

BILL ANALYSIS

Senate Research Center
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S.B. 1433
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Criminal Justice
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In 2019, S.B. 362 (86R) directed the Supreme Court of Texas to (1) adopt rules to streamline and promote the efficiency of court processes under Chapter 573, Health and Safety Code (the Texas emergency detention statute), and (2) adopt rules or implement other measures to create consistency and increase access to the judicial branch for mental health issues. This charge led to the creation of the S.B. 362 task force by the Judicial Commission on Mental Health. The task force's earliest efforts focused on the emergency detention warrant process.

Under Texas' emergency detention statute (Chapter 573, Health and Safety Code), a person with a mental illness and who because of that mental illness is at substantial risk of serious harm to themselves or to others, may only be detained either by a peace officer (see Section 573.001) or through an application for a warrant for an emergency detention through the court system (see Section 573.012).

Why This Bill Is Necessary:

Physicians and health care providers have no legal authority to hold a patient who meets the emergency criteria set forth above unless one of those two processes has been initiated. The routine delays in obtaining detention authority can have devastating consequences if a patient who is undergoing a qualifying psychiatric crisis wants to leave the emergency department and there is no legal authority to hold them.

Peace officer-initiated warrantless detentions are an effective tool but may not always be suited for detentions that must be initiated in a hospital emergency department under exigent circumstances, for example, after hours or on weekends, or when a peace officer is unavailable to come to the hospital to initiate the warrantless process. With organized medicine's support, in 2019 the task force recommended improvements to the warrant process involving the development of an electronic application submission platform that can be utilized by providers to afford direct, rapid access to a judge any time of day. The goal of this legislation is to ensure that physicians have the ability to submit emergency detention order applications electronically across the state.

What This Bill Accomplishes:

- S.B. 1433 would ensure that the emergency detention statute allows electronic applications for emergency detention orders in all counties.
- S.B. 1433 would require a judge or magistrate to permit a physician who applies for a mental illness warrant to do so electronically rather than in person.
- S.B. 1433 provides that if a judge or magistrate transmits a warrant for the detention of a person who has been admitted to a facility at the time the application for emergency detention is presented, the facility may detain the person to perform a preliminary examination.

As proposed, S.B. 1433 amends current law relating to procedures for the emergency detention of certain persons with mental illness.

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 573.001, Health and Safety Code, by adding Subsection (i), to authorize a peace officer to detain in custody under Section 573.001 (Apprehension by Peace Officer Without Warrant) a person who has been admitted to a facility, regardless of whether the person was admitted for voluntary mental health services.

SECTION 2. Amends Section 573.012, Health and Safety Code, by amending Subsections (a), (e), and (h) and adding Subsection (h-2), as follows:

(a) Authorizes the judge of a court with probate jurisdiction by administrative order, except as provided by Subsections (g) (relating to requiring an administrative order regarding presentation of an application to be jointly issued by all of the judges of those courts if there is more than one court with probate jurisdiction in a county) and (h), rather than Subsection (g), to provide that the application is required to be:

(1)-(2) makes no changes to these subdivisions.

(e) Requires a person apprehended under Section 573.012 (Issuance of Warrant) who has not been admitted to a mental health facility at the time the warrant is issued under Subsection (h-1) (relating to authorizing a judge or magistrate to permit an applicant who is a physician to present an application electronically by email) to be transported for a preliminary examination in accordance with Section 573.021 (Preliminary Examination) to certain facilities.

(h) Requires, rather than authorizes, a judge or magistrate to permit an applicant who is a physician to present an application by:

(1) makes no changes to this subdivision; or

(2) another secure electronic means, including certain means of transmission.

(h-2) Authorizes a facility to detain a person to perform a preliminary examination in accordance with Section 573.021 if a judge or magistrate transmits a warrant under Subsection (h-1) for the detention of the person who has been admitted to the facility at the time the application is presented under Subsection (h).

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2023.