

BILL ANALYSIS

Senate Research Center
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S.B. 646
By: Deuell
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Assisted outpatient treatment (AOT) is court-ordered treatment (including medication) for individuals who have a history of medication noncompliance, as a condition of their remaining in the community. Texas is one of 44 states that permit AOT. Studies have supported its effectiveness in keeping the patient from returning to prison. In Texas, it has most commonly been used in Bexar and Dallas counties.

The Texas statute, which is located in Chapter 574 (Court-Ordered Mental Health Services), Health and Safety Code, that authorizes AOT contains a provision that the judge may "advise but not compel" a patient to comply with the program. This has had the effect of discouraging judges from using AOT as they think it bars them from ordering a person to take their medications. The intent of the law instead was to allow the order but not sanction them for violating the order.

S.B. 646 will strike the two places in the law where the "advise but not compel" language is used. In addition, it clarifies that a person cannot be punished for non-compliance. It also makes provisions regarding non-compliance clearer.

As proposed, S.B. 646 amends current law relating to court-ordered outpatient mental health services.

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 574.037, Health and Safety Code, by amending Subsection (b) and adding Subsections (c-1) and (c-2), as follows:

(b) Requires the person responsible for court-ordered outpatient services to submit to the court within two weeks after the court enters the order a general program of the treatment to be provided. Requires that the program include care coordination services and any other services or treatment a treating physician considers clinically appropriate to treat the patient's mental illness and assist the patient in functioning safely in the community. Requires that the program be incorporated into the court order.

(c-1) Authorizes a court that receives information under Subsection (c)(1) that a patient is not complying with the program incorporated into the court's order to set a modification hearing under Section 574.062 (Motion for Modification of Order for Outpatient Treatment), and issue an order for temporary detention under Section 574.063(c) (relating to authorizing the court to issue an order for temporary detention in certain situations).

(c-2) Provides that the failure of a patient to comply with the program incorporated into a court order is not grounds for punishment for contempt of court under Section 21.002 (Contempt of Court), Government Code; issuance of an order authorizing administration of psychoactive medication regardless of the patient's refusal; or commitment to an

inpatient mental health facility, provided that this subsection does not prevent a court from ordering that commitment under Section 574.065(d)(2) (relating to authorizing a modification to an order of modification of order for outpatient services to include providing for commitment to an inpatient mental health facility).

SECTION 2. Amends Section 574.063(b), Health and Safety Code, as follows:

(b) Requires that a sworn application for a patient's temporary detention pending the modification hearing under Section 574.026 filed by a person responsible for a patient's court-ordered outpatient treatment or the facility administrator of the outpatient facility in which the patient receives treatment state the applicant's opinion and detail the reasons for the applicant's opinion that the patient meets the criteria for court-ordered inpatient mental health services prescribed by Section 574.034(a) (relating to authorizing a judge to order a proposed patient to receive court-ordered temporary inpatient mental health services only if the judge or jury finds, from clear and convincing evidence, certain information) or 574.035(a) (relating to authorizing a judge to order a proposed patient to receive court-ordered extended inpatient mental health services only if the jury, or the judge if the right to a jury is waived, finds, from clear and convincing evidence, certain information), rather than that the patient meets the criteria described by Section 574.065(a) (relating to authorizing the court to modify an order for outpatient services at the modification hearing if the court determines that the patient meets certain criteria), and detention in an inpatient mental health facility is necessary to evaluate the appropriate setting for continued court-ordered services.

SECTION 3. Amends Sections 574.064(b) and (d), Health and Safety Code, as follows:

(b) Authorizes a patient to be detained under a temporary detention order for more than 72 hours, excluding Saturdays, Sundays, legal holidays, and the period prescribed by Section 574.025(b) for an extreme emergency only if, after a hearing held before the expiration of that period, the court, a magistrate, or a designated associate judge finds that there is probable cause to believe that the patient meets the criteria for court-ordered inpatient mental health services prescribed by Section 574.034(a) or 574.035(a), rather than the patient meets the criteria described by Section 574.065(a), and detention in an inpatient mental health facility is necessary to evaluate the appropriate setting for continued court-ordered services.

(d) Requires a facility administrator to immediately release a patient held under a temporary detention order if:

(1) at any time during the detention the examining physician determines that the patient does not meet the criteria for court-ordered inpatient mental health services prescribed by Section 574.034(a) or 574.035(a); or

(2) the facility administrator does not receive notice that the patient's continued detention is authorized after a probable cause hearing held within 72 hours after the patient's detention begins; or after a modification hearing held within the period prescribed by Section 574.062.

SECTION 4. Repealers: Sections 574.034(i) (relating to authorizing a judge to advise, but prohibiting a judge from compelling, 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) and 574.035(j) (relating to authorizing a judge to advise, but prohibiting the judge from compelling, 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), Health and Safety Code.

SECTION 5. Effective date: September 1, 2013.