

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 718
By: West
Health & Human Services
3/26/2013
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Texas law is clear that the age of consent for inpatient mental health services for an individual is 16 years of age or older, but silent on the age of consent for outpatient mental health services. Because outpatient services can be used earlier in a mental health crisis, often avoiding the need for more costly and involved inpatient services, it should be made explicit in the Health and Safety Code that the age of consent is the same for both.

Also, current law states that foster parents and Child Protective Services (CPS) staff cannot enroll a minor in inpatient mental health services without the minor's consent, but does not explicitly state what should be done when the minor refuses.

The bill addresses the issue of voluntarily enrollment of minors in services by a parent, guardian, or conservator and matters relating to the age of consent for outpatient mental health services and inpatient services.

C.S.S.B. 718 amends current law relating to voluntary and involuntary mental health services.

[**Note:** While the statutory reference in this bill is to the Texas Department of Mental Health and Mental Retardation (TXMHMR), the following amendments affect the Department of State Health Services, as the successor agency to TXMHMR.]

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Texas Department of Mental Health and Mental Retardation is modified in SECTION 2 (Section 572.001, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading to Chapter 572, Health and Safety Code, to read as follows:

CHAPTER 572. VOLUNTARY MENTAL HEALTH SERVICES

SECTION 2. Amends Section 572.001, Health and Safety Code, by amending Subsections (a), (c), and (d) and adding Subsections (a-1) and (c-1), as follows:

- (a) Authorizes a person 16 years of age or older to request admission to an inpatient mental health facility or for outpatient mental health services by filing a request with the administrator of the facility where admission or outpatient treatment is requested, rather than authorize a person 16 years of age or older or a person younger than 16 years of age who is or has been married to request admission to an inpatient mental health facility by filing a request with the administrator of the facility to which admission is requested. Authorizes the parent, managing conservator, or guardian of a person younger than 18 years of age to request the admission of the person to an inpatient mental health facility or for outpatient mental health services by filing a request with the administrator of the facility where admission or outpatient treatment is requested, rather than authorizing the parent, managing conservator, or guardian of a person younger than 18 years of age who is not and has not been married to request the admission of the person to an inpatient

mental health facility by filing a request with the administrator of the facility to which admission is requested.

(a-1) Authorizes an inpatient mental health facility or provider of outpatient mental health services, except as provided by Subsection (c), to admit or provide services to a person older than 16 years of age and younger than 18 years of age if the person's parent, managing conservator, or guardian consents to the admission or services, even if the person does not consent to the admission or services.

(c) Authorizes a person younger than 18 years of age, if the person does not consent, to be admitted for inpatient services only pursuant to an application for court-ordered mental health services or emergency detention or an order for protective custody.

(c-1) Prohibits a person younger than 18 years of age from being involuntarily committed unless provided by this chapter, other state law, or Texas Department of Mental Health and Mental Retardation rule.

(d) Authorizes the administrator of an inpatient or outpatient mental health facility to admit a minor who is 16 years of age or older, rather than authorizes the administrator of an inpatient mental health facility to admit a minor who is 16 years of age or older or a person younger than 16 years of age who is or has been married, to an inpatient or outpatient mental health facility as a voluntary patient without the consent of the parent, managing conservator, or guardian.

SECTION 3. Amends Section 572.002, Health and Safety Code, as follows:

Sec. 572.002. **ADMISSION.** Authorizes the facility administrator or the administrator's authorized, qualified designee to admit a person for whom a proper request for voluntary inpatient or outpatient services is filed if the administrator or the designee determines:

- (1) from a preliminary examination that the person has symptoms of mental illness and will benefit from the inpatient or outpatient services;
- (2) Makes no change to this subdivision; and
- (3) that the admission was voluntarily agreed to:
 - (A) by the person if the person is 16 years of age or older, rather than if the person is 16 years of age or older, or younger than 16 years of age and is or has been married; or
 - (B) by the person's parent, managing conservator, or guardian, if the person is younger than 18 years of age, rather than if the person is younger than 18 years of age and is not and has not been married.

Makes nonsubstantive changes.

SECTION 4. Effective date: upon passage or September 1, 2013.