

## **BILL ANALYSIS**

Senate Research Center  
86R21432 EAS-F

C.S.S.B. 1238  
By: Johnson  
Health & Human Services  
3/27/2019  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Under current law, before a patient may be admitted for voluntary inpatient mental health treatment, the state requires a mental health screening to be performed by a mental health professional, followed by an examination to be conducted by a physician. Federal law then requires an additional post-admission examination that covers the same elements required by the state examination.

S.B. 1238 will reduce the amount of time an individual waits to receive voluntary treatment by allowing physicians the option of either examining the patient up to 72 hours before admission or immediately after admission. By allowing the option of performing the examination either before or immediately after admission, the process will be streamlined for the patient and the mental health facility to ensure a continuity of care. There is no known opposition to the bill. Supporters include NAMI and THA. (Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 1238 amends current law relating to the admission, examination, and discharge of a person for voluntary 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 572.0025, Health and Safety Code, by amending Subsections (f) and (g) and adding Subsection (f-1), (f-2), and (f-3) as follows:

(f) Prohibits a prospective voluntary patient from being formally accepted for treatment in a facility unless:

(1) the facility has a physician's order admitting the prospective patient, which order is authorized to be issued orally, electronically, or in writing, signed by the physician, provided that, in the case of an oral order or an electronically transmitted unsigned order, a signed original is presented to the mental health facility within 24 hours of the initial order. Requires the order to be from:

(A) an admitting physician who has, either in person or through the use of audiovisual or other telecommunications technology, conducted a physical and psychiatric examination within:

(i) 72 hours before admission, rather than 72 hours of the admission; or

(ii) 24 hours after admission; or

(B) makes conforming changes; and

(2) makes no changes to this subdivision.

(f-1) Requires a person who is admitted to a facility before the performance of the physical and psychiatric examination required by Subsection (f) to be discharged by the physician immediately if the physician conducting the physical and psychiatric examination determines the person does not meet the clinical standards to receive inpatient mental health services.

(f-2) Prohibits a facility that discharges a patient under the circumstances described by Subsection (f-1) from billing the patient or the patient's third-party payor for the temporary admission of the patient to the inpatient mental health facility.

(f-3) Provides that Sections 572.001(c) (relating to authorizing certain persons appointed as the guardian of a person younger than 18 years of age to request admission of the person to an inpatient mental health facility in a certain manner) and (c-2) (relating to authorizing the Department of Family and Protective Services (DFPS) to request the admission to an inpatient mental health facility of a minor) apply to the admission of a minor in the managing conservatorship of DFPS to an inpatient mental facility.

(g) Provides that an assessment conducted as required by rules adopted under this section does not satisfy a statutory or regulatory requirement for a personal evaluation of a patient or a prospective patient by a physician, rather than a statutory or regulatory requirement for a personal evaluation of a patient or a prospective patient by a physician before admission.

SECTION 2. Effective date: September 1, 2019.