

## BILL ANALYSIS

Senate Research Center

H.B. 405  
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Health & Human Services  
5/16/2007  
Engrossed

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

Currently, Texas law does not allow a physician in an emergency room to detain without warrant a person whom the physician has determined is mentally ill and that because of that mental illness there is a substantial risk of serious harm to the person or to others.

H.B. 405 grants attending physicians in an emergency room setting more authority over persons who may be a threat to themselves or others and allows those physicians to order such persons to be detained in the emergency room for a period not to exceed 24 hours, until a peace officer arrives, or the local mental health authority arrives.

### 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 Subchapter A, Chapter 573, Health and Safety Code, by adding Section 573.005, as follows:

Sec. 573.005. EMERGENCY ROOM HOLD ON PERSON. (a) Authorizes a physician who is attending a person at a hospital emergency room to hold the person at the hospital emergency room if the physician has reason to believe and does believe that the person is mentally ill and that because of that mental illness there is a substantial risk of serious harm to the person or to others unless the person is immediately restrained. Authorizes the physician to hold the person at the hospital emergency room for a period not to exceed 24 hours pending the arrival of a representative of the local mental health authority or a peace officer able to transport the person to an inpatient mental health facility for a preliminary examination.

(b) Requires the physician immediately to release the person if at any time the physician determines that the person being held no longer presents a substantial risk of serious harm to the person or to others.

(c) Requires the physician immediately to notify the local mental health authority of the circumstances if the physician holds or releases the person under this section.

(d) Provides that Section 573.025 (Rights of Persons Apprehended, Detained, or Transported for Emergency Detention) and the rights provided by that section apply to a person held under this section as if holding the person under this section were a detention to which that section applies.

(e) Provides that it is an exception to prosecution under Section 20.02 (Unlawful Restraint), Penal Code, that the restraint of the person was in compliance with this section.

SECTION 2. Effective date: upon passage or September 1, 2007.