

HEALTH AND SAFETY CODE CHAPTER 574. COURT-ORDERED MENTAL HEALTH SERVICES

HEALTH AND SAFETY CODE

TITLE 7. MENTAL HEALTH AND MENTAL RETARDATION

SUBTITLE C. TEXAS MENTAL HEALTH CODE

CHAPTER 574. COURT-ORDERED MENTAL HEALTH SERVICES

SUBCHAPTER A. APPLICATION FOR COMMITMENT AND PREHEARING PROCEDURES

Sec. 574.001. APPLICATION FOR COURT-ORDERED MENTAL HEALTH SERVICES. (a) A county or district attorney or other adult may file a sworn written application for court-ordered mental health services. Only the district or county attorney may file an application that is not accompanied by a certificate of medical examination.

(b) Except as provided by Subsection (f), the application must be filed with the county clerk in the county in which the proposed patient:

(1) resides;

(2) is found; or

(3) is receiving mental health services by court order or under Subchapter A, Chapter 573.

(c) If the application is not filed in the county in which the proposed patient resides, the court may, on request of the proposed patient or the proposed patient's attorney and if good cause is shown, transfer the application to that county.

(d) An application may be transferred to the county in which the person is being detained under Subchapter B if the county to which the application is to be transferred approves such transfer. A transfer under this subsection does not preclude the proposed patient from filing a motion to transfer under Subsection (c).

(e) An order transferring a criminal defendant against whom all charges have been dismissed to the appropriate court for a hearing on court-ordered mental health services in accordance with Subchapter F, Chapter 46B, Code of Criminal Procedure, serves as an application under this section. The order must state that all charges have been dismissed.

(f) An application in which the proposed patient is a child

in the custody of the Texas Youth Commission may be filed in the county in which the child's commitment to the commission was ordered.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.  
Amended by Acts 1995, 74th Leg., ch. 770, Sec. 4, eff. June 16, 1995; Acts 1997, 75th Leg., ch. 1086, Sec. 38, eff. June 19, 1997; Acts 2003, 78th Leg., ch. 35, Sec. 10, eff. Jan. 1, 2004.

Sec. 574.002. FORM OF APPLICATION. (a) An application for court-ordered mental health services must be styled using the proposed patient's initials and not the proposed patient's full name.

(b) The application must state whether the application is for temporary or extended mental health services. An application for extended mental health services must state that the person has received court-ordered inpatient mental health services under this subtitle or under Subchapter D or E, Chapter 46B, Code of Criminal Procedure, for at least 60 consecutive days during the preceding 12 months.

(c) Any application must contain the following information according to the applicant's information and belief:

- (1) the proposed patient's name and address;
- (2) the proposed patient's county of residence in this state;
- (3) a statement that the proposed patient is mentally ill and meets the criteria in Section 574.034 or 574.035 for court-ordered mental health services; and
- (4) whether the proposed patient is charged with a criminal offense.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.  
Amended by Acts 2003, 78th Leg., ch. 35, Sec. 11, eff. Jan. 1, 2004.

Sec. 574.003. APPOINTMENT OF ATTORNEY. (a) The judge shall appoint an attorney to represent a proposed patient within 24 hours after the time an application for court-ordered mental health services is filed if the proposed patient does not have an attorney. At that time, the judge shall also appoint a language or sign

interpreter if necessary to ensure effective communication with the attorney in the proposed patient's primary language.

(b) The court shall inform the attorney in writing of the attorney's duties under Section 574.004.

(c) The proposed patient's attorney shall be furnished with all records and papers in the case and is entitled to have access to all hospital and physicians' records.

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

Sec. 574.004. DUTIES OF ATTORNEY. (a) An attorney representing a proposed patient shall interview the proposed patient within a reasonable time before the date of the hearing on the application.

(b) The attorney shall thoroughly discuss with the proposed patient the law and facts of the case, the proposed patient's options, and the grounds on which the court-ordered mental health services are being sought. A court-appointed attorney shall also inform the proposed patient that the proposed patient may obtain personal legal counsel at the proposed patient's expense instead of accepting the court-appointed counsel.

(c) The attorney may advise the proposed patient of the wisdom of agreeing to or resisting efforts to provide mental health services, but the proposed patient shall make the decision to agree to or resist the efforts. Regardless of an attorney's personal opinion, the attorney shall use all reasonable efforts within the bounds of law to advocate the proposed patient's right to avoid court-ordered mental health services if the proposed patient expresses a desire to avoid the services. If the proposed patient desires, the attorney shall advocate for the least restrictive treatment alternatives to court-ordered inpatient mental health services.

(d) Before a hearing, the attorney shall:

(1) review the application, the certificates of medical examination for mental illness, and the proposed patient's relevant medical records;

(2) interview supporting witnesses and other witnesses who will testify at the hearing; and

(3) explore the least restrictive treatment alternatives to court-ordered inpatient mental health services.

(e) The attorney shall advise the proposed patient of the proposed patient's right to attend a hearing or to waive the right to attend a hearing and shall inform the court why a proposed patient is absent from a hearing.

(f) The attorney shall discuss with the proposed patient:

(1) the procedures for appeal, release, and discharge if the court orders participation in mental health services; and

(2) other rights the proposed patient may have during the period of the court's order.

(g) To withdraw from a case after interviewing a proposed patient, an attorney must file a motion to withdraw with the court. The court shall act on the motion as soon as possible. An attorney may not withdraw from a case unless the withdrawal is authorized by court order.

(h) The attorney is responsible for a person's legal representation until:

(1) the application is dismissed;

(2) an appeal from an order directing treatment is taken;

(3) the time for giving notice of appeal expires by operation of law; or

(4) another attorney assumes responsibility for the case.

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

Sec. 574.005. SETTING ON APPLICATION. (a) The judge or a magistrate designated under Section 574.021(e) shall set a date for a hearing to be held within 14 days after the date on which the application is filed.

(b) The hearing may not be held during the first three days after the application is filed if the proposed patient or the proposed patient's attorney objects.

(c) The court may grant one or more continuances of the hearing on the motion by a party and for good cause shown or on agreement of the parties. However, the hearing shall be held not

later than the 30th day after the date on which the original application is filed. If extremely hazardous weather conditions exist or a disaster occurs that threatens the safety of the proposed patient or other essential parties to the hearing, the judge or magistrate may, by written order made each day, postpone the hearing for 24 hours. The written order must declare that an emergency exists because of the weather or the occurrence of a disaster.

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

Sec. 574.006. NOTICE. (a) The proposed patient and his attorney are entitled to receive a copy of the application and written notice of the time and place of the hearing immediately after the date for the hearing is set.

(b) A copy of the application and the written notice shall be delivered in person or sent by certified mail to the proposed patient's:

- (1) parent, if the proposed patient is a minor;
- (2) appointed guardian, if the proposed patient is the subject of a guardianship; or
- (3) each managing and possessory conservator that has been appointed for the proposed patient.

(c) Notice may be given to the proposed patient's next of kin if the relative is the applicant and the parent cannot be located and a guardian or conservator has not been appointed.

(d) Notice of the time and place of any hearing and of the name, telephone number, and address of any attorneys known or believed to represent the state or the proposed patient shall be furnished to any person stating that that person has evidence to present upon any material issue, without regard to whether such evidence is on behalf of the state or of the proposed patient. The notice shall not include the application, medical records, names or addresses of other potential witnesses, or any other information whatsoever. Any clerk, judge, magistrate, court coordinator, or other officer of the court shall provide such information and shall be entitled to judicial immunity in any civil suit seeking damages as a result of providing such notice. Should such evidence be

offered at trial and the adverse party claim surprise, the hearing may be continued under the provisions of Section 574.005, and the person producing such evidence shall be entitled to timely notice of the date and time of such continuance.

Any officer, employee, or agent of the department shall refer any inquiring person to the court authorized to provide the notice if such information is in the possession of the department. The notice shall be provided in the form that is most understandable to the person making such inquiry.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.  
Amended by Acts 1995, 74th Leg., ch. 623, Sec. 1, eff. Aug. 28, 1995.

Sec. 574.007. DISCLOSURE OF INFORMATION. (a) The proposed patient's attorney may request information from the county or district attorney in accordance with this section if the attorney cannot otherwise obtain the information.

(b) If the proposed patient's attorney requests the information at least 48 hours before the time set for the hearing, the county or district attorney shall, within a reasonable time before the hearing, provide the attorney with a statement that includes:

(1) the provisions of this subtitle that will be relied on at the hearing to establish that the proposed patient requires court-ordered temporary or extended inpatient mental health services;

(2) the reasons voluntary outpatient services are not considered appropriate for the proposed patient;

(3) the name, address, and telephone number of each witness who may testify at the hearing;

(4) a brief description of the reasons court-ordered temporary or extended inpatient or outpatient, as appropriate, mental health services are required; and

(5) a list of any acts committed by the proposed patient that the applicant will attempt to prove at the hearing.

(c) At the hearing, the judge may admit evidence or testimony that relates to matters not disclosed under Subsection

(b) if the admission would not deprive the proposed patient of a fair opportunity to contest the evidence or testimony.

