

## **BILL ANALYSIS**

Senate Research Center

H.B. 1039  
By: Naishtat (Moncrief)  
Health & Human Services  
5-5-97  
Engrossed

### **DIGEST**

In 1983, the Texas Mental Health Code was rewritten to set up a mental illness commitment standard that required one of three alternative grounds as basis for the imposition of court-ordered mental health services. To order commitment, a court must find, by clear and convincing evidence, that a mentally ill person is likely to cause serious harm to self or others or must be in such a deteriorated condition as to be considered "dangerous." The lack of guidelines for the court when requiring outpatient services and lack of clarity as to the meaning of the "deterioration" may allow in-patient commitment of mentally ill persons who are not dangerous. This bill will provide additional regulations regarding court-ordered mental health services.

### **PURPOSE**

As proposed, H.B. 1039 provides additional regulations regarding court-ordered mental health services.

### **RULEMAKING AUTHORITY**

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 574.007, Health and Safety Code, by amending Subsection (b) and adding Subsection (d), to require a county or district attorney, if the proposed patient's attorney requests information at least 48 hours before the time set for the hearing, to provide the attorney with a statement that includes the provisions of this subtitle that will be relied on at the hearing to establish that the proposed patient requires court-ordered temporary or extended inpatient mental health services; the reasons voluntary outpatient services are not considered appropriate for the proposed patient; and a brief description of the reasons court-ordered temporary or extended inpatient or outpatient, as appropriate, mental health services are required. Requires the county or district attorney, within a certain time period, to inform the proposed patient through the proposed patient's attorney whether the county or district attorney will request that the proposed patient be committed to inpatient services or outpatient services. Authorizes the proposed patient, the proposed patient's attorney, and the county or district attorney to agree to waive the requirement of this subsection. Sets forth requirements for the waiver.

SECTION 2. Amends Section 574.011(a), Health and Safety Code, to require a certificate of medical examination for mental illness to include the examining physician's opinion that as a result of a mental illness the examined person is suffering severe and abnormal mental, emotional, or physical distress; experiencing substantial mental or physical deterioration of the person's ability to function independently, which is exhibited by the proposed patient's inability to take certain actions; and is not able to make a rational and informed decision as to whether to submit to treatment.

SECTION 3. Amends Chapter 574A, Health and Safety Code, by adding Section 574.014, as follows:

Sec. 574.014. COMPILATION OF MENTAL HEALTH COMMITMENT RECORDS.  
Requires the clerk of each court with jurisdiction to order commitment under this chapter to provide the court each month with a report of the number of applications for commitment

orders for involuntary mental health services filed with the court and the disposition of those cases, including the number of commitment orders for inpatient and outpatient mental health services. Requires each court to take certain actions regarding the report. Provides that Subsection (a) does not require the production of confidential information or information protected under Section 571.015.

SECTION 4. Amends Section 574.034, Health and Safety Code, to authorize the judge, rather than a jury, to order a proposed patient to receive court-ordered temporary outpatient mental health services only if certain criteria are met. Requires the judge or jury, if the judge or jury finds that the proposed patient meets the commitment criteria, to specify which criterion listed in Subsection (a)(2) forms the basis for the decision. Requires the evidence, to be clear and convincing under Subdivision (b)(2), to include expert testimony and, unless waived, evidence of a recent overt act or a continuing pattern of behavior that tends to confirm certain items. Authorizes a judge to advise, but may not compel, the proposed patient to receive treatment with psychoactive medication as specified by the outpatient mental health services treatment plan; participate in counseling; and refrain from the use of alcohol or illicit drugs. Makes conforming changes.

SECTION 5. Amends Section 574.035, Health and Safety Code, to make conforming changes.

SECTION 6. Amends Section 574.036(e), Health and Safety Code, to authorize a judge to enter an order committing the person to a mental health facility if the trier of fact finds that the person meets the commitment criteria prescribed by Section 574.034(a) or 574.035(a); or committing the person to outpatient mental health services if the trier of fact finds that the person meets the commitment criteria prescribed by Section 574.034(b) or 574.035(b). Deletes existing text regarding participation in other mental health services.

SECTION 7. Amends Section 574.065(a), Health and Safety Code, to delete a provision authorizing the court to modify an order for outpatient services only if the court determines that the patient has not complied with the court's order or the patient's condition has deteriorated to the extent that outpatient services are no longer appropriate.

SECTION 8. Effective date: September 1, 1997.  
Makes application of this Act prospective.

SECTION 9. Emergency clause.