

BILL ANALYSIS

Senate Research Center
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S.B. 32
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current Texas law requires that the local mental health authority ensure that 24-hour emergency screening services, rapid crisis stabilization services, community-based crisis residential services, or hospitalization services are available in each service area. The law requires that local mental health authorities maintain short-term detention facilities as the appropriate alternative to incarcerating persons with mental illness. Jails too often serve as holding facilities for persons with mental illness who have not been charged with a crime. While these persons await transportation to a state hospital, they generally have limited or no access to mental health services, allowing their conditions to deteriorate further. Moreover, these individuals are sometimes transported in restraints and in positions that compromise their physical safety.

As proposed, S.B. 32 limits the detention of persons with a mental illness to a maximum of 12 hours and only if a medical facility or other appropriate facility, as determined by a local mental health authority, is more than 75 miles away. S.B. 32 requires the maintenance of short-term detention facilities and prohibits the use of certain forms of restraint.

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 Sections 573.001(d), (e), and (f), Health and Safety Code, as follows:

(d) Requires a peace officer who takes a person into custody under Subsection (a) (relating to reasons for which a peace officer may take a person into custody without a warrant) to immediately transport the apprehended person to certain locations, including a medical facility or other facility that the local mental health authority (authority) deems suitable, if a facility described in Subdivision (1) or (2) is not available. Makes nonsubstantive changes.

(e) Provides that a jail or similar detention facility used to detain persons charged with or convicted of a crime is not a facility suitable for detention of a person taken into custody under this section unless another facility described by Subsections (d)(1) or (2) is not available and the nearest facility described by Subsection (d)(3) is located more than 75 miles from the location where the peace officer has custody of the person. Authorizes a person to be detained in a jail or similar detention facility under this subsection for no longer than 12 hours. Requires the sheriff or other officeholder responsible for the facility to document the time the person's detention begins, the duration of the detention, the reason for the detention, and the time a representative of the local mental health authority arrives at the facility. Deletes existing text prohibiting a jail or similar detention facility from being deemed suitable except in an extreme emergency.

(f) Requires the sheriff or officeholder responsible for a jail or similar detention facility to ensure that a person detained in the jail or similar detention facility is kept separate from any person who is charged with or convicted of a crime. Deletes existing text requiring that a person detained in a jail or nonmedical facility be kept separate from any person who is charged with or convicted of a crime.

SECTION 2. Amends Section 574.023, Health and Safety Code, by adding Subsection (e), to authorize a person taken into custody under this section to be detained only in the manner provided by Section 574.027 (Detention in Protective Custody).

SECTION 3. Amends Section 574.027, Health and Safety Code, by amending Subsections (c) and (d), and adding Subsection (c-1), as follows:

(c) Prohibits a person under a protective custody order from being detained in a jail or nonmedical facility used to detain persons who are charged with or convicted of a crime unless another facility described by Subsection (a) (relating to detaining a person in a mental health facility) is not available and the nearest medical facility or other facility deemed suitable by the local authority is located more than 75 miles from the location where the police officer has custody of the person. Authorizes a person to be detained in a jail or nonmedical facility under this subsection for no longer than 12 hours. Requires the sheriff or other officeholder responsible for the facility to document the time the person's detention begins, the duration of the detention, the reason for the detention, and the time a representative of the local mental health authority arrives at the facility. Deletes existing text prohibiting a person under protective custody order from being detained in a nonmedical facility used to detain persons who are charged with or convicted of a crime except because of and during an extreme emergency and in no case for longer than 72 hours, excluding Saturdays, Sundays, legal holidays, and the period prescribed by Section 574.025(b) for an extreme emergency. Deletes existing text requiring the person to be isolated from any person who is charged with or convicted of a crime.

(c-1) Requires the sheriff or officeholder responsible for jail or a nonmedical facility described by Subsection (c) to ensure that a person detained in the jail or facility under Subsection (c) is kept separate from any person who is charged with or convicted of a crime.

(d) Requires the county health authority to ensure that proper care and medical attention are available to a person detained in a jail or nonmedical facility under Subsection (c).

SECTION 4. Amends Section 574.045, Health and Safety Code, by adding Subsection (1), as follows:

(1) Authorizes a patient restrained under Subsection (g) (relating to the physical restraint of a patient) to be restrained only during apprehension, detention, or transport of the patient. Requires that the method of restraint permit the patient to sit in an upright position without undue difficulty.

SECTION 5. Effective date: upon passage or September 1, 2009.