(d) Except as provided by this subsection, not later than 48 hours before the time set for the hearing on the petition for commitment, the county or district attorney shall inform the proposed patient through the proposed patient's attorney whether the county or district attorney will request that the proposed patient be committed to inpatient services or outpatient services. The proposed patient, the proposed patient's attorney, and the county or district attorney may agree to waive the requirement of this subsection. The waiver must be made by the proposed patient:

(1) orally and in the presence of the court; or

(2) in writing and signed and sworn to under oath by the proposed patient and the proposed patient's attorney.

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

Amended by Acts 1997, 75th Leg., ch. 744, Sec. 1, eff. Sept. 1, 1997.

Sec. 574.008. COURT JURISDICTION AND TRANSFER. (a) A proceeding under Subchapter C or E must be held in the statutory or constitutional county court that has the jurisdiction of a probate court in mental illness matters.

(b) If the hearing is to be held in a county court in which the judge is not a licensed attorney, the proposed patient or the proposed patient's attorney may request that the proceeding be transferred to a court with a judge who is licensed to practice law in this state. The county judge shall transfer the case after receiving the request and the receiving court shall hear the case as if it had been originally filed in that court.

(c) If a patient is receiving temporary inpatient mental health services in a county other than the county that initiated the court-ordered inpatient mental health services and the patient requires extended inpatient mental health services, the county in which the proceedings originated shall pay the expenses of transporting the patient back to the county for the hearing unless the court that entered the temporary order arranges with the appropriate court in the county in which the patient is receiving

services to hold the hearing on court-ordered extended inpatient mental health services before the original order expires.

(d) If an order for outpatient services designates that such services be provided in a county other than the county in which the order was initiated, the court shall transfer the case to the appropriate court in the county in which the services are being provided. That court shall thereafter have exclusive, continuing jurisdiction of the case, including the receipt of the general treatment program required by Section 574.037(b).

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

Amended by Acts 1995, 74th Leg., ch. 770, Sec. 5, eff. June 16, 1995.

Sec. 574.0085. MASTERS. (a) The county judge may appoint a full-time or a part-time master to preside over the proceedings for court-ordered mental health services if the commissioners court of a county in which the court has jurisdiction authorizes the employment of a master.

(b) To be eligible for appointment as a master, a person must be a resident of this state and have been licensed to practice law in this state for at least four years or be a retired county judge, statutory or constitutional, with at least 10 years of service.

(c) A master shall be paid as determined by the commissioners court of the county in which the master serves. If a master serves in more than one county, the master shall be paid as determined by agreement of the commissioners courts of the counties in which the master serves. The master may be paid from county funds available for payment of officers' salaries.

(d) A master who serves a single court serves at the will of the judge of that court. The services of a master who serves more than two courts may be terminated by a majority vote of all the judges of the courts the master serves. The services of a master who serves two courts may be terminated by either of the judges of the courts the master serves.

(e) To refer cases to a master, the referring court must issue an order of referral. The order of referral may limit the



power or duties of a master.

(f) Except as limited by an order of referral, masters appointed under this section have all the powers and duties set forth in Section 201.007, Family Code.

(g) A bailiff may attend a hearing held by a master if directed by the referring court.

(h) A witness appearing before a master is subject to the penalties for perjury provided by law. A referring court may issue attachment against and may fine or imprison a witness whose failure to appear before a master after being summoned or whose refusal to answer questions has been certified to the court.

(i) At the conclusion of any hearing conducted by a master and on the preparation of a master's report, the master shall transmit to the referring court all papers relating to the case, with the master's signed and dated report. After the master's report has been signed, the master shall give to the parties participating in the hearing notice of the substance of the report. The master's report may contain the master's findings, conclusions, or recommendations. The master's report must be in writing in a form as the referring court may direct. The form may be a notation on the referring court's docket sheet. After the master's report is filed, the referring court may adopt, approve, or reject the master's report, hear further evidence, or recommit the matter for further proceedings as the referring court considers proper and necessary in the particular circumstances of the case.

(j) If a jury trial is demanded or required, the master shall refer the entire matter back to the referring court for trial.

(k) A master appointed under this section has the judicial immunity of a county judge.

(l) A master appointed in accordance with this section shall comply with the Code of Judicial Conduct in the same manner as the county judge.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 6.47, eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 770, Sec. 6, eff. June 16, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 7.45, eff. Sept. 1, 1997.

Sec. 574.009. REQUIREMENT OF MEDICAL EXAMINATION. (a) A hearing on an application for court-ordered mental health services may not be held unless there are on file with the court at least two certificates of medical examination for mental illness completed by different physicians each of whom has examined the proposed patient during the preceding 30 days. At least one of the physicians must be a psychiatrist if a psychiatrist is available in the county.

(b) If the certificates are not filed with the application, the judge or magistrate designated under Section 574.021(e) may appoint the necessary physicians to examine the proposed patient and file the certificates.

(c) The judge or designated magistrate may order the proposed patient to submit to the examination and may issue a warrant authorizing a peace officer to take the proposed patient into custody for the examination.

(d) If the certificates required under this section are not on file at the time set for the hearing on the application, the judge shall dismiss the application and order the immediate release of the proposed patient if that person is not at liberty. If extremely hazardous weather conditions exist or a disaster occurs, the presiding judge or magistrate may by written order made each day extend the period during which the two certificates of medical examination for mental illness may be filed, and the person may be detained until 4 p.m. on the first succeeding business day. The written order must declare that an emergency exists because of the weather or the occurrence of a disaster.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.  
Amended by Acts 1993, 73rd Leg., ch. 107, Sec. 6.48, eff. Aug. 30, 1993.

Sec. 574.010. INDEPENDENT PSYCHIATRIC EVALUATION AND EXPERT TESTIMONY. (a) The court may order an independent evaluation of the proposed patient by a psychiatrist chosen by the proposed patient if the court determines that the evaluation will assist the finder of fact. The psychiatrist may testify on behalf of the proposed patient.

(b) If the court determines that the proposed patient is

indigent, the court may authorize reimbursement to the attorney ad litem for court-approved expenses incurred in obtaining expert testimony and may order the proposed patient's county of residence to pay the expenses.

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

Sec. 574.011. CERTIFICATE OF MEDICAL EXAMINATION FOR MENTAL ILLNESS. (a) A certificate of medical examination for mental illness must be sworn to, dated, and signed by the examining physician. The certificate must include:

(1) the name and address of the examining physician;

(2) the name and address of the person examined;

(3) the date and place of the examination;

(4) a brief diagnosis of the examined person's physical and mental condition;

(5) the period, if any, during which the examined person has been under the care of the examining physician;

(6) an accurate description of the mental health treatment, if any, given by or administered under the direction of the examining physician; and

(7) the examining physician's opinion that:

(A) the examined person is mentally ill; and

(B) as a result of that illness the examined person is likely to cause serious harm to himself or to others or is:

(i) suffering severe and abnormal mental, emotional, or physical distress;

(ii) experiencing substantial mental or physical deterioration of his ability to function independently, which is exhibited by the proposed patient's inability, except for reasons of indigence, to provide for the proposed patient's basic needs, including food, clothing, health, or safety; and

(iii) not able to make a rational and informed decision as to whether to submit to treatment.

(b) The examining physician must specify in the certificate which criterion listed in Subsection (a)(7)(B) forms the basis for the physician's opinion.

(c) If the certificate is offered in support of an application for extended mental health services, the certificate must also include the examining physician's opinion that the examined person's condition is expected to continue for more than 90 days.

(d) If the certificate is offered in support of a motion for a protective custody order, the certificate must also include the examining physician's opinion that the examined person presents a substantial risk of serious harm to himself or others if not immediately restrained. The harm may be demonstrated by the examined person's behavior or by evidence of severe emotional distress and deterioration in the examined person's mental condition to the extent that the examined person cannot remain at liberty.

(e) The certificate must include the detailed reason for each of the examining physician's opinions under this section.  
Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.  
Amended by Acts 1997, 75th Leg., ch. 744, Sec. 2, eff. Sept. 1, 1997.

Sec. 574.012. RECOMMENDATION FOR TREATMENT. (a) The local mental health authority in the county in which an application is filed shall file with the court a recommendation for the most appropriate treatment alternative for the proposed patient.

(b) The court shall direct the local mental health authority to file, before the date set for the hearing, its recommendation for the proposed patient's treatment.

(c) If outpatient treatment is recommended, the local mental health authority will also file a statement as to whether the proposed mental health services are available.

(d) The hearing on an application may not be held before the recommendation for treatment is filed unless the court determines that an emergency exists.

(e) This section does not relieve a county of its responsibility under other provisions of this subtitle to diagnose, care for, or treat persons with mental illness.

(f) This section does not apply to a person for whom

treatment in a private mental health facility is proposed.  
Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.  
Amended by Acts 1997, 75th Leg., ch. 744, Sec. 3, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 367, Sec. 8, eff. Sept. 1, 2001.

Sec. 574.013. LIBERTY PENDING HEARING. The proposed patient is entitled to remain at liberty pending the hearing on the application unless the person is detained under an appropriate provision of this subtitle.

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

Sec. 574.014. COMPILATION OF MENTAL HEALTH COMMITMENT RECORDS. (a) The clerk of each court with jurisdiction to order commitment under this chapter shall provide the Office of Court Administration each month with a report of the number of applications for commitment orders for involuntary mental health services filed with the court and the disposition of those cases, including the number of commitment orders for inpatient and outpatient mental health services. The Office of Court Administration shall make the reported information available to the department annually.

