

- SUBJECT:** Regulating the transportation of a person with a mental illness
- COMMITTEE:** Human Services — favorable, without amendment
- VOTE:** 7 ayes — Raymond, Rose, Keough, Naishtat, Peña, Price, Spitzer
- 0 nays
- 2 absent — S. King, Klick
- SENATE VOTE:** On final passage, April 30 — 31-0 on local and uncontested calendar
- WITNESSES:** For — Kathryn Lewis, Disability Rights Texas; (*Registered, but did not testify*: Jolene Sanders, Easter Seals Central Texas; Cate Graziani, Mental Health America of Texas; Greg Hansch, National Alliance on Mental Illness-Texas; Will Francis, National Association of Social Workers-Texas Chapter; Carole Smith, Private Providers Association of Texas; Lee Johnson, Texas Council of Community Centers; Mark Hanna, Texas Society For Clinical Social Work)
- Against — AJ Louderback and Gerald Yezak, Sheriffs' Association of Texas; (*Registered, but did not testify*: Roy Boyd, R. Glenn Smith, and Micah Harmon, Sheriffs' Association of Texas)
- On — (*Registered, but did not testify*: Kerry Raymond, Department of State Health Services)
- BACKGROUND:** Health and Safety Code, sec. 574.045 establishes the requirements for the transportation of a mental health patient. Sec. 574.045(g) provides that the patient cannot be physically restrained unless necessary to protect the safety of the patient or the attendant. If the treating physician or attendant determine that physical restraint is necessary, that person must document the reason and length of time for which the restraints are needed. Upon arrival at the facility, the attendant must deliver the document to the facility, and the document must be included in the patient's clinical record.

DIGEST: SB 1129 would specify that a mental health patient restrained under Health and Safety Code, sec. 574.045(g) could be restrained only during the patient's apprehension, detention, or transportation. The bill would require that the method of restraint allow the patient to sit in an upright position without undue difficulty unless the patient was being transported by ambulance.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

SUPPORTERS SAY: SB 1129 would increase the safety of mental health patients being transported by prohibiting the use of prone and supine restraints. Law enforcement officers receive restraint training for persons under emergency detention, but current law does not prohibit techniques that severely limit mobility and could threaten a patient's health.

While restraints are sometimes needed during transport, they should be used only when absolutely necessary and should still allow a person to sit upright. Not allowing a person to sit upright while the person is being transported could increase the risks of respiratory and cardiac problems for some individuals.

Mental health care facilities already use the same best practices for restraining a person that this bill would establish for apprehending, detaining, and transporting mental health patients. Specifying the manner in which a person could be restrained also could decrease liability for transporters, and the bill would not create any independent cause of action.

The bill would not create any undue burden for law enforcement because law enforcement organizations have stated that they do not utilize the types of inappropriate restraint practices that would be prohibited by this bill. Establishing those restrictions in statute would ensure that those practices were not used.

The bill would not outlaw or prohibit the use of restraints when transporting mental health patients, so law enforcement and other transporters would continue to have discretion in using restraints as long as they met the modest requirements of the bill. SB 1129 also would not require law enforcement organizations to modify their vehicles in any way, so it would not impose any cost on those agencies.

**OPPONENTS
SAY:**

SB 1129 could create an untenable situation for law enforcement officers transporting mental health patients. The proposed requirement that a patient be able to sit up without “undue difficulty” during transportation is ambiguous. It is unclear what undue difficulty would mean, and law enforcement could be susceptible to suits for minor violations. The bill also could put mental health patients’ safety at risk by limiting the time and manner in which a patient could be restrained, which could result in more injuries during transportation, and thus more litigation.

The bill is unnecessary because it is based on a few isolated incidents in which transporting a mental health patient went wrong elsewhere in the United States. Inappropriately restraining mental health patients in a way that could threaten their health is not a problem in Texas and is not a practice used by sheriffs’ departments.

The bill would limit law enforcement officers’ flexibility when transporting a mental health patient. Mental health patients can be difficult to control while being transported, and this bill could threaten the safety of law enforcement officers who were transporting an individual and lead to damage to law enforcement vehicles if a person was not adequately restrained.

Currently, law enforcement vehicles are not equipped to safely transport a patient while allowing the patient to sit up at all times. This bill could result in the need to purchase special harnesses or other types of restraints without providing any funding for this purpose.