

AN ACT

1
2 relating to the authority of a peace officer to apprehend a person
3 for emergency detention and the authority of certain facilities and
4 physicians to temporarily detain a person with mental illness.

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

6 SECTION 1. The heading to Subchapter A, Chapter 573, Health
7 and Safety Code, is amended to read as follows:

8 SUBCHAPTER A. APPREHENSION, ~~[BY PEACE OFFICER OR]~~ TRANSPORTATION,
9 OR DETENTION WITHOUT JUDGE'S OR MAGISTRATE'S ORDER ~~[FOR EMERGENCY~~
10 ~~DETENTION BY GUARDIAN]~~

11 SECTION 2. Section 573.001, Health and Safety Code, is
12 amended by adding Subsection (i) to read as follows:

13 (i) A peace officer may take a person who has been admitted
14 to a facility into custody under this section. For purposes of this
15 subsection, "facility" has the meaning assigned by Section 573.005.

16 SECTION 3. Subchapter A, Chapter 573, Health and Safety
17 Code, is amended by adding Section 573.005 to read as follows:

18 Sec. 573.005. TEMPORARY DETENTION IN CERTAIN FACILITIES.

19 (a) In this section, "facility" means:

- 20 (1) an inpatient mental health facility other than a
21 community center, a facility operated by or under contract with a
22 community center, an entity that the department designates to
23 provide mental health services, a local mental health authority, or
24 a facility operated by or under contract with a local mental health

1 authority, unless the facility is licensed under Chapter 577;
2 (2) a hospital, or the emergency department of a
3 hospital, licensed under Chapter 241; and
4 (3) a freestanding emergency medical care facility
5 licensed under Chapter 254.

6 (b) The governing body of a facility may adopt and implement
7 a written policy that provides for the facility or a physician at
8 the facility to detain a person who voluntarily requested treatment
9 from the facility or who lacks the capacity to consent to treatment,
10 as provided by this section, if:

11 (1) the person expresses a desire to leave the
12 facility or attempts to leave the facility before the examination
13 or treatment is completed; and

14 (2) a physician at the facility:

15 (A) has reason to believe and does believe that:

16 (i) the person has a mental illness; and
17 (ii) because of that mental illness there
18 is a substantial risk of serious harm to the person or to others
19 unless the person is immediately restrained; and

20 (B) believes that there is not sufficient time to
21 file an application for emergency detention or for an order of
22 protective custody.

23 (c) A policy adopted and implemented by a facility under
24 this section may not allow the facility or a physician at the
25 facility to detain a person who has been transported to the facility
26 for emergency detention under this chapter.

27 (d) A policy adopted and implemented by a facility under

1 this section must require:

2 (1) the facility staff or the physician who intends to
3 detain the person under the policy to notify the person of that
4 intention;

5 (2) a physician to document a decision by the facility
6 or the physician to detain a person under the policy and to place a
7 notice of detention in the person's medical record that contains
8 the same information as required in a peace officer's notification
9 of detention under Section 573.002; and

10 (3) the period of a person's detention under the policy
11 to be less than four hours following the time the person first
12 expressed a desire to leave, or attempted to leave, the facility,
13 and the facility or physician to release the person not later than
14 the end of the four-hour period unless the facility staff or
15 physician arranges for a peace officer to take the person into
16 custody under Section 573.001 or an order of protective custody is
17 issued.

18 (e) Detention of a person under a policy adopted and
19 implemented by a facility under this section is not considered
20 involuntary psychiatric hospitalization for purposes of Section
21 411.172(e), Government Code.

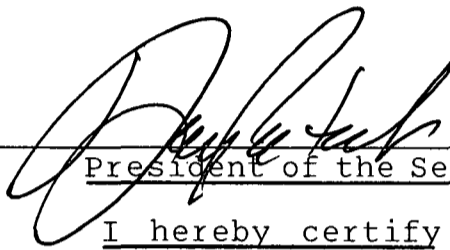
22 (f) A physician, person, or facility that detains or does
23 not detain a person under a policy adopted and implemented by a
24 facility under this section and that acts in good faith and without
25 malice is not civilly or criminally liable for that action.