(b) Subsection (a) does not require the production of confidential information or information protected under Section 571.015.

Added by Acts 1997, 75th Leg., ch. 744, Sec. 4, eff. Sept. 1, 1997.

#### SUBCHAPTER B. PROTECTIVE CUSTODY

Sec. 574.021. MOTION FOR ORDER OF PROTECTIVE CUSTODY.

(a) A motion for an order of protective custody may be filed only in the court in which an application for court-ordered mental health services is pending.

(b) The motion may be filed by the county or district attorney or on the court's own motion.

(c) The motion must state that:

(1) the judge or county or district attorney has reason to believe and does believe that the proposed patient meets the criteria authorizing the court to order protective custody;

and

(2) the belief is derived from:

(A) the representations of a credible person;

(B) the proposed patient's conduct; or

(C) the circumstances under which the proposed patient is found.

(d) The motion must be accompanied by a certificate of medical examination for mental illness prepared by a physician who has examined the proposed patient not earlier than the third day before the day the motion is filed.

(e) The judge of the court in which the application is pending may designate a magistrate to issue protective custody orders, including a magistrate appointed by the judge of another court if the magistrate has at least the qualifications required for a magistrate of the court in which the application is pending. A magistrate's duty under this section is in addition to the magistrate's duties prescribed by other law.

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

Amended by Acts 2001, 77th Leg., ch. 1278, Sec. 1, eff. June 15, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 202, Sec. 2, eff. September 1, 2007.

Sec. 574.022. ISSUANCE OF ORDER. (a) The judge or designated magistrate may issue a protective custody order if the judge or magistrate determines:

(1) that a physician has stated his opinion and the detailed reasons for his opinion that the proposed patient is mentally ill; and

(2) the proposed patient presents a substantial risk of serious harm to himself or others if not immediately restrained pending the hearing.

(b) The determination that the proposed patient presents a substantial risk of serious harm may be demonstrated by the proposed patient's behavior or by evidence of severe emotional distress and deterioration in the proposed patient's mental

condition to the extent that the proposed patient cannot remain at liberty.

(c) The judge or magistrate may make a determination that the proposed patient meets the criteria prescribed by Subsection (a) from the application and certificate alone if the judge or magistrate determines that the conclusions of the applicant and certifying physician are adequately supported by the information provided.

(d) The judge or magistrate may take additional evidence if a fair determination of the matter cannot be made from consideration of the application and certificate only.

(e) The judge or magistrate may issue a protective custody order for a proposed patient who is charged with a criminal offense if the proposed patient meets the requirements of this section and the facility administrator designated to detain the proposed patient agrees to the detention.

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

Sec. 574.023. APPREHENSION UNDER ORDER. (a) A protective custody order shall direct a person authorized to transport patients under Section 574.045 to take the proposed patient into protective custody and transport the person immediately to a mental health facility deemed suitable by the local mental health authority for the area. On request of the local mental health authority, the judge may order that the proposed patient be detained in an inpatient mental health facility operated by the department.

(b) The proposed patient shall be detained in the facility until a hearing is held under Section 574.025.

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

(d) 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 1999, 76th Leg., ch. 1512, Sec. 4, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 367, Sec. 9, eff. Sept. 1, 2001.

Sec. 574.024. APPOINTMENT OF ATTORNEY. (a) When a protective custody order is signed, the judge or designated magistrate shall appoint an attorney to represent a proposed patient who does not have an attorney.

(b) Within a reasonable time before a hearing is held under Section 574.025, the court that ordered the protective custody shall provide to the proposed patient and the proposed patient's attorney a written notice that states:

(1) that the proposed patient has been placed under a protective custody order;

(2) the grounds for the order; and

(3) the time and place of the hearing to determine probable cause.

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

Sec. 574.025. PROBABLE CAUSE HEARING. (a) A hearing must be held to determine if:

(1) there is probable cause to believe that a proposed patient under a protective custody order presents a substantial risk of serious harm to himself or others to the extent that he cannot be at liberty pending the hearing on court-ordered mental health services; and

(2) a physician has stated his opinion and the detailed reasons for his opinion that the proposed patient is mentally ill.

(b) The hearing must be held not later than 72 hours after the time that the proposed patient was detained under a protective custody order. If the period ends on a Saturday, Sunday, or legal holiday, the hearing must be held on the next day that is not a Saturday, Sunday, or legal holiday. The judge or magistrate may postpone the hearing each day for an additional 24 hours if the judge or magistrate declares that an extreme emergency exists because of extremely hazardous weather conditions or the occurrence of a disaster that threatens the safety of the proposed patient or another essential party to the hearing.

(c) The hearing shall be held before a magistrate or, at the



discretion of the presiding judge, before a master appointed by the presiding judge. Notwithstanding any other law or requirement, a master appointed to conduct a hearing under this section may practice law in the court the master serves. The master is entitled to reasonable compensation.

(d) The proposed patient and the proposed patient's attorney shall have an opportunity at the hearing to appear and present evidence to challenge the allegation that the proposed patient presents a substantial risk of serious harm to himself or others.

(e) The magistrate or master may consider evidence, including letters, affidavits, and other material, that may not be admissible or sufficient in a subsequent commitment hearing.

(f) The state may prove its case on the physician's certificate of medical examination filed in support of the initial motion.

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

Amended by Acts 1995, 74th Leg., ch. 101, Sec. 1, eff. May 16, 1995.

Sec. 574.026. ORDER FOR CONTINUED DETENTION. (a) The magistrate or master shall order that a proposed patient remain in protective custody if the magistrate or master determines after the hearing that an adequate factual basis exists for probable cause to believe that the proposed patient presents a substantial risk of serious harm to himself or others to the extent that he cannot remain at liberty pending the hearing on court-ordered mental health services.

(b) The magistrate or master shall arrange for the proposed patient to be returned to the mental health facility or other suitable place, along with copies of the certificate of medical examination, any affidavits or other material submitted as evidence in the hearing, and the notification prepared as prescribed by Subsection (d).

(c) A copy of the notification of probable cause hearing and the supporting evidence shall be filed with the court that entered the original order of protective custody.

(d) The notification of probable cause hearing shall read as

follows:

On this the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, the undersigned hearing officer heard evidence concerning the need for protective custody of \_\_\_\_\_ (hereinafter referred to as proposed patient). The proposed patient was given the opportunity to challenge the allegations that (s)he presents a substantial risk of serious harm to self or others.

(Style of Case)

NOTIFICATION OF PROBABLE CAUSE HEARING

The proposed patient and his attorney \_\_\_\_\_ have been  
(attorney)  
given written notice that the proposed patient was placed under an order of protective custody and the reasons for such order on \_\_\_\_\_.  
(date of notice)

I have examined the certificate of medical examination for mental illness and \_\_\_\_\_. Based on  
(other evidence considered)  
this evidence, I find that there is probable cause to believe that the proposed patient presents a substantial risk of serious harm to himself (yes \_\_\_ or no \_\_\_) or others (yes \_\_\_ or no \_\_\_) such that (s)he cannot be at liberty pending final hearing because \_\_\_\_\_.  
(reasons for finding; type of risk found)

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

Sec. 574.027. DETENTION IN PROTECTIVE CUSTODY. (a) A person under a protective custody order shall be detained in a mental health facility deemed suitable by the local mental health authority for the area. On request of the local mental health authority, the judge may order that the proposed patient be detained in an inpatient mental health facility operated by the department.

(b) The facility administrator or the administrator's designee shall detain a person under a protective custody order in the facility until a final order for court-ordered mental health services is entered or the person is released or discharged under Section 574.028.

(c) A person under a protective custody order may not be detained in a nonmedical facility used to detain persons who are charged with or convicted of a crime except because of and during an extreme emergency and in no case for longer than 72 hours, excluding Saturdays, Sundays, legal holidays, and the period prescribed by Section 574.025(b) for an extreme emergency. The person must be isolated from any person who is charged with or convicted of a crime.

(d) The county health authority shall ensure that proper care and medical attention are made available to a person who is detained in a nonmedical facility under Subsection (c).

(e) Repealed by Acts 2001, 77th Leg., ch. 367, Sec. 19, eff. Sept. 1, 2001.

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

Amended by Acts 2001, 77th Leg., ch. 367, Sec. 10, 19, eff. Sept. 1, 2001.

Sec. 574.028. RELEASE FROM DETENTION. (a) The magistrate or master shall order the release of a person under a protective custody order if the magistrate or master determines after the hearing under Section 574.025 that no probable cause exists to believe that the proposed patient presents a substantial risk of serious harm to himself or others.

(b) Arrangements shall be made to return a person released under Subsection (a) to:

- (1) the location of the person's apprehension;
- (2) the person's residence in this state; or
- (3) another suitable location.

(c) A facility administrator shall discharge a person held under a protective custody order if:

(1) the facility administrator does not receive notice that the person's continued detention is authorized after a probable cause hearing held within 72 hours after the detention began, excluding Saturdays, Sundays, legal holidays, and the period prescribed by Section 574.025(b) for extreme emergencies;

(2) a final order for court-ordered mental health services has not been entered within the time prescribed by Section

574.005; or

(3) the facility administrator or the administrator's designee determines that the person no longer meets the criteria for protective custody prescribed by Section 574.022.

