

BILL ANALYSIS

Senate Research Center
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S.B. 1361
By: Harris
Health Services
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As Filed

DIGEST

Currently, individuals with mental illness are allowed to make choices regarding their treatment in the event their illness leaves them incapable of exercising judgment at a later date. Last session, the legislature passed S.B. 972 which created an advanced directive statute for these individuals with mental illness. S.B. 1361 would authorize a physician or other health care provider to subject a principal, defined here as a person who has executed a declaration for mental health treatment, as defined by Section 574.101, Health and Safety Code, to mental health treatment in a manner contrary to the principal's wishes, only in a case of an emergency when the principal's instructions have not been effective in reducing the severity of the behavior that caused the emergency.

PURPOSE

As proposed, S.B. 1361 sets forth provisions regarding the use of a declaration for mental health treatment.

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 Sections 137.001(4) - (7), Civil Practice and Remedies Code, to define "emergency." Makes conforming changes.

SECTION 2. Amends Section 137.007, Civil Practice and Remedies Code, to authorize a physician or provider to withdraw from providing treatment consistent with the exercise of independent medical judgment and to promptly make a reasonable effort to transfer care for the principal to a physician or provider who is willing to comply with the declaration, notify the principal, or principal's guardian, if appropriate, of the decision to withdraw, and record in the principal's medical record the notification and, if applicable, the name of the physician or provider to whom the principal is transferred. Deletes text regarding a document in the principal's medical record.

SECTION 3. Amends Section 137.008, Civil Practice and Remedies Code, to authorize a physician or other health care provider to subject a principal to mental health treatment in a manner contrary to the principal's wishes as expressed in a declaration for mental health treatment only in a case of an emergency when the principal's instructions have not been effective in reducing the severity of the behavior that caused the emergency. Deletes text regarding the definition of "emergency." Makes conforming changes.

SECTION 4. Amends Section 137.010(a), Civil Practice and Remedies Code, to provide that a declaration for mental health treatment is revoked when a principal who is not incapacitated notifies a licensed or certified health or residential care provider of the revocation, acts in a manner that demonstrates a specific intent to revoke the declaration, or executes a later declaration for mental health treatment.

SECTION 5. Emergency clause.
Effective date: upon passage.