

BILL ANALYSIS

Senate Research Center

S.B. 539
By: Moncrief
Health Services
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As Filed

DIGEST

In August of 1988, the Texas Department of Mental Health and Mental Retardation (TXMHMR) and Advocacy, Incorporated, drew attention to the problem of mentally ill patients being transported from county jails and courts to state mental health facilities; apparently, many of these patients were spending long periods of time on buses making circular routes; being transported in buses without air-conditioning or heating; and being deprived of sufficient bathroom stops. Some of the doctors at the Vernon hospital complained to TXMHMR stating, "our patients are suffering severe emotional and mental distress as well as life-threatening physical risks. . . in some cases patients have remained shackled for up to twenty-eight hours while being transported. . . denied adequate food and drink and . . . seated in an area of the van with no functional air conditioning and windows closed during periods of extreme heat. These practices are demeaning, inhumane, and dangerous." S.B. 539 would set forth requirements and provisions regarding the transportation of certain persons requiring treatment for mental illness.

PURPOSE

As proposed, S.B. 539 sets forth requirements and provisions regarding the transportation of certain persons requiring treatment for mental illness.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subsections (b) and (c), Section 571.018, Health and Safety Code, to require county hearing costs to be billed by the court clerk conducting the hearings and to include the cost of transportation expenses to a mental health facility or federal agency, rather than department.

SECTION 2. Amends Section 573.025(a), Health and Safety Code, to provide that a person apprehended or detained under this chapter has the right to be transported in accordance with Sections 573.026 and 574.045, if the person is detained under Section 573.022, or transported under an order of protective custody under Section 574.023.

SECTION 3. Amends Chapter 573C, Health and Safety Code, by adding Section 573.026 as follows:

Sec. 573.026. TRANSPORTATION AFTER DETENTION. Requires a person being transported after detention under Section 573.022, to be transported in accordance with Section 574.045.

SECTION 4. Amends Section 574.023(a), Health and Safety Code, to require a protective custody order to direct a person authorized to transport patients under Section 574.045, rather than a peace officer or other designated person, to take the proposed patient into protective custody and transport the person immediately to a facility of the single portal authority for the area, an appropriate inpatient mental health facility, or a facility deemed suitable by the county's mental health authority.

SECTION 5. Amends Section 574.045, Health and Safety Code, to authorize the transportation of a committed patient or a patient detained under Section 573.022 or 574.023 to the designated mental health facility by a relative; facility administrator; special officer for mental health assignment; representative of the local mental health authority, who is required to be reimbursed by the county; and the sheriff or constable, if no person is available under Subdivision (1), (2), (3), or (4). Requires the court to require

appropriate medical personnel to accompany the person transporting the patient if there is reasonable cause to believe that the patient will require medical assistance or the administration of medication during the transportation. Provides that the payment of an expense incurred under this subsection is governed by Section 571.018. Requires the patient to be transported directly to the facility within a reasonable amount of time and without undue delay. Requires all of the vehicles used to transport patients under this section to be adequately heated in cold weather and adequately ventilated in warm weather. Requires special diets or other medical precautions recommended by the patient's physician to be followed. Makes conforming changes.

SECTION 6. Amends Chapter 46, Code of Criminal Procedure, by adding Article 46.04 as follows:

Art. 46.04. TRANSPORTATION TO A MENTAL HEALTH FACILITY OR RESIDENTIAL CARE FACILITY

Sec. 1. PERSONS ACCOMPANYING TRANSPORT. Requires a patient transported from a jail or detention facility to a mental health facility or residential care facility to be transported by a special officer for mental health who is assignment certified under Section 415.037, Government Code, or by a sheriff or constable. Requires the court ordering the transport to require appropriate medical personnel to accompany the person transporting the patient, at the expense of the county from which the patient is transported, if there is reasonable cause to believe the patient will require medical assistance or the administration of medication during the transportation. Requires a female patient to be accompanied by a female attendant.

Sec. 2. REQUIREMENTS FOR TRANSPORT. Requires the transportation of a patient from a jail or detention facility to a mental health facility or residential care facility to meet the following requirements: requires the patient to be transported directly to the facility within a reasonable amount of time and without undue delay; requires a vehicle used to transport the patient to be adequately heated in cold weather and adequately ventilated in warm weather; requires a special diet or other medical precautions recommended by the patient's physician to be followed; requires the person transporting the patient to give the patient reasonable opportunities to get food and water and to use a bathroom; and prohibits a patient from being transported with a state prisoner.

SECTION 7. Effective date: September 1, 1999.

SECTION 8. Emergency clause.