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

#### SUBCHAPTER C. PROCEEDINGS FOR COURT-ORDERED MENTAL HEALTH SERVICES

##### Sec. 574.031. GENERAL PROVISIONS RELATING TO HEARING.

(a) Except as provided by Subsection (b), the judge may hold a hearing on an application for court-ordered mental health services at any suitable location in the county. The hearing should be held in a physical setting that is not likely to have a harmful effect on the proposed patient.

(b) On the request of the proposed patient or the proposed patient's attorney the hearing on the application shall be held in the county courthouse.

(c) The proposed patient is entitled to be present at the hearing. The proposed patient or the proposed patient's attorney may waive this right.

(d) The hearing must be open to the public unless the proposed patient or the proposed patient's attorney requests that the hearing be closed and the judge determines that there is good cause to close the hearing.

(e) The Texas Rules of Evidence apply to the hearing unless the rules are inconsistent with this subtitle.

(f) The court may consider the testimony of a nonphysician mental health professional in addition to medical or psychiatric testimony.

(g) The hearing is on the record, and the state must prove each element of the applicable criteria by clear and convincing evidence.

(h) A judge who holds a hearing under this section in hospitals or locations other than the county courthouse is entitled to be reimbursed for the judge's reasonable and necessary expenses related to holding a hearing at that location. The judge shall furnish the presiding judge of the statutory probate courts or the presiding judge of the administrative region, as appropriate, an

accounting of the expenses for certification. The presiding judge shall provide a certification of expenses approved to the county judge responsible for payment of costs under Section 571.018.

(i) A judge who holds hearings at locations other than the county courthouse also may receive a reasonable salary supplement in an amount set by the commissioners court.

(j) Notwithstanding other law, a judge who holds a hearing under this section may assess for the judge's services a fee in an amount not to exceed \$50 as a court cost against the county responsible for the payment of the costs of the hearing under Section 571.018.

(k) Notwithstanding other law, a judge who holds a hearing under this section may assess for the services of a prosecuting attorney a fee in an amount not to exceed \$50 as a court cost against the county responsible for the payment of the costs of the hearing under Section 571.018. For a mental health proceeding, the fee assessed under this subsection includes costs incurred for the preparation of documents related to the proceeding. The court may award as court costs fees for other costs of a mental health proceeding against the county responsible for the payment of the costs of the hearing under Section 571.018.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.  
Amended by Acts 1997, 75th Leg., ch. 1354, Sec. 1, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1252, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 10.006, eff. Sept. 1, 2001.

Sec. 574.032. RIGHT TO JURY. (a) A hearing for temporary mental health services must be before the court unless the proposed patient or the proposed patient's attorney requests a jury.

(b) A hearing for extended mental health services must be before a jury unless the proposed patient or the proposed patient's attorney waives the right to a jury.

(c) A waiver of the right to a jury must be in writing, under oath, and signed and sworn to by the proposed patient and the proposed patient's attorney unless the proposed patient or the attorney orally waives the right to a jury in the court's presence.

(d) The court may permit an oral or written waiver of the

right to a jury to be withdrawn for good cause shown. The withdrawal must be made not later than the eighth day before the date on which the hearing is scheduled.

(e) A court may not require a jury fee.

(f) In a hearing before a jury, the jury shall determine if the proposed patient is mentally ill and meets the criteria for court-ordered mental health services. The jury may not make a finding about the type of services to be provided to the proposed patient.

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

Sec. 574.033. RELEASE AFTER HEARING. (a) The court shall enter an order denying an application for court-ordered temporary or extended mental health services if after a hearing the court or jury fails to find, from clear and convincing evidence, that the proposed patient is mentally ill and meets the applicable criteria for court-ordered mental health services.

(b) If the court denies the application, the court shall order the immediate release of a proposed patient who is not at liberty.

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

Sec. 574.034. ORDER FOR TEMPORARY MENTAL HEALTH SERVICES.

(a) The judge may order a proposed patient to receive court-ordered temporary inpatient mental health services only if the judge or jury finds, from clear and convincing evidence, that:

(1) the proposed patient is mentally ill; and

(2) as a result of that mental illness the proposed patient:

(A) is likely to cause serious harm to himself;

(B) is likely to cause serious harm to others; or

(C) is:

(i) suffering severe and abnormal mental, emotional, or physical distress;

(ii) experiencing substantial mental or physical deterioration of the proposed patient's ability to function independently, which is exhibited by the proposed

patient's inability, except for reasons of indigence, to provide for the proposed patient's basic needs, including food, clothing, health, or safety; and

(iii) unable to make a rational and informed decision as to whether or not to submit to treatment.

(b) The judge may order a proposed patient to receive court-ordered temporary outpatient mental health services only if:

(1) the judge finds that appropriate mental health services are available to the patient; and

(2) the judge or jury finds, from clear and convincing evidence, that:

(A) the proposed patient is mentally ill;

(B) the nature of the mental illness is severe and persistent;

(C) as a result of the mental illness, the proposed patient will, if not treated, continue to:

(i) suffer severe and abnormal mental, emotional, or physical distress; and

(ii) experience deterioration of the ability to function independently to the extent that the proposed patient will be unable to live safely in the community without court-ordered outpatient mental health services; and

(D) the proposed patient has an inability to participate in outpatient treatment services effectively and voluntarily, demonstrated by:

(i) any of the proposed patient's actions occurring within the two-year period which immediately precedes the hearing; or

(ii) specific characteristics of the proposed patient's clinical condition that make impossible a rational and informed decision whether to submit to voluntary outpatient treatment.

(c) If the judge or jury finds that the proposed patient meets the commitment criteria prescribed by Subsection (a), the judge or jury must specify which criterion listed in Subsection (a)(2) forms the basis for the decision.

(d) To be clear and convincing under Subsection (a), the

evidence must include expert testimony and, unless waived, evidence of a recent overt act or a continuing pattern of behavior that tends to confirm:

(1) the likelihood of serious harm to the proposed patient or others; or

(2) the proposed patient's distress and the deterioration of the proposed patient's ability to function.

(e) To be clear and convincing under Subdivision (b)(2), the evidence must include expert testimony and, unless waived, evidence of a recent overt act or a continuing pattern of behavior that tends to confirm:

(1) the proposed patient's distress;

(2) the deterioration of ability to function independently to the extent that the proposed patient will be unable to live safely in the community; and

(3) the proposed patient's inability to participate in outpatient treatment services effectively and voluntarily.

(f) The proposed patient and the proposed patient's attorney, by a written document filed with the court, may waive the right to cross-examine witnesses, and, if that right is waived, the court may admit, as evidence, the certificates of medical examination for mental illness. The certificates admitted under this subsection constitute competent medical or psychiatric testimony, and the court may make its findings solely from the certificates. If the proposed patient and the proposed patient's attorney do not waive in writing the right to cross-examine witnesses, the court shall proceed to hear testimony. The testimony must include competent medical or psychiatric testimony. In addition, the court may consider the testimony of a nonphysician mental health professional as provided by Section 574.031(f).

(g) An order for temporary inpatient or outpatient mental health services shall state that treatment is authorized for not longer than 90 days. The order may not specify a shorter period.

(h) A judge may not issue an order for temporary inpatient or outpatient mental health services for a proposed patient who is charged with a criminal offense that involves an act, attempt, or threat of serious bodily injury to another person.



(i) A judge may advise, but may not compel, the proposed patient to:

(1) receive treatment with psychoactive medication as specified by the outpatient mental health services treatment plan;

(2) participate in counseling; and

(3) refrain from the use of alcohol or illicit drugs.

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

Amended by Acts 1993, 73rd Leg., ch. 107, Sec. 6.49, eff. Aug. 30,

1993; Acts 1995, 74th Leg., ch. 770, Sec. 7, eff. June 16, 1995;

Acts 1997, 75th Leg., ch. 744, Sec. 5, eff. Sept. 1, 1997.

Sec. 574.035. ORDER FOR EXTENDED MENTAL HEALTH SERVICES.

(a) The judge may order a proposed patient to receive court-ordered extended inpatient mental health services only if the jury, or the judge if the right to a jury is waived, finds, from clear and convincing evidence, that:

(1) the proposed patient is mentally ill;

(2) as a result of that mental illness the proposed patient:

(A) is likely to cause serious harm to himself;

(B) is likely to cause serious harm to others; or

(C) is:

(i) suffering severe and abnormal mental, emotional, or physical distress;

(ii) experiencing substantial mental or physical deterioration of the proposed patient's ability to function independently, which is exhibited by the proposed patient's inability, except for reasons of indigence, to provide for the proposed patient's basic needs, including food, clothing, health, or safety; and

(iii) unable to make a rational and informed decision as to whether or not to submit to treatment;

(3) the proposed patient's condition is expected to continue for more than 90 days; and

(4) the proposed patient has received court-ordered inpatient mental health services under this subtitle or under Chapter 46B, Code of Criminal Procedure, for at least 60

consecutive days during the preceding 12 months.

