

HEALTH & SAFETY CODE
CHAPTER 573. EMERGENCY DETENTION
SUBCHAPTER A. APPREHENSION BY PEACE OFFICER OR TRANSPORTATION FOR
EMERGENCY DETENTION BY GUARDIAN

Sec. 573.001. APPREHENSION BY PEACE OFFICER WITHOUT WARRANT. (a) A peace officer, without a warrant, may take a person into custody if the officer:

(1) has reason to believe and does believe that:
(A) the person is mentally ill; and
(B) 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; and

(2) believes that there is not sufficient time to obtain a warrant before taking the person into custody.

(b) A substantial risk of serious harm to the person or others under Subsection (a)(1)(B) may be demonstrated by:

(1) the person's behavior; or
(2) evidence of severe emotional distress and deterioration in the person's mental condition to the extent that the person cannot remain at liberty.

(c) The peace officer may form the belief that the person meets the criteria for apprehension:

(1) from a representation of a credible person; or
(2) on the basis of the conduct of the apprehended person or the circumstances under which the apprehended person is found.

(d) A peace officer who takes a person into custody under Subsection (a) shall immediately transport the apprehended person to:

(1) the nearest appropriate inpatient mental health facility; or
(2) a mental health facility deemed suitable by the local mental health authority, if an appropriate inpatient mental health facility is not available.

(e) A jail or similar detention facility may not be deemed suitable except in an extreme emergency.

(f) A person detained in a jail or a nonmedical facility shall be kept separate from any person who is charged with or convicted of a crime.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.
Amended by Acts 2001, 77th Leg., ch. 367, Sec. 5, eff. Sept. 1, 2001.

Sec. 573.002. PEACE OFFICER'S APPLICATION FOR DETENTION. (a) A peace officer shall immediately file an application for detention after transporting a person to a facility under Section 573.001.

(b) The application for detention must contain:

(1) a statement that the officer has reason to believe and does believe that the person evidences mental illness;

(2) a statement that the officer has reason to believe and does believe that the person evidences a substantial risk of serious harm to himself or others;

(3) a specific description of the risk of harm;

(4) a statement that the officer has reason to believe and does believe that the risk of harm is imminent unless the person is immediately restrained;

(5) a statement that the officer's beliefs are derived from specific recent behavior, overt acts, attempts, or threats that were observed by or reliably reported to the officer;

(6) a detailed description of the specific behavior, acts, attempts, or threats; and

(7) the name and relationship to the apprehended person of any person who reported or observed the behavior, acts, attempts, or threats.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 573.003. TRANSPORTATION FOR EMERGENCY DETENTION BY GUARDIAN. (a) A guardian of the person of a ward who is 18 years of age or older, without the assistance of a peace officer, may transport the ward to an inpatient mental health facility for a preliminary examination in accordance with Section 573.021 if the guardian has reason to believe and does believe that:

(1) the ward is mentally ill; and

(2) because of that mental illness there is a substantial risk of serious harm to the ward or to others unless the ward is immediately restrained.

(b) A substantial risk of serious harm to the ward or others under Subsection (a)(2) may be demonstrated by:

- (1) the ward's behavior; or
- (2) evidence of severe emotional distress and deterioration in the ward's mental condition to the extent that the ward cannot remain at liberty.

Added by Acts 2003, 78th Leg., ch. 692, Sec. 6, eff. Sept. 1, 2003.

Sec. 573.004. GUARDIAN'S APPLICATION FOR EMERGENCY DETENTION. (a) After transporting a ward to a facility under Section 573.003, a guardian shall immediately file an application for detention with the facility.

(b) The application for detention must contain:

- (1) a statement that the guardian has reason to believe and does believe that the ward evidences mental illness;
- (2) a statement that the guardian has reason to believe and does believe that the ward evidences a substantial risk of serious harm to the ward or others;
- (3) a specific description of the risk of harm;
- (4) a statement that the guardian has reason to believe and does believe that the risk of harm is imminent unless the ward is immediately restrained;
- (5) a statement that the guardian's beliefs are derived from specific recent behavior, overt acts, attempts, or threats that were observed by the guardian; and
- (6) a detailed description of the specific behavior, acts, attempts, or threats.

(c) The guardian shall immediately provide written notice of the filing of an application under this section to the court that granted the guardianship.

