

BILL ANALYSIS

Senate Research Center

S.B. 1912
By: Zaffirini
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The purpose of S.B. 1912 is to clean up filings, notice, and indigent procedures in courts with mental health jurisdiction. A couple of decades ago, the ink in documents transmitted via fax would fade a couple of days after receipt. Accordingly, laws created at the time required that when a court document was filed electronically, the original had to be filed within the next 72 hours. With the advancement of faxing technology, e-filing, and e-mail, these provisions are no longer necessary and result in inefficient procedures. What's more, it is necessary to clarify in the Health and Safety Code that sheriffs and constables are permitted to provide notice for mental health court proceedings. Lack of clarity in the relevant statute results in sheriffs and constables being more hesitant to participate in the process. Lastly, some counties have created mental health public defenders offices. These counties believe that they have statutory authority to create these offices, but no explicit authorization for this in statute currently exists. Public defender's offices are more cost-effective than allowing judges to appoint private attorneys for these cases. Accordingly, statutes should explicitly authorize the creation of these public defender's offices.

S.B. 1912 would remove the antiquated requirement that a person must file original documents after copies have been submitted to the court electronically. This change would increase efficiency in courts with mental health jurisdiction.

S.B. 1912 would clarify that the constable or sheriff can provide personal service for cases in courts with mental health jurisdiction. This change would make constables and sheriffs more likely to cooperate with these courts and make the Health and Safety Code consistent with the Estates Code.

S.B. 1912 also would authorize counties to set up mental health public defenders offices to serve indigent persons involved in mental health proceedings. This change would incentivize counties to utilize this cost-efficient method of providing legal representation for persons with mental health issues.

As proposed, S.B. 1912 amends current law relating to procedures in mental health cases.

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 571.013, Health and Safety Code, to authorize notice required under this subtitle (Texas Mental Health Code), to be given by a constable or sheriff, except as otherwise provided by this subtitle, by certain methods.

SECTION 2. Amends Section 571.014, Health and Safety Code, as follows:

Sec. 571.014. FILING REQUIREMENTS. (a) and (b) Makes no changes to these subsections.

(c) Authorizes a person to file, rather than initially file, a paper with the county clerk by the use of reproduced, photocopied, or electronically transmitted paper. Requires the person, if the paper is filed by the use of reproduced, photocopied, or electronically transmitted paper, to maintain the original paper and to provide it to the parties or the court upon request. Deletes existing text relating to certain requirements for a person to submit original signed copies of the paper.

(d) Deletes existing Subsection (d) relating to a judge taking certain actions if the county clerk does not receive the original signed copy within a certain time frame.

SECTION 3. Amends Section 571.017, Health and Safety Code, as follows:

Sec. 571.017. New heading: REPRESENTATION OF PROPOSED PATIENT. (a) Requires the court to appoint a private attorney or public defender to represent a proposed patient under any proceeding under this subtitle. Deletes existing text requiring the court to order the payment of reasonable compensation to attorneys, physicians, language interpreters, sign interpreters, and associate judges appointed under this subtitle.

(b) Authorizes a court, with permission of the commissioners court, to create a mental health public defenders office. Authorizes a mental health public defender of such office to be appointed by the court in lieu of a private attorney. Deletes existing text requiring the compensation to be taxed as costs in the case.

SECTION 4. Amends the Health and Safety Code, by adding Section 571.0175, as follows:

Sec. 571.0175. COMPENSATION OF COURT-APPOINTED PERSONNEL. (a) Requires the court to order the payment of reasonable compensation to attorneys, physicians, language interpreters, sign interpreters, and associate judges appointed under this subtitle.

(b) Requires the compensation to be taxed as costs in the case.

SECTION 5. Amends Section 574.010, Health and Safety Code, as follows:

Sec. 574.010. INDEPENDENT PSYCHIATRIC EVALUATION AND EXPERT TESTIMONY. (a) Makes no change to this subsection.

(b) Authorizes a court, if the court determines that that the proposed patient is indigent, to authorize reimbursement to the attorney, rather than to the attorney ad litem, for court-approved expenses incurred in obtaining expert testimony and authorizes the court to order the proposed patient's county of residence to pay the expenses.

SECTION 6. Effective date: September 1, 2017.