

BILL ANALYSIS

Senate Research Center
77R13010 CBH-D

H.B. 1887
By: Janek (Carona)
Health & Human Services
5/10/2001
Engrossed

DIGEST AND PURPOSE

Currently, the Texas Mental Health Code provides that a person is presumed to be mentally competent unless there is a judicial finding to the contrary but does not specify whether the presumption is rebuttable or irrebuttable. Also, current law does not specify if participation in a voluntary research project constitutes a waiver of the rights of a person relating to treatment. Both laws are ambiguous and need further clarification. H.B. 1887 provides that a person is rebuttably competent to consent to admission to an inpatient mental health facility, prohibits a patient's rights relating to treatment from being waived, and prohibits a patient from participating in certain research programs.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 574, Health and Safety Code, by adding Subchapter H, as follows:

SUBCHAPTER H. VOLUNTARY ADMISSION FOR CERTAIN PERSONS FOR WHOM MOTION FOR COURT-ORDERED SERVICES HAS BEEN FILED

Sec. 574.151. **APPLICABILITY.** Provides that this subchapter applies only to a person for whom a motion for court-ordered mental health services is filed under Section 574.001, for whom a final order on that motion has not been entered under Section 574.034 or 574.035, and who requests voluntary admission to an inpatient mental health facility while the person is receiving at that facility involuntary inpatient services under Subchapter B or under Chapter 573 or before the 31st day after the date the person was released from that facility under Section 573.023 or 574.028.

Sec. 574.152. **CAPACITY TO CONSENT TO VOLUNTARY ADMISSION.** Provides that a person described by Section 574.151 is rebuttably presumed to have the capacity to consent to admission to the inpatient mental health facility for voluntary inpatient mental health services.

Sec. 574.153. **RIGHTS OF PERSON ADMITTED TO VOLUNTARY INPATIENT TREATMENT.** (a) Provides that a person described by Section 574.151 who is admitted to the inpatient mental health facility for voluntary inpatient mental health services has all of the rights provided by Chapter 576 for a person receiving voluntary or involuntary inpatient mental health services.

(b) Prohibits a right assured by Section 576.021 from being waived by the patient, the patient's attorney or guardian, or any other person acting on behalf of the patient.

Sec. 574.154. CAPACITY TO CONSENT TO PARTICIPATION IN RESEARCH PROGRAM. Prohibits a person, notwithstanding any other law, described by Section 574.151 from participating in a research program in which some or all of the participants will receive, in place of or in addition to medically appropriate medication for the patient's condition, a placebo or inert ingredient during any part of the time the participants are receiving inpatient mental health services in the facility.

SECTION 2. Amends Section 576.002(b), Health and Safety Code, to make a conforming change.

SECTION 3. Amends Section 576.021, Health and Safety Code, to make conforming changes.

SECTION 4. Effective date: upon passage or September 1, 2001.