient, and the patient's attorney.

Non-compliance. The court would have to order the patient to participate in the treatment program but could not compel performance. If the court found out that a patient was not complying with the order, the court could set a modification hearing or, if the appropriate application had been filed, issue an order for temporary detention. The patient could not be held in contempt of court for failing to comply with the order.

The bill would repeal provisions that allow a judge to advise but not compel a patient to take psychoactive medications as part of an outpatient mental health services treatment plan, participate in counseling, and refrain from the use of alcohol or illicit drugs.

Temporary detention. If a patient with an existing order was detained, a physician would have to evaluate within 24 hours whether the patient presented a substantial risk of serious harm to the patient or others. The physician would need to evaluate the patient's behavior, as well as evidence of severe emotional distress and deterioration of the patient's mental condition that would prevent the patient from living safely in the community.

If the physician determined that the patient did not present a substantial risk, the facility would have to notify the specified individuals and then release the patient. A patient who was not released could only be held for 72 hours unless an authorized court or judge found that the patient, due to a mental illness, presented a substantial risk of serious harm that should prevent the person from being released into the community. This would replace the current standard used for extending a temporary detention.

Medications. If a patient refused a psychoactive medication while receiving court-ordered inpatient mental health services, a person could not administer the medication unless there was an emergency, a court ordered the medication, or consent was given by an authorized consentor. The bill would contain a temporary provision expiring September 1, 2013 requiring the Department of State Health Services to submit to the Legislature a report containing information about persons receiving court-ordered outpatient mental health services and the effectiveness of those services by December 1, 2016.

The bill would take effect September 1, 2013, and would apply only to court-ordered mental health services and temporary detentions filed on or after that date.

**SUPPORTERS
SAY:**

CSSB 646 would clarify laws regarding court-ordered mental health services. These clarifications would ensure that judges could adequately help patients with mental health concerns receive appropriate and timely services, ultimately improving access to and coordination of critical outpatient and inpatient care. By improving community services and supports, the bill would improve long-term outcomes and save the state money by preventing expensive hospitalizations and incarceration.

**OPPONENTS
SAY:**

CSSB 646 would limit personal freedom and infringe upon personal liberty by allowing a court greater latitude in ordering mental health services and issuing temporary detentions.

NOTES:

Compared to the engrossed version, the committee substitute removes provisions that would have related to the administration of psychoactive medications without a court order and would require a report to the Legislature.