

SUBJECT: Voluntary inpatient mental health services for minors

COMMITTEE: Public Health — committee substitute recommended

VOTE: 5 ayes — Capelo, Laubenberg, Dawson, Taylor, Zedler
3 nays — Coleman, McReynolds, Naishtat
1 absent — Truitt

WITNESSES: For — Deborah Hyatt, Texas Federation of Families for Children’s Mental Health; Joe Lovelace, National Alliance for the Mentally Ill; Kathi Seay

Against — John Breeding, Texans for Safe Education; Beth Mitchell, Advocacy, Inc.; Andrew Prough, Citizens Commission on Human Rights; John Sepulvado; *(Registered, but did not testify:)* Victoria Larson, Texas Mental Health Consumers

BACKGROUND: Health and Safety Code, sec. 572.001 allows a person at least 16 years old, or a person younger than 16 who is or has been married, to request admission to an inpatient mental health facility. The parent or guardian of a person under age 16 may request admission on the minor’s behalf. A government employee acting as a guardian may request admission for a minor under age 16 only with the minor’s consent.

After receiving a request for admission, the facility may admit the person only if a preliminary assessment shows signs of a mental illness that could be helped by inpatient treatment and if the administrator has informed the person of the rights of a voluntary patient and has verified that the admission was agreed to voluntarily, either by the person or the person’s guardian.

The rights of a voluntary patient include the right to periodic review to determine the need for continued inpatient treatment and additional protections in filing for court-ordered mental health services.

A voluntary patient may leave an inpatient mental health facility within four hours of filing a request for discharge, unless the patient’s physician believes

that the patient meets the criteria for court-ordered mental health services or emergency detention. In this case, within 24 hours of the filing of the request for discharge, the physician must examine the patient and either discharge the patient or file an application for court-ordered mental health services. The patient or other person who files a discharge request assumes all responsibility for the patient on discharge.

DIGEST:

CSHB 21 would allow the parent or guardian of a person under age 18, rather than age 16, to request admission to an inpatient mental health facility on the person's behalf. A government employee acting as a guardian could request admission for a person under age 18 only with the person's consent.

The bill would accord a person who is admitted voluntarily to an inpatient mental health facility the right to evaluation by a physician at regular intervals to determine the need for continued inpatient treatment. The Department of Mental Health and Mental Retardation would have to establish by rule the intervals for the evaluation.

The bill also would require a facility to notify a minor patient's parent, managing conservator, or guardian when the patient filed a request for discharge.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2003.

**SUPPORTERS
SAY:**

CSHB 21 would ensure that teenagers receive the treatment they need for mental illness when they need it. Under current law, 16-year-old minors can refuse to obtain needed treatment, and parents must suffer the heartbreak of going to court to place them in treatment. This process delays appropriate treatment. A crisis may force some parents to seek immediate help through the criminal justice system, establishing a criminal record for the minor, because of the difficulty involved in civil commitment.

Voluntary treatment requested by a parent often is the least damaging way to help a teenager. The civil commitment process requires a parent to stand in court and recount painful details of the child's actions. Parents may be

reluctant to do this and may wait until the situation is out of control before seeking civil commitment.

Parents are legally responsible for their children until they reach age 18. However, current law does not allow parents to ensure treatment for their children who are age 16 or 17, even though the parents are responsible for their actions.

CSHB 21 would not reduce oversight, even though it would remove the court's role in the process. The state regulates treatment for all people in inpatient treatment settings. The bill also would offer additional protections for voluntary treatment, which would ensure appropriate treatment without additional oversight of a court.

The law ensures that only people who need treatment receive it. The admission criteria include a preliminary assessment that must show signs of a mental illness that can be helped by inpatient treatment. Teenagers who are simply "difficult" would not be admitted.

The bill would strengthen the safeguards already in place by requiring frequent review by a physician of a patient's need for continued inpatient treatment. Under current law, anyone can perform this review, though a physician is the best option. Under CSHB 21, people would remain in treatment only as long as medically recommended.

The 77th Legislature in 2001 enacted a similar bill, SB 22 by Shapiro, which raised the age for parental requests for chemical dependency treatment for minors from 16 to 18. That law sought to fix the same problems as this bill would address. Since enactment of SB 22, no facilities, patients, or parents have expressed concerns about the change.

**OPPONENTS
SAY:**

Current law allows parents to go to court and request involuntary treatment for a child. The court's involvement provides oversight that ensures that the child receives appropriate treatment. CSHB 21 would thwart that process, resulting in less oversight of the child's treatment.

Teenage years are difficult and sometimes strain the relationship between parent and child. Teenagers acting defiantly or unwisely may appear to need

treatment to someone in the thick of the relationship, but not to a third party. The court's role is imperative to ensure that only teens with mental illness receive treatment, not teens who simply are difficult.

NOTES:

As filed, HB 21 also would have raised from 16 to 18 the minimum age for persons authorized to request admission to an inpatient mental health facility. It also would have required a facility to continue treating a minor after receipt of a request for discharge if the parent or guardian objected to the discharge.