(b) The judge may order a proposed patient to receive court-ordered extended outpatient mental health services only if:

(1) the judge finds that appropriate mental health services are available to the patient; and

(2) the jury, or the judge if the right to a jury is waived, finds from clear and convincing evidence that:

(A) the proposed patient is mentally ill;

(B) the nature of the mental illness is severe and persistent;

(C) as a result of the mental illness, the proposed patient will, if not treated, continue to:

(i) suffer severe and abnormal mental, emotional, or physical distress; and

(ii) experience deterioration of the ability to function independently to the extent that the proposed patient will be unable to live safely in the community without court-ordered outpatient mental health services;

(D) the proposed patient has an inability to participate in outpatient treatment services effectively and voluntarily, demonstrated by:

(i) any of the proposed patient's actions occurring within the two-year period which immediately precedes the hearing; or

(ii) specific characteristics of the proposed patient's clinical condition that make impossible a rational and informed decision whether to submit to voluntary outpatient treatment;

(E) the proposed patient's condition is expected to continue for more than 90 days; and

(F) the proposed patient has received court-ordered inpatient mental health services under this subtitle or under Subchapter D or E, Chapter 46B, Code of Criminal Procedure, for at least 60 consecutive days during the preceding 12 months.

(c) If the jury or judge finds that the proposed patient meets the commitment criteria prescribed by Subsection (a), the jury or judge must specify which criterion listed in Subsection

(a)(2) forms the basis for the decision.

(d) The jury or judge is not required to make the finding under Subsection (a)(4) or (b)(2)(F) if the proposed patient has already been subject to an order for extended mental health services.

(e) To be clear and convincing under Subsection (a), the evidence must include expert testimony and evidence of a recent overt act or a continuing pattern of behavior that tends to confirm:

(1) the likelihood of serious harm to the proposed patient or others; or

(2) the proposed patient's distress and the deterioration of the proposed patient's ability to function.

(f) To be clear and convincing under Subdivision (b)(2), the evidence must include expert testimony and evidence of a recent overt act or a continuing pattern of behavior that tends to confirm:

(1) the proposed patient's distress;

(2) the deterioration of ability to function independently to the extent that the proposed patient will be unable to live safely in the community; and

(3) the proposed patient's inability to participate in outpatient treatment services effectively and voluntarily.

(g) The court may not make its findings solely from the certificates of medical examination for mental illness but shall hear testimony. The court may not enter an order for extended mental health services unless appropriate findings are made and are supported by testimony taken at the hearing. The testimony must include competent medical or psychiatric testimony.

(h) An order for extended inpatient or outpatient mental health services shall state that treatment is authorized for not longer than 12 months. The order may not specify a shorter period.

(i) A judge may not issue an order for extended inpatient or outpatient mental health services for a proposed patient who is charged with a criminal offense that involves an act, attempt, or threat of serious bodily injury to another person.

(j) A judge may advise, but may not compel, the proposed patient to:

(1) receive treatment with psychoactive medication as

specified by the outpatient mental health services treatment plan;

(2) participate in counseling; and

(3) refrain from the use of alcohol or illicit drugs.

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

Amended by Acts 1995, 74th Leg., ch. 770, Sec. 8, eff. June 16, 1995; Acts 1997, 75th Leg., ch. 312, Sec. 5, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 744, Sec. 6, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 238, Sec. 1, eff. May 28, 1999; Acts 2003, 78th Leg., ch. 35, Sec. 12, eff. Jan. 1, 2004.

Sec. 574.036. ORDER OF CARE OR COMMITMENT. (a) The judge shall dismiss the jury, if any, after a hearing in which a person is found to be mentally ill and to meet the criteria for court-ordered temporary or extended mental health services.

(b) The judge may hear additional evidence relating to alternative settings for care before entering an order relating to the setting for the care the person will receive.

(c) The judge shall consider in determining the setting for care the recommendation for the most appropriate treatment alternative filed under Section 574.012.

(d) The judge shall order the mental health services provided in the least restrictive appropriate setting available.

(e) The judge may enter an order:

(1) committing the person to a mental health facility for inpatient care if the trier of fact finds that the person meets the commitment criteria prescribed by Section 574.034(a) or 574.035(a); or

(2) committing the person to outpatient mental health services if the trier of fact finds that the person meets the commitment criteria prescribed by Section 574.034(b) or 574.035(b).

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

Amended by Acts 1997, 75th Leg., ch. 744, Sec. 7, eff. Sept. 1, 1997.

Sec. 574.037. COURT-ORDERED OUTPATIENT SERVICES. (a) The court, in an order that directs a patient to participate in

outpatient mental health services, shall identify a person who is responsible for those services. The person identified must be the facility administrator or an individual involved in providing court-ordered outpatient services. A person may not be designated as responsible for the ordered services without the person's consent unless the person is the facility administrator of a department facility or the facility administrator of a community center that provides mental health services in the region in which the committing court is located.

(b) The person responsible for the services shall submit to the court within two weeks after the court enters the order a general program of the treatment to be provided. The program must be incorporated into the court order.

(c) The person responsible for the services shall inform the court of:

(1) the patient's failure to comply with the court order; and

(2) any substantial change in the general program of treatment that occurs before the order expires.

(d) A facility must comply with this section to the extent that the commissioner determines that the designated mental health facility has sufficient resources to perform the necessary services.

(e) A patient 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.

#### SUBCHAPTER D. DESIGNATION OF FACILITY AND TRANSPORTATION OF PATIENT

Sec. 574.041. DESIGNATION OF FACILITY. (a) In an order for temporary or extended mental health services specifying inpatient care, the court shall commit the patient to a designated inpatient mental health facility. The court shall commit the patient to:

(1) a mental health facility deemed suitable by the local mental health authority for the area;

(2) a private mental hospital under Section 574.042;

(3) a hospital operated by a federal agency under

Section 574.043; or

(4) an inpatient mental health facility of the institutional division of the Texas Department of Criminal Justice under Section 574.044.

(b) On request of the local mental health authority, the judge may commit the patient directly to an inpatient mental health facility operated by the department.

(c) A court may not commit a patient to an inpatient mental health facility operated by a community center or other entity designated by the department to provide mental health services unless the facility is licensed under Chapter 577 and the court notifies the local mental health authority serving the region in which the commitment is made.

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

Amended by Acts 1999, 76th Leg., ch. 543, Sec. 3, eff. June 18, 1999; Acts 2001, 77th Leg., ch. 367, Sec. 11, eff. Sept. 1, 2001.

Sec. 574.0415. INFORMATION ON MEDICATIONS. (a) A mental health facility shall provide to a patient in the patient's primary language, if possible, and in accordance with board rules information relating to prescription medication ordered by the patient's treating physician.

(b) The facility shall also provide the information to the patient's family on request, but only to the extent not otherwise prohibited by state or federal confidentiality laws.

Added by Acts 1993, 73rd Leg., ch. 903, Sec. 1.05, eff. May 1, 1994.

Amended by Acts 1997, 75th Leg., ch. 337, Sec. 3, eff. May 27, 1997.

Sec. 574.042. COMMITMENT TO PRIVATE FACILITY. The court may order a patient committed to a private mental hospital at no expense to the state if the court receives:

(1) an application signed by the patient or the patient's guardian or next friend requesting that the patient be placed in a designated private mental hospital at the patient's or applicant's expense; and

(2) written agreement from the hospital administrator of the private mental hospital to admit the patient and to accept

responsibility for the patient in accordance with this subtitle.  
Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 574.043. COMMITMENT TO FEDERAL FACILITY. (a) A court may order a patient committed to a federal agency that operates a mental hospital if the court receives written notice from the agency that facilities are available and that the patient is eligible for care or treatment in a facility. The court may place the patient in the agency's custody for transportation to the mental hospital.

(b) A patient admitted under court order to a hospital operated by a federal agency, regardless of location, is subject to the agency's rules.

(c) The hospital administrator has the same authority and responsibility with respect to the patient as the facility administrator of an inpatient mental health facility operated by the department.

(d) The appropriate courts of this state retain jurisdiction to inquire at any time into the patient's mental condition and the necessity of the patient's continued hospitalization.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.  
Amended by Acts 2001, 77th Leg., ch. 367, Sec. 12, eff. Sept. 1, 2001.

Sec. 574.044. COMMITMENT TO FACILITY OF THE INSTITUTIONAL DIVISION OF THE TEXAS DEPARTMENT OF CRIMINAL JUSTICE. The court shall commit an inmate patient to an inpatient mental health facility of the institutional division of the Texas Department of Criminal Justice if the court enters an order requiring temporary mental health services for the inmate patient under an application filed by a psychiatrist for the institutional division under Section 501.057, Government Code.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.  
Amended by Acts 1993, 73rd Leg., ch. 107, Sec. 6.50, eff. Aug. 30, 1993.

Sec. 574.045. TRANSPORTATION OF PATIENT. (a) The court may 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:

(1) a relative or other responsible person who has a proper interest in the patient's welfare and who receives no remuneration, except for actual and necessary expenses;

(2) the facility administrator of the designated mental health facility, if the administrator notifies the court that facility personnel are available to transport the patient;

(3) a special officer for mental health assignment certified under Section 1701.404, Occupations Code;

(4) a representative of the local mental health authority, who shall be reimbursed by the county; or

(5) the sheriff or constable, if no person is available under Subdivision (1), (2), (3), or (4).

(b) The court shall 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. The payment of an expense incurred under this subsection is governed by Section 571.018.

(c) The patient's friends and relatives may accompany the patient at their own expense.

