

BILL ANALYSIS

Senate Research Center
85R23600 GCB-D

C.S.S.B. 1912
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Health & Human Services
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Committee Report (Substituted)

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. (Original Author's / Sponsor's Statement of Intent)

C.S.S.B. 1912 amends current law relating to certain notice requirements and filing requirements in court proceedings involving persons with mental illness and representation of proposed patients in proceedings for court-ordered 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 571.013, Health and Safety Code, to authorize, except as otherwise provided by this subtitle, notice required under this subtitle to be given by personal delivery of a copy of the notice or document by a constable or sheriff of the county or another manner directed by the court that is reasonably calculated to give actual notice, rather than delivering a copy of the notice or document in person or in another manner directed by the court that is reasonably calculated to give actual notice. Makes a nonsubstantive change.

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

(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 copies of, rather than if the person files, the original signed copies of the paper. Requires a person who files a reproduced, photocopied, or electronically transmitted paper to maintain possession of the original signed copies of the paper and to make the original paper available for inspection on request by the parties or the court. Deletes existing text relating to certain requirements for a person to submit original signed copies of the paper.

SECTION 3. Amends Chapter 571, Health and Safety Code, by adding Sections 571.0168 and 571.0169, as follows:

Sec. 571.0168. MENTAL HEALTH PUBLIC DEFENDER OFFICE. Authorizes a court, with the permission of the commissioners court of the county in which the court is located, to establish a mental health public defender office to provide proposed patients with legal representation provided by attorneys associated with that office.

Sec. 571.0169. REPRESENTATION OF PROPOSED PATIENT. Requires the court to appoint an attorney associated with a mental health public defender office described by Section 571.0168, a public defender other than a mental health public defender, or a private attorney to represent a proposed patient in any proceeding under Chapter 574 (Court-Ordered Mental Health Services).

SECTION 4. Amends Section 574.010(b), Health and Safety Code, to authorize the court, if the court determines that the proposed patient is indigent, to authorize reimbursement to the attorney, rather than attorney ad litem, representing the proposed patient for court-approved expenses incurred in obtaining expert testimony and to order the proposed patient's county of residence to pay the expenses.

SECTION 5. Repealer: Section 571.014(d) (relating to authorizing the judge to dismiss the proceeding if the clerk does not receive the original signed copy of a paper within a certain amount of time), Health and Safety Code.

SECTION 6. Effective date: September 1, 2017.