

BILL ANALYSIS

Senate Research Center
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S.B. 1386
By: Armbrister
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DIGEST AND PURPOSE

Since the laws creating the state and local mental health authority structure were originally passed, conflicting and confusing provisions have developed. These developments limit the courts' authority and make it difficult to order people to mental health treatment in less-restrictive settings than state hospitals, even when such a setting is more appropriate. As proposed, S.B. 1386 addresses these statutory difficulties to improve the diversion of individuals with serious mental illness or mental retardation from incarceration in local jails when mental health treatment is necessary.

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 Section 531.002, Health and Safety Code, to define "business entity," "chemical dependency," "department facility," and "facility." Redefines "local mental health authority" and "local mental retardation authority." Deletes wording related to the definitions of "business entity" and "chemical dependency."

SECTION 2. Amends Section 533.014, Health and Safety Code, as follows:

Sec. 533.014. New heading: **RESPONSIBILITY OF LOCAL MENTAL HEALTH AND MENTAL RETARDATION AUTHORITIES IN MAKING TREATMENT RECOMMENDATIONS.** Requires the Texas Board of Mental Health and Retardation (board) to adopt rules that:

- relate to the responsibility, rather than the designation, of the mental health and mental retardation authorities to make recommendations relating to the most appropriate treatment alternatives for individuals in need of mental health or mental retardation services, rather than as single portal authorities;
- govern commitments to a local mental health or mental retardation, rather than a single portal, authority;
- govern transfers of patients that involve a local mental health or mental retardation, rather than a single portal, authority;
- provide for emergency admission to a department mental health or mental retardation facility if obtaining approval from the authority could result in a delay that might endanger the patient or others.

Deletes wording related to designation of a single portal authority. Makes conforming changes.

SECTION 3. Amends Sections 533.035(a) and (c), Health and Safety Code, to authorize the board to delegate to the local authorities the board's authority and responsibility for, among other things, coordination with criminal justice entities of mental health and mental retardation services in the most appropriate setting to meet individual needs in that service area. Authorizes the commissioner of mental health and mental retardation (commissioner) to designate a single entity as the local mental health authority and the local mental retardation authority for a service area.

(c) Requires the local authority to consider public input, ultimate cost-benefit, and client care issues to ensure consumer choice and the best use of public money in making recommendations relating to the most appropriate treatment alternatives for individuals in need of mental health or mental retardation services.

SECTION 4. Amends Sections 571.003(6)-(22), Health and Safety Code, to define "department mental health facility." Redefines "inpatient mental health facility." Deletes wording related to the definition of "inpatient mental health facility." Defines "local mental health authority," rather than "mental health authority." Redefines "mental health facility." Deletes wording related to the definition of "state mental hospital" and "single portal authority."

SECTION 5. Amends Section 571.018(j), Health and Safety Code, to make a conforming change.

SECTION 6. Amends Section 573.001(d), Health and Safety Code, to require a peace officer who takes a person into custody under Subsection (a) to immediately transport the apprehended person to a mental health facility deemed suitable by the local, rather than the county's, mental health authority, if an appropriate inpatient mental health facility is not available.

SECTION 7. Amends Section 573.012(e), Health and Safety Code, to make conforming changes.

SECTION 8. Amends Section 573.022(b), Health and Safety Code, to authorize a mental health facility, rather than a county mental health facility, that has admitted a person for emergency detention under this section to transport the person to a mental health facility, rather than a facility, deemed suitable by the local, rather than the county's, mental health authority for the area. Authorizes the judge, on the request of the local mental health authority, to order that the proposed patient be detained in a department mental health facility. Deletes wording related to facilities to which and under what circumstances a person may be transported.

SECTION 9. Amends Section 574.012, Health and Safety Code, to require the local mental health authority, rather than the commissioner to designate a facility or provider, in the county in which an application is filed to file a recommendation with the court for the most appropriate treatment alternative for the proposed patient. Deletes wording related to requirements of the facility or provider designated under this section and the facilities from which proposed mental health services are available. Makes conforming changes.

SECTION 10. Amends Section 574.023, Health and Safety Code, to delete wording relating to locations to which certain persons under a protective custody order are to be transported. Requires a protective custody order to direct a person authorized to transport patients under Section 574.045 to take the proposed patient into protective custody and immediately transport the person to a mental health facility deemed suitable by the local, rather than county's, mental health authority for the area. Authorizes the judge, on request of the local mental health authority, to order that the proposed patient be detained in a department facility. Deletes wording relating to a condition of detaining a proposed patient in a department facility and requirements of a single portal authority.

SECTION 11. Amends Section 574.027(a), Health and Safety Code, to delete wording relating to locations in which a person under a protective custody order is to be detained. Requires a person under a protective custody order to be detained in a mental health facility deemed suitable by the local, rather than the county's, mental health authority for the area. Authorizes the judge, on request of the

local mental health authority, to order that the proposed patient be detained in a department mental health facility. Deletes wording related to a condition of detaining a proposed patient in a department facility.

SECTION 12. Amends Section 574.041, Health and Safety Code, to require the court, in an order for temporary or extended mental health services specifying inpatient care, to commit the patient to a designated inpatient mental health facility, rather than a designated mental health facility. Requires the court to commit the patient to a mental health facility deemed suitable by the local mental health authority, rather than of a single portal authority, for the area. Deletes wording relating to designation of an authority for the area. Authorizes the judge, on request of the local mental health authority, to commit the patient directly to a department mental health facility, rather than a state mental hospital. Deletes wording related to resources of a single portal authority. Deletes wording relating to the definition of “facility of a single portal authority.” Makes a conforming change.

SECTION 13. Amends Section 574.043(c), Health and Safety Code, to provide that the hospital authority has the same authority and responsibility with respect to the patient as the facility, rather than hospital, administrator of a department mental health facility, rather than a state mental hospital.

SECTION 14. Amends Section 574.064(a), Health and Safety Code, to make conforming changes.

SECTION 15. Amends Section 574.081(b), Health and Safety Code, to make conforming changes.

SECTION 16. Amends Section 574.083(g), Health and Safety Code, to make a conforming change.

SECTION 17. Amends Section 575.011, Health and Safety Code, as follows:

Sec. 575.011. New heading: TRANSFER TO DEPARTMENT MENTAL HEALTH FACILITY OR LOCAL MENTAL HEALTH AUTHORITY. Makes conforming changes.

SECTION 18. Amends Section 575.012, Health and Safety Code, as follows:

Sec. 575.012. New heading: TRANSFER OF PERSON WITH MENTAL RETARDATION TO DEPARTMENT MENTAL HEALTH FACILITY. Makes a conforming change.

SECTION 19. Amends Sections 575.013(a) and (b), Health and Safety Code, to make conforming changes.

SECTION 20. Amends Section 531.0345(a), Government Code, to make a conforming change.

SECTION 21. Repealer: Section 574.027(e), Health and Safety Code.

SECTION 22. Effective date: September 1, 2001.