(d) A female patient must be accompanied by a female attendant unless the patient is accompanied by her father, husband, or adult brother or son.

(e) The patient may not be transported in a marked police or sheriff's car or accompanied by a uniformed officer unless other means are not available.

(f) The patient may not be transported with a state prisoner.

(g) The patient may not be physically restrained unless necessary to protect the health and safety of the patient or of a person traveling with the patient. If the treating physician or the person transporting a patient determines that physical restraint of the patient is necessary, that person shall document the reasons



for that determination and the duration for which the restraints are needed. The person transporting the patient shall deliver the document to the facility at the time the patient is delivered. The facility shall include the document in the patient's clinical record.

(h) The patient must be transported directly to the facility within a reasonable amount of time and without undue delay.

(i) All vehicles used to transport patients under this section must be adequately heated in cold weather and adequately ventilated in warm weather.

(j) Special diets or other medical precautions recommended by the patient's physician must be followed.

(k) The person transporting the patient shall give the patient reasonable opportunities to get food and water and to use a bathroom.

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. 5.20, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 60, Sec. 20, eff. Sept. 1, 1993; Acts 1999, 76th Leg., ch. 1512, Sec. 5, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 14.804, eff. Sept. 1, 2001.

Sec. 574.046. WRIT OF COMMITMENT. The court shall direct the court clerk to issue to the person authorized to transport the patient two writs of commitment requiring the person to take custody of and transport the patient to the designated mental health facility.

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

Sec. 574.047. TRANSCRIPT. (a) The court clerk shall prepare a certified transcript of the proceedings in the hearing on court-ordered mental health services.

(b) The clerk shall send the transcript and any available information relating to the medical, social, and economic status and history of the patient and the patient's family to the designated mental health facility with the patient. The person authorized to transport the patient shall deliver the transcript and information to the facility personnel in charge of admissions.

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

Sec. 574.048. ACKNOWLEDGMENT OF PATIENT DELIVERY. The facility administrator, after receiving a copy of the writ of commitment and after admitting the patient, shall:

(1) give the person transporting the patient a written statement acknowledging acceptance of the patient and of any personal property belonging to the patient; and

(2) file a copy of the statement with the clerk of the committing court.

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

#### SUBCHAPTER E. POST-COMMITMENT PROCEEDINGS

Sec. 574.061. MODIFICATION OF ORDER FOR INPATIENT TREATMENT. (a) The facility administrator of a facility to which a patient is committed for inpatient mental health services may request the court that entered the commitment order to modify the order to require the patient to participate in outpatient mental health services.

(b) The facility administrator's request must explain in detail the reason for the request. The request must be accompanied by a certificate of medical examination for mental illness signed by a physician who examined the patient during the seven days preceding the request.

(c) The patient shall be given notice of the request.

(d) On request of the patient or any other interested person, the court shall hold a hearing on the request. The court shall appoint an attorney to represent the patient at the hearing. The hearing shall be held before the court without a jury and as prescribed by Section 574.031. The patient shall be represented by an attorney and receive proper notice.

(e) If a hearing is not requested, the court may make the decision solely from the request and the supporting certificate.

(f) If the court modifies the order, the court shall identify a person to be responsible for the outpatient services as prescribed by Section 574.037.

(g) The person responsible for the services must comply with

Section 574.037(b).

(h) A modified order may not extend beyond the term of the original order.

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

Sec. 574.062. MOTION FOR MODIFICATION OF ORDER FOR OUTPATIENT TREATMENT. (a) The court that entered an order directing a patient to participate in outpatient mental health services may set a hearing to determine if the order should be modified in a way that is a substantial deviation from the original program of treatment incorporated in the court's order. The court may set the hearing on its own motion, at the request of the person responsible for the treatment, or at the request of any other interested person.

(b) The court shall appoint an attorney to represent the patient if a hearing is scheduled. The patient shall be given notice of the matters to be considered at the hearing. The notice must comply with the requirements of Section 574.006 for notice before a hearing on court-ordered mental health services.

(c) The hearing shall be held before the court, without a jury, and as prescribed by Section 574.031. The patient shall be represented by an attorney and receive proper notice.

(d) The court shall set a date for a hearing on the motion to be held not later than the seventh day after the date the motion is filed. The court may grant one or more continuances of the hearing on the motion by a party and for good cause shown or on agreement of the parties. Except as provided by Subsection (e), the court shall hold the hearing not later than the 14th day after the date the motion is filed.

(e) If extremely hazardous weather conditions exist or a disaster occurs that threatens the safety of the proposed patient or other essential parties to the hearing, the court, by written order made each day, may postpone the hearing for not more than 24 hours. The written order must declare that an emergency exists because of the weather or the occurrence of a disaster.

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

Amended by Acts 1997, 75th Leg., ch. 191, Sec. 1, eff. Sept. 1,

1997.

Sec. 574.063. ORDER FOR TEMPORARY DETENTION. (a) The person responsible for a patient's court-ordered outpatient treatment or the facility administrator of the outpatient facility in which a patient receives treatment may file a sworn application for the patient's temporary detention pending the modification hearing under Section 574.062.

(b) The application must state the applicant's opinion and detail the reasons for the applicant's opinion that:

(1) the patient meets the criteria described by Section 574.065(a); and

(2) detention in an inpatient mental health facility is necessary to evaluate the appropriate setting for continued court-ordered services.

(c) The court may issue an order for temporary detention if a modification hearing is set and the court finds from the information in the application that there is probable cause to believe that the opinions stated in the application are valid.

(d) At the time the temporary detention order is signed, the judge shall appoint an attorney to represent a patient who does not have an attorney.

(e) Within 24 hours after the time detention begins, the court that issued the temporary detention order shall provide to the patient and the patient's attorney a written notice that states:

(1) that the patient has been placed under a temporary detention order;

(2) the grounds for the order; and

(3) the time and place of the modification hearing.

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

Sec. 574.064. APPREHENSION AND RELEASE UNDER TEMPORARY DETENTION ORDER. (a) A temporary detention order shall direct a peace officer or other designated person to take the patient into custody and transport the patient immediately to:

(1) the nearest appropriate inpatient mental health

facility; or

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

(b) A patient may be detained under a temporary detention order for more than 72 hours, excluding Saturdays, Sundays, legal holidays, and the period prescribed by Section 574.025(b) for an extreme emergency only if, after a hearing held before the expiration of that period, the court, a magistrate, or a designated master finds that there is probable cause to believe that:

(1) the patient meets the criteria described by Section 574.065(a); and

(2) detention in an inpatient mental health facility is necessary to evaluate the appropriate setting for continued court-ordered services.

(c) If probable cause is found under Subsection (b), the patient may be detained under the temporary detention until the hearing set under Section 574.062 is completed.

(d) A facility administrator shall immediately release a patient held under a temporary detention order if the facility administrator does not receive notice that the patient's continued detention is authorized:

(1) after a probable cause hearing held within 72 hours after the patient's detention begins; or

(2) after a modification hearing held within the period prescribed by Section 574.062.

(e) A patient released from an inpatient mental health facility under Subsection (d) continues to be subject to the order for court-ordered outpatient services, if the order has not expired.

(f) A person detained under this section may not be detained in a nonmedical facility used to detain persons charged with or convicted of a crime.

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

Amended by Acts 1997, 75th Leg., ch. 191, Sec. 2, eff. Sept. 1,

1997; Acts 2001, 77th Leg., ch. 367, Sec. 13, eff. Sept. 1, 2001.

Sec. 574.065. ORDER OF MODIFICATION OF ORDER FOR OUTPATIENT SERVICES. (a) The court may modify an order for outpatient services at the modification hearing if the court determines that the patient meets the applicable criteria for court-ordered mental health services prescribed by Section 574.034(a) or 574.035(a).

(b) The court may refuse to modify the order and may direct the patient to continue to participate in outpatient mental health services in accordance with the original order even if the criteria prescribed by Subsection (a) have been met.

(c) The court's decision to modify an order must be supported by at least one certificate of medical examination for mental illness signed by a physician who examined the patient not earlier than the seventh day before the date on which the hearing is held.

(d) A modification may include:

(1) incorporating in the order a revised treatment program and providing for continued outpatient mental health services under the modified order, if a revised general program of treatment was submitted to and accepted by the court; or

(2) providing for commitment to an inpatient mental health facility.

(e) A court may not extend the provision of mental health services beyond the period prescribed in the original order.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.  
Amended by Acts 1997, 75th Leg., ch. 744, Sec. 8, eff. Sept. 1, 1997.

Sec. 574.066. RENEWAL OF ORDER FOR EXTENDED MENTAL HEALTH SERVICES. (a) A county or district attorney or other adult may file an application to renew an order for extended mental health services.

(b) The application must explain in detail why the person requests renewal. An application to renew an order committing the patient to extended inpatient mental health services must also explain in detail why a less restrictive setting is not appropriate.

(c) The application must be accompanied by two certificates

of medical examination for mental illness signed by physicians who examined the patient during the 30 days preceding the date on which the application is filed.

(d) The court shall appoint an attorney to represent the patient when an application is filed.

(e) The patient, the patient's attorney, or other individual may request a hearing on the application. The court may set a hearing on its own motion. An application for which a hearing is requested or set is considered an original application for court-ordered extended mental health services.