Added by Acts 2003, 78th Leg., ch. 692, Sec. 6, eff. Sept. 1, 2003.

SUBCHAPTER B. JUDGE'S OR MAGISTRATE'S ORDER FOR EMERGENCY APPREHENSION AND DETENTION

Sec. 573.011. APPLICATION FOR EMERGENCY DETENTION. (a) An adult may file a written application for the emergency detention of another person.

(b) The application must state:

- (1) that the applicant has reason to believe and does believe that the person evidences mental illness;
- (2) that the applicant has reason to believe and does believe that the person evidences a substantial risk of serious harm to himself or others;
- (3) a specific description of the risk of harm;
- (4) that the applicant has reason to believe and does believe that the risk of harm is imminent unless the person is immediately restrained;
- (5) that the applicant's beliefs are derived from specific recent behavior, overt acts, attempts, or threats;
- (6) a detailed description of the specific behavior, acts, attempts, or threats; and
- (7) a detailed description of the applicant's relationship to the person whose detention is sought.

(c) The application may be accompanied by any relevant information.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 573.012. ISSUANCE OF WARRANT. (a) An applicant for emergency detention must present the application personally to a judge or magistrate. The judge or magistrate shall examine the application and may interview the applicant. Except as provided by Subsection (g), the judge of a court with probate jurisdiction by administrative order may provide that the application must be:

- (1) presented personally to the court; or
- (2) retained by court staff and presented to another judge or magistrate as soon as is practicable if the judge of the court is not available at the time the application is presented.

(b) The magistrate shall deny the application unless the magistrate finds that there is reasonable cause to believe that:

- (1) the person evidences mental illness;
- (2) the person evidences a substantial risk of serious harm to himself or others;
- (3) the risk of harm is imminent unless the person is immediately restrained; and
- (4) the necessary restraint cannot be accomplished without emergency detention.

(c) A substantial risk of serious harm to the person or others under Subsection (b)(2) may be demonstrated by:

(1) the person's behavior; or
(2) evidence of severe emotional distress and deterioration in the person's mental condition to the extent that the person cannot remain at liberty.

(d) The magistrate shall issue to an on-duty peace officer a warrant for the person's immediate apprehension if the magistrate finds that each criterion under Subsection (b) is satisfied.

(e) A person apprehended under this section shall be transported for a preliminary examination in accordance with Section 573.021 to:

(1) the nearest appropriate inpatient mental health facility; or

(2) a mental health facility deemed suitable by the local mental health authority, if an appropriate inpatient mental health facility is not available.

(f) The warrant serves as an application for detention in the facility. The warrant and a copy of the application for the warrant shall be immediately transmitted to the facility.

(g) If there is more than one court with probate jurisdiction in a county, an administrative order regarding presentation of an application must be jointly issued by all of the judges of those courts.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 15, Sec. 5.19, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 243, Sec. 3, eff. Aug. 28, 1995; Acts 2001, 77th Leg., ch. 367, Sec. 6, eff. Sept. 1, 2001.

SUBCHAPTER C. EMERGENCY DETENTION, RELEASE, AND RIGHTS

Sec. 573.021. PRELIMINARY EXAMINATION. (a) A facility shall temporarily accept a person for whom an application for detention is filed.

(b) A person accepted for a preliminary examination may be detained in custody for not longer than 24 hours after the time the person is presented to the facility unless a written order for further detention is obtained. The 24-hour period allowed by this section includes any time the patient spends waiting in the facility for medical care before the person receives the preliminary examination. The period does not include any time during which the person is actually receiving necessary medical care in the facility's emergency room or emergency care in another area of the facility. If the 24-hour period ends on a Saturday, Sunday, legal holiday, or before 4 p.m. on the first succeeding business day, the person may be detained until 4 p.m. on the first succeeding business day. If extremely hazardous weather conditions exist or a disaster occurs, the presiding judge or magistrate may, by written order made each day, extend by an additional 24 hours the period during which the person may be detained. The written order must declare that an emergency exists because of the weather or the occurrence of a disaster.

(c) A physician shall examine the person as soon as possible within 24 hours after the time the person is apprehended by the peace officer or transported for emergency detention by the person's guardian.

(d) A facility must comply with this section only to the extent that the commissioner determines that a facility has sufficient resources to perform the necessary services under this section.