26 (g) A facility is not civilly or criminally liable for its
27 governing body's decision to adopt or not to adopt a policy under

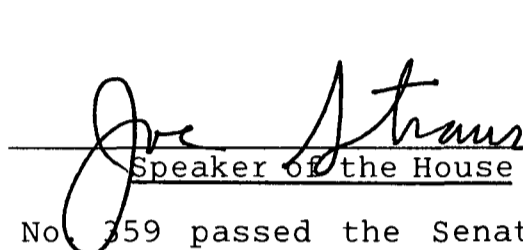
S.B. No. 359

1 this section.

2 SECTION 4. This Act takes effect September 1, 2015. _____



President of the Senate



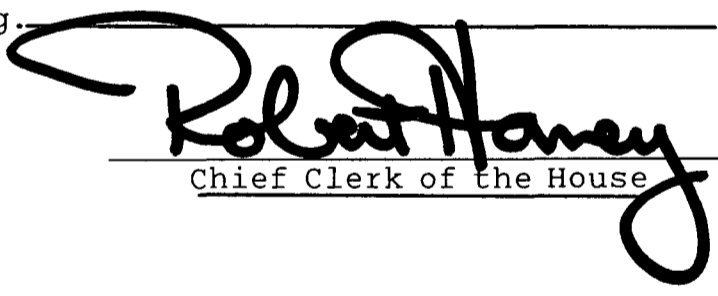
Speaker of the House

I hereby certify that S.B. No. 359 passed the Senate on April 9, 2015, by the following vote: Yeas 28, Nays 3; and that the Senate concurred in House amendment on May 19, 2015, by the following vote: Yeas 27, Nays 4. _____



Secretary of the Senate

I hereby certify that S.B. No. 359 passed the House, with amendment, on May 13, 2015, by the following vote: Yeas 128, Nays 12, two present not voting. _____

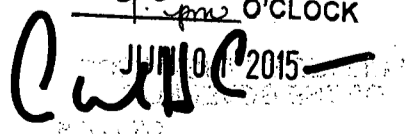


Chief Clerk of the House

Approved:

Date

Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
9:00 pm O'CLOCK
JUN 10 2015


Secretary of State

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

April 30, 2015

TO: Honorable Myra Crownover, Chair, House Committee on Public Health

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB359 by West (Relating to the authority of a peace officer to apprehend a person for emergency detention and the authority of certain facilities and physicians to temporarily detain a person with mental illness.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend Chapter 573 of the Health and Safety Code relating to the authority of a peace officer to apprehend a person for emergency detention and the authority of certain facilities to temporarily detain a person with mental illness.

Under the provisions of the bill certain mental health facilities and physicians would be allowed to temporarily detain a person who expresses a desire to leave that facility or attempts to leave before receiving a psychiatric examination or treatment under specific conditions. The bill would authorize a peace officer to take a person who has been admitted to a facility into custody in certain circumstances.

The Department of State Health Services indicates that the provisions of the bill can be implemented within existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 537 State Health Services, Department of

LBB Staff: UP, NB, WP, SS, KVe, CH, KKR, CL

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

April 28, 2015

TO: Honorable Myra Crowover, Chair, House Committee on Public Health

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB359 by West (Relating to the authority of a peace officer to apprehend a person for emergency detention and the authority of certain facilities to temporarily detain a person with mental illness.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend Chapter 573 of the Health and Safety Code relating to the authority of a peace officer to apprehend a person for emergency detention and the authority of certain facilities to temporarily detain a person with mental illness.