(f) A court may not renew an order unless the court finds that the patient meets the criteria for extended mental health services prescribed by Sections 574.035(a)(1), (2), and (3). The court must make the findings prescribed by this subsection to renew an order, regardless of whether a hearing is requested or set. A renewed order authorizes treatment for not more than 12 months.

(g) If a hearing is not requested or set, the court may admit into evidence the certificates of medical examination for mental illness. The certificates constitute competent medical or psychiatric testimony and the court may make its findings solely from the certificates and the detailed request for renewal.

(h) The court, after renewing an order for extended inpatient mental health services, may modify the order to provide for outpatient mental health services in accordance with Section 574.037.

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

Sec. 574.067. MOTION FOR REHEARING. (a) The court may set aside an order requiring court-ordered mental health services and grant a motion for rehearing for good cause shown.

(b) Pending the hearing, the court may:

(1) stay the court-ordered mental health services and release the proposed patient from custody before the hearing if the court is satisfied that the proposed patient does not meet the criteria for protective custody under Section 574.022; and

(2) if the proposed patient is at liberty, require an appearance bond in an amount set by the court.

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

Sec. 574.068. REQUEST FOR REEXAMINATION. (a) A patient receiving court-ordered extended mental health services, or any interested person on the patient's behalf and with the patient's consent, may file a request with a court for a reexamination and a hearing to determine if the patient continues to meet the criteria for the services.

(b) The request must be filed in the county in which the patient is receiving the services.

(c) The court may, for good cause shown:

- (1) require that the patient be reexamined;
- (2) schedule a hearing on the request; and
- (3) notify the facility administrator of the facility providing mental health services to the patient.

(d) A court is not required to order a reexamination or hearing if the request is filed within six months after an order for extended mental health services is entered or after a similar request is filed.

(e) After receiving the court's notice, the facility administrator shall arrange for the patient to be reexamined.

(f) The facility administrator or the administrator's qualified authorized designee shall immediately discharge the patient if the facility administrator or designee determines that the patient no longer meets the criteria for court-ordered extended mental health services.

(g) If the facility administrator or the administrator's designee determines that the patient continues to meet the criteria for court-ordered extended mental health services, the facility administrator or designee shall file a certificate of medical examination for mental illness with the court within 10 days after the date on which the request for reexamination and hearing is filed.

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

Sec. 574.069. HEARING ON REQUEST FOR REEXAMINATION. (a) A court that required a patient's reexamination under Section 574.068



may set a date and place for a hearing on the request if, not later than the 10th day after the date on which the request is filed:

(1) a certificate of medical examination for mental illness stating that the patient continues to meet the criteria for court-ordered extended mental health services has been filed; or

(2) a certificate has not been filed and the patient has not been discharged.

(b) At the time the hearing is set, the judge shall:

(1) appoint an attorney to represent a patient who does not have an attorney; and

(2) give notice of the hearing to the patient, the patient's attorney, and the facility administrator.

(c) The judge shall appoint a physician to examine the patient and file a certificate of medical examination for mental illness with the court. The judge shall appoint a physician who is not on the staff of the mental health facility in which the patient is receiving services and who is a psychiatrist if a psychiatrist is available in the county. The court shall ensure that the patient may be examined by a physician of the patient's choice and at the patient's own expense if requested by the patient.

(d) The hearing is held before the court and without a jury. The hearing must be held in accordance with the requirements for a hearing on an application for court-ordered mental health services.

(e) The court shall dismiss the request if the court finds from clear and convincing evidence that the patient continues to meet the criteria for court-ordered extended mental health services prescribed by Section 574.035.

(f) The judge shall order the facility administrator to discharge the patient if the court fails to find from clear and convincing evidence that the patient continues to meet the criteria.

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

Sec. 574.070. APPEAL. (a) An appeal from an order requiring court-ordered mental health services, or from a renewal or modification of an order, must be filed in the court of appeals for the county in which the order is entered.

(b) Notice of appeal must be filed not later than the 10th day after the date on which the order is signed.

(c) When an appeal is filed, the clerk shall immediately send a certified transcript of the proceedings to the court of appeals.

(d) Pending the appeal, the trial judge in whose court the cause is pending may:

(1) stay the order and release the patient from custody before the appeal if the judge is satisfied that the patient does not meet the criteria for protective custody under Section 574.022; and

(2) if the proposed patient is at liberty, require an appearance bond in an amount set by the court.

(e) The court of appeals and supreme court shall give an appeal under this section preference over all other cases and shall advance the appeal on the docket. The courts may suspend all rules relating to the time for filing briefs and docketing cases.

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

SUBCHAPTER F. FURLOUGH, DISCHARGE, AND TERMINATION OF  
COURT-ORDERED MENTAL HEALTH SERVICES

Sec. 574.081. CONTINUING CARE PLAN BEFORE FURLOUGH OR DISCHARGE. (a) The physician responsible for the patient's treatment shall prepare a continuing care plan for a patient who is scheduled to be furloughed or discharged unless the patient does not require continuing care.

(b) The physician shall prepare the plan as prescribed by department rules and shall consult the patient and the local mental health authority in the area in which the patient will reside before preparing the plan. The local mental health authority is not required to participate in preparing a plan for a patient furloughed or discharged from a private mental health facility.

(c) The plan must address the patient's mental health and physical needs, including, if appropriate:

(1) the need for sufficient medication on furlough or discharge to last until the patient can see a physician; and

(2) the person or entity that is responsible for

providing and paying for the medication.

(d) The physician shall deliver the plan and other appropriate information to the community center or other provider that will deliver the services if:

(1) the services are provided by:

(A) a community center or other provider that serves the county in which the patient will reside and that has been designated by the commissioner to perform continuing care services; or

(B) any other provider that agrees to accept the referral; and

(2) the provision of care by the center or provider is appropriate.

(e) The facility administrator or the administrator's designee shall have the right of access to discharged patients and records of patients who request continuing care services.

(f) A patient who is to be discharged may refuse the continuing care services.

(g) A physician who believes that a patient does not require continuing care and who does not prepare a continuing care plan under this section shall document in the patient's treatment record the reasons for that belief.

(h) Subsection (c) does not create a mandate that a facility described by Section 571.003(9)(B) or (E) provide or pay for a medication for a patient.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.  
Amended by Acts 1993, 73rd Leg., ch. 646, Sec. 12, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 705, Sec. 4.04, 4.05, eff. Aug. 30, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 17.01(33), eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 367, Sec. 14, eff. June 15, 2001; Acts 2001, 77th Leg., ch. 1066, Sec. 1, eff. Sept. 1, 2001.

Sec. 574.082. PASS OR FURLOUGH FROM INPATIENT CARE.

(a) The facility administrator may permit a patient admitted to the facility under an order for temporary or extended inpatient mental health services to leave the facility under a pass or furlough.

(b) A pass authorizes the patient to leave the facility for not more than 72 hours. A furlough authorizes the patient to leave for a longer period.

(c) The pass or furlough may be subject to specified conditions.

(d) When a patient is furloughed, the facility administrator shall notify the court that issued the commitment order.

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

Sec. 574.083. RETURN TO FACILITY UNDER CERTIFICATE OF FACILITY ADMINISTRATOR OR COURT ORDER. (a) The facility administrator of a facility to which a patient was admitted for court-ordered inpatient health care services may authorize a peace officer of the municipality or county in which the facility is located to take an absent patient into custody, detain the patient, and return the patient to the facility by issuing a certificate as prescribed by Subsection (c) to a law enforcement agency of the municipality or county.

(b) If there is reason to believe that an absent patient may be outside the municipality or county in which the facility is located, the facility administrator may file an affidavit as prescribed by Subsection (c) with a magistrate requesting the magistrate to issue an order for the patient's return. The magistrate with whom the affidavit is filed may issue an order directing a peace or health officer to take an absent patient into custody and return the patient to the facility. An order issued under this subsection extends to any part of this state and authorizes any peace officer to whom the order is directed or transferred to execute the order, take the patient into custody, detain the patient, and return the patient to the facility.

(c) The certificate issued or affidavit filed under Subsection (a) or (b) must set out facts establishing that the patient is receiving court-ordered inpatient mental health services at the facility and show that the facility administrator reasonably believes that:

(1) the patient is absent without authority from the

facility;

(2) the patient has violated the conditions of a pass or furlough; or

(3) the patient's condition has deteriorated to the extent that the patient's continued absence from the facility under a pass or furlough is inappropriate.

(d) A peace or health officer shall take the patient into custody and return the patient to the facility as soon as possible if the patient's return is authorized by a certificate issued or court order issued under this section.

(e) A peace or health officer may take the patient into custody without having the certificate or court order in the officer's possession.

(f) A peace or health officer who cannot immediately return a patient to the facility named in the order may transport the patient to a local facility for detention. The patient may not be detained in a nonmedical facility that is used to detain persons who are charged with or convicted of a crime unless detention in the facility is warranted by an extreme emergency. If the patient is detained at a nonmedical facility:

(1) the patient:

(A) may not be detained in the facility for more than 24 hours; and

(B) must be isolated from all persons charged with or convicted of a crime; and

(2) the facility must notify the county health authority of the detention.

(g) The local mental health authority shall ensure that a patient detained in a nonmedical facility under Subsection (f) receives proper care and medical attention.