(e) A person may not be detained in a private mental health facility without the consent of the facility administrator.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991. Amended by Acts 2001, 77th Leg., ch. 623, Sec. 1, eff. June 11, 2001; Acts 2003, 78th Leg., ch. 692, Sec. 7, eff. Sept. 1, 2003.

Sec. 573.022. EMERGENCY ADMISSION AND DETENTION. (a) A person may be admitted to a facility for emergency detention only if the physician who conducted the preliminary examination of the person makes a written statement that:

(1) is acceptable to the facility;

(2) states that after a preliminary examination it is the physician's opinion that:

(A) the person is mentally ill;

(B) the person evidences a substantial risk of serious harm to himself or others;

(C) the described risk of harm is imminent unless the person is immediately restrained; and

(D) emergency detention is the least restrictive means by which the necessary restraint may be accomplished; and

(3) includes:

(A) a description of the nature of the person's mental illness;

(B) a specific description of the risk of harm the person evidences that may be demonstrated either by the person's behavior or by evidence of severe emotional distress and deterioration in the person's mental condition to the extent that the person cannot remain at liberty; and

(C) the specific detailed information from which the physician formed the opinion in Subdivision (2).

(b) A mental health facility that has admitted a person for emergency detention under this section may transport the person to a mental health facility deemed suitable by the local mental health authority for the area. On the request of the local mental health authority, the judge may order that the proposed patient be detained in a department mental health facility.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991. Amended by Acts 1999, 76th Leg., ch. 842, Sec. 1, eff. June 18, 1999; Acts 2001, 77th Leg., ch. 367, Sec. 7, eff. Sept. 1, 2001.

Sec. 573.023. RELEASE FROM EMERGENCY DETENTION. (a) A person apprehended by a peace officer or transported for emergency detention under Subchapter A or detained under Subchapter B shall be released on completion of the preliminary examination unless the person is admitted to a facility under Section 573.022.

(b) A person admitted to a facility under Section 573.022 shall be released if the facility administrator determines at any time during the emergency detention period that one of the criteria prescribed by Section 573.022(2) no longer applies.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991. Amended by Acts 2003, 78th Leg., ch. 692, Sec. 8, eff. Sept. 1, 2003.

Sec. 573.024. TRANSPORTATION AFTER RELEASE. (a) Arrangements shall be made to transport a person who is entitled to release under Section 573.023 to:

(1) the location of the person's apprehension;

(2) the person's residence in this state; or

(3) another suitable location.

(b) Subsection (a) does not apply to a person who is arrested or who objects to the transportation.

(c) If the person was apprehended by a peace officer under Subchapter A, arrangements must be made to immediately transport the person. If the person was transported for emergency detention under Subchapter A or detained under Subchapter B, the person is entitled to reasonably prompt transportation.

(d) The county in which the person was apprehended shall pay the costs of transporting the person.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991. Amended by Acts 2003, 78th Leg., ch. 692, Sec. 9, eff. Sept. 1, 2003.

Sec. 573.025. RIGHTS OF PERSONS APPREHENDED, DETAINED, OR TRANSPORTED FOR EMERGENCY DETENTION. (a) A person apprehended, detained, or transported for emergency detention under this chapter has the right:

(1) to be advised of the location of detention, the reasons for the detention, and the fact that the detention could result in a longer period of involuntary commitment;

(2) to a reasonable opportunity to communicate with and retain an attorney;

(3) to be transported to a location as provided by Section 573.024 if the person is not admitted for emergency detention, unless the person is arrested or objects;

(4) to be released from a facility as provided by Section 573.023;

(5) to be advised that communications with a mental health professional may be used in proceedings for further detention; and

(6) 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.

(b) A person apprehended, detained, or transported for emergency detention under this subtitle shall be informed of the rights provided by this section:

(1) orally in simple, nontechnical terms, within 24 hours after the time the person is admitted to a facility, and in

writing in the person's primary language if possible; or
(2) through the use of a means reasonably calculated to communicate with a hearing or visually impaired person, if applicable.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.
Amended by Acts 1999, 76th Leg., ch. 1512, Sec. 2, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 692, Sec. 10, eff. Sept. 1, 2003.

Sec. 573.026. TRANSPORTATION AFTER DETENTION. A person being transported after detention under Section 573.022 shall be transported in accordance with Section 574.045.

Added by Acts 1999, 76th Leg., ch. 1512, Sec. 3, eff. Sept. 1, 1999.