Under the provisions of the bill, mental health facilities, hospitals and emergency rooms licensed under Chapter 241, and freestanding medical care facilities licensed under Chapter 254 would be allowed to temporarily detain a person who expresses a desire to leave that facility or attempts to leave before receiving a psychiatric examination or treatment under specific conditions. The bill would authorize a peace officer to take a person who has been admitted to a facility into custody in certain circumstances.

The Department of State Health Services indicates that the provisions of the bill can be implemented within existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 537 State Health Services, Department of

LBB Staff: UP, SS, KVe, CH, KKR, CL, NB

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

April 3, 2015

TO: Honorable Charles Schwertner, Chair, Senate Committee on Health & Human Services

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB359 by West (relating to the authority of a peace officer to apprehend a person for emergency detention and the authority of certain facilities to temporarily detain a person with mental illness.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend Chapter 573 of the Health and Safety Code relating to the authority of a peace officer to apprehend a person for emergency detention and the authority of certain facilities to temporarily detain a person with mental illness.

Under the provisions of the bill, mental health facilities, hospitals and emergency rooms licensed under Chapter 241, and freestanding medical care facilities licensed under Chapter 254 would be allowed to temporarily detain a person who expresses a desire to leave that facility or attempts to leave before receiving a psychiatric examination or treatment under specific conditions. The bill would authorize a peace officer to take a person who has been admitted to a facility into custody in certain circumstances.

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No significant fiscal implication to units of local government is anticipated.

Source Agencies: 537 State Health Services, Department of

LBB Staff: UP, SS, KVe, CH, KKR, CL, NB

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

March 20, 2015

TO: Honorable Charles Schwertner, Chair, Senate Committee on Health & Human Services

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB359 by West (Relating to the authority of a peace officer to apprehend a person for emergency detention and the authority of certain facilities to temporarily detain a person with mental illness.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend Chapter 573 of the Health and Safety Code relating to the authority of a peace officer to apprehend a person for emergency detention and the authority of certain facilities to temporarily detain a person with mental illness.

Under the provisions of the bill, mental health facilities, hospitals and emergency rooms licensed under Chapter 241, and freestanding medical care facilities licensed under Chapter 254 would be allowed to temporarily detain a person who expresses a desire to leave that facility or attempts to leave before receiving a psychiatric examination or treatment under specific conditions. The bill would authorize a peace officer to take a person who has been admitted to a facility into custody in certain circumstances.

The Department of State Health Services indicates that the provisions of the bill can be implemented within existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 537 State Health Services, Department of

LBB Staff: UP, SS, KVe, CH, KKR, CL, NB

PROCLAMATION
BY THE
Governor of the State of Texas
41-3413

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 359 as passed by the Eighty-Fourth Texas Legislature, Regular Session, because of the following objections:

The Fourth, Fifth, and Fourteenth Amendments to the United States Constitution limit the state's authority to deprive a person of liberty. Under our constitutional tradition, the power to arrest and forcibly hold a person against his or her will is generally reserved for officers of the law acting in the name of the people of Texas. By bestowing that grave authority on private parties who lack the training of peace officers and are not bound by the same oath to protect and serve the public, SB 359 raises serious constitutional concerns and would lay the groundwork for further erosion of constitutional liberties.

Medical facilities have options at their disposal to protect mentally ill patients and the public. Many hospitals already keep a peace officer on site at all times. For smaller facilities, law enforcement are always just a phone call and a few minutes away. Medical staff should work closely with law enforcement to help protect mentally ill patients and the public. But just as law enforcement should not be asked to practice medicine, medical staff should not be asked to engage in law enforcement, especially when that means depriving a person of the liberty protected by the Constitution.

Since the Eighty-Fourth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.



IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 1st day of June, 2015.

Handwritten signature of Greg Abbott in black ink.

GREG ABBOTT
Governor of Texas

ATTESTED BY:

Handwritten signature of Carlos Cascos in black ink.

CARLOS CASCOS
Secretary of State

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
9:00 PM O'CLOCK

JUN 01 2015