

By: Davis of Harris

H.B. No. 405

A BILL TO BE ENTITLED

1 AN ACT

2 relating to emergency apprehension and detention of a person  
3 believed to have a mental illness.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 573.001, Health and Safety Code, is  
6 amended by adding Subsections (g) and (h) to read as follows:

7 (g) A peace officer shall take a person into custody and  
8 transport that person as provided by Subsection (d) if a physician  
9 represents to the officer that:

10 (1) the physician examined the person during the  
11 preceding 24 hours; and

12 (2) based on the examination, the physician concludes  
13 that the person is mentally ill and that, as demonstrated by the  
14 person's behavior or by evidence of severe emotional distress and  
15 deterioration in the person's mental condition, because of that  
16 mental illness there is a substantial risk of serious harm to the  
17 person or to others unless the person is immediately restrained.

18 (h) A physician shall provide to the peace officer the  
19 physician's specific description of the risk of harm and a detailed  
20 description of the specific relevant behavior, acts, attempts, or  
21 threats by the person to be transported.

22 SECTION 2. Subchapter A, Chapter 573, Health and Safety  
23 Code, is amended by adding Section 573.005 to read as follows:

24 Sec. 573.005. TRANSPORTATION AND APPLICATION FOR EMERGENCY

1 DETENTION BY PHYSICIAN. (a) A physician without the assistance of  
2 a peace officer may transport or order the transportation of a  
3 person to an inpatient mental health facility for a preliminary  
4 examination in accordance with Section 573.021 if:

5 (1) the physician examined the person during the  
6 preceding 24 hours; and

7 (2) based on the examination, the physician concludes  
8 that the person is mentally ill and that, as demonstrated by the  
9 person's behavior or by evidence of severe emotional distress and  
10 deterioration in the person's mental condition, because of that  
11 mental illness there is a substantial risk of serious harm to the  
12 person or to others unless the person is immediately restrained.

13 (b) After transporting or ordering the transportation of a  
14 person to a facility under this section, the physician immediately  
15 shall file an application for detention with the facility.

16 (c) The application for detention must contain a statement  
17 that:

18 (1) the physician examined the person during the  
19 preceding 24 hours;

20 (2) based on the examination, the physician concludes  
21 that the person is mentally ill and that, as demonstrated by the  
22 person's behavior or by evidence of severe emotional distress and  
23 deterioration in the person's mental condition, because of that  
24 mental illness there is a substantial risk of serious harm to the  
25 person or to others unless the person is immediately restrained;  
26 and

27 (3) provides a specific description of the risk of

1 harm and a detailed description of the specific relevant behavior,  
2 acts, attempts, or threats by the person to be detained.

3 SECTION 3. This Act takes effect immediately if it receives  
4 a vote of two-thirds of all the members elected to each house, as  
5 provided by Section 39, Article III, Texas Constitution. If this  
6 Act does not receive the vote necessary for immediate effect, this  
7 Act takes effect September 1, 2007.