(h) Notwithstanding other law regarding confidentiality of patient information, the facility administrator may release to a law enforcement official information about the patient if the administrator determines the information is needed to facilitate the return of the patient to the facility.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.  
Amended by Acts 1999, 76th Leg., ch. 1016, Sec. 1, eff. June 18,

1999; Acts 1999, 76th Leg., ch. 1187, Sec. 19, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 367, Sec. 15, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1006, Sec. 1, eff. Sept. 1, 2001.

Sec. 574.084. REVOCATION OF FURLOUGH. (a) A furlough may be revoked only after an administrative hearing held in accordance with department rules. The hearing must be held within 72 hours after the patient is returned to the facility.

(b) A hearing officer shall conduct the hearing. The hearing officer may be a mental health professional if the person is not directly involved in treating the patient.

(c) The hearing is informal and the patient is entitled to present information and argument.

(d) The hearing officer may revoke the furlough if the officer determines that the revocation is justified under Section 574.083(c).

(e) A hearing officer who revokes a furlough shall place in the patient's file:

(1) a written notation of the decision; and

(2) a written explanation of the reasons for the decision and the information on which the hearing officer relied.

(f) The patient shall be permitted to leave the facility under the furlough if the hearing officer determines that the furlough should not be revoked.

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

Sec. 574.085. DISCHARGE ON EXPIRATION OF COURT ORDER. The facility administrator of a facility to which a patient was committed or from which a patient was required to receive temporary or extended inpatient or outpatient mental health services shall discharge the patient when the court order expires.

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

Sec. 574.086. DISCHARGE BEFORE EXPIRATION OF COURT ORDER.

(a) The facility administrator of a facility to which a patient was committed for inpatient mental health services or the person responsible for providing outpatient mental health services may

discharge the patient at any time before the court order expires if the facility administrator or person determines that the patient no longer meets the criteria for court-ordered mental health services.

(b) The facility administrator of a facility to which the patient was committed for inpatient mental health services shall consider before discharging the patient whether the patient should receive outpatient court-ordered mental health services in accordance with:

(1) a furlough under Section 574.082; or

(2) a modified order under Section 574.061 that directs the patient to participate in outpatient mental health services.

(c) A discharge under Subsection (a) terminates the court order, and the person discharged may not be required to submit to involuntary mental health services unless a new court order is entered in accordance with this subtitle.

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

Sec. 574.087. CERTIFICATE OF DISCHARGE. The facility administrator or the person responsible for outpatient care who discharges a patient under Section 574.085 or 574.086 shall prepare a discharge certificate and file it with the court that entered the order requiring mental health services.

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

SUBCHAPTER G. ADMINISTRATION OF MEDICATION TO PATIENT UNDER ORDER  
FOR INPATIENT MENTAL HEALTH SERVICES

Sec. 574.101. DEFINITIONS. In this subchapter:

(1) "Capacity" means a patient's ability to:

(A) understand the nature and consequences of a proposed treatment, including the benefits, risks, and alternatives to the proposed treatment; and

(B) make a decision whether to undergo the proposed treatment.

(2) "Medication-related emergency" means a situation in which it is immediately necessary to administer medication to a patient to prevent:

(A) imminent probable death or substantial bodily harm to the patient because the patient:

(i) overtly or continually is threatening or attempting to commit suicide or serious bodily harm; or

(ii) is behaving in a manner that indicates that the patient is unable to satisfy the patient's need for nourishment, essential medical care, or self-protection; or

(B) imminent physical or emotional harm to another because of threats, attempts, or other acts the patient overtly or continually makes or commits.

(3) "Psychoactive medication" means a medication prescribed for the treatment of symptoms of psychosis or other severe mental or emotional disorders and that is used to exercise an effect on the central nervous system to influence and modify behavior, cognition, or affective state when treating the symptoms of mental illness. "Psychoactive medication" includes the following categories when used as described in this subdivision:

(A) antipsychotics or neuroleptics;

(B) antidepressants;

(C) agents for control of mania or depression;

(D) antianxiety agents;

(E) sedatives, hypnotics, or other sleep-promoting drugs; and

(F) psychomotor stimulants.

Added by Acts 1993, 73rd Leg., ch. 903, Sec. 1.08, eff. Aug. 30, 1993.

Sec. 574.102. APPLICATION OF SUBCHAPTER. This subchapter applies to the application of medication to a patient subject to an order for inpatient mental health services under this chapter or other law.

Added by Acts 1993, 73rd Leg., ch. 903, Sec. 1.08, eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 770, Sec. 9, eff. June 16, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 717, Sec. 1, eff. June 17, 2005.



Sec. 574.103. ADMINISTRATION OF MEDICATION TO PATIENT UNDER COURT-ORDERED MENTAL HEALTH SERVICES. (a) In this section, "ward" has the meaning assigned by Section 601, Texas Probate Code.

(b) A person may not administer a psychoactive medication to a patient who refuses to take the medication voluntarily unless:

(1) the patient is having a medication-related emergency;

(2) the patient is under an order issued under Section 574.106 authorizing the administration of the medication regardless of the patient's refusal; or

(3) the patient is a ward who is 18 years of age or older and the guardian of the person of the ward consents to the administration of psychoactive medication regardless of the ward's expressed preferences regarding treatment with psychoactive medication.

Added by Acts 1993, 73rd Leg., ch. 903, Sec. 1.08, eff. Aug. 30, 1993. Amended by Acts 2003, 78th Leg., ch. 692, Sec. 11, eff. Sept. 1, 2003.

Sec. 574.104. PHYSICIAN'S APPLICATION FOR ORDER TO AUTHORIZE PSYCHOACTIVE MEDICATION; DATE OF HEARING. (a) A physician who is treating a patient may, on behalf of the state, file an application in a probate court or a court with probate jurisdiction for an order to authorize the administration of a psychoactive medication regardless of the patient's refusal if:

(1) the physician believes that the patient lacks the capacity to make a decision regarding the administration of the psychoactive medication;

(2) the physician determines that the medication is the proper course of treatment for the patient;

(3) the patient is under an order for inpatient mental health services under this chapter or other law or an application for court-ordered mental health services under Section 574.034 or 574.035 has been filed for the patient; and

(4) the patient, verbally or by other indication, refuses to take the medication voluntarily.

(b) An application filed under this section must state:

(1) that the physician believes that the patient lacks the capacity to make a decision regarding administration of the psychoactive medication and the reasons for that belief;

(2) each medication the physician wants the court to compel the patient to take;

(3) whether an application for court-ordered mental health services under Section 574.034 or 574.035 has been filed;

(4) whether a court order for inpatient mental health services for the patient has been issued and, if so, under what authority it was issued;

(5) the physician's diagnosis of the patient; and

(6) the proposed method for administering the medication and, if the method is not customary, an explanation justifying the departure from the customary methods.

(c) An application filed under this section is separate from an application for court-ordered mental health services.

(d) The hearing on the application may be held on the date of a hearing on an application for court-ordered mental health services under Section 574.034 or 574.035 but shall be held not later than 30 days after the filing of the application for the order to authorize psychoactive medication. If the hearing is not held on the same day as the application for court-ordered mental health services under Section 574.034 or 574.035 and the patient is transferred to a mental health facility in another county, the court may transfer the application for an order to authorize psychoactive medication to the county where the patient has been transferred.

(e) Subject to the requirement in Subsection (d) that the hearing shall be held not later than 30 days after the filing of the application, the court may grant one continuance on a party's motion and for good cause shown. The court may grant more than one continuance only with the agreement of the parties.

Added by Acts 1993, 73rd Leg., ch. 903, Sec. 1.08, eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 322, Sec. 2, eff. Aug. 28, 1995; Acts 1995, 74th Leg., ch. 770, Sec. 10, eff. June 16, 1995.

Amended by:

Sec. 574.105. RIGHTS OF PATIENT. A patient for whom an application for an order to authorize the administration of a psychoactive medication is filed is entitled to:

(1) representation by a court-appointed attorney who is knowledgeable about issues to be adjudicated at the hearing;

(2) meet with that attorney as soon as is practicable to prepare for the hearing and to discuss any of the patient's questions or concerns;

(3) receive, immediately after the time of the hearing is set, a copy of the application and written notice of the time, place, and date of the hearing;

(4) be told, at the time personal notice of the hearing is given, of the patient's right to a hearing and right to the assistance of an attorney to prepare for the hearing and to answer any questions or concerns;

(5) be present at the hearing;

(6) request from the court an independent expert; and

(7) oral notification, at the conclusion of the hearing, of the court's determinations of the patient's capacity and best interests.

Added by Acts 1993, 73rd Leg., ch. 903, Sec. 1.08, eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 770, Sec. 11, eff. June 16, 1995.

Sec. 574.106. HEARING AND ORDER AUTHORIZING PSYCHOACTIVE MEDICATION. (a) The court may issue an order authorizing the administration of one or more classes of psychoactive medication to a patient who:

(1) is under a court order to receive inpatient mental health services; or

(2) is in custody awaiting trial in a criminal proceeding and was ordered to receive inpatient mental health services in the six months preceding a hearing under this section.

(a-1) The court may issue an order under this section only if the court finds by clear and convincing evidence after the

hearing:

(1) that the patient lacks the capacity to make a decision regarding the administration of the proposed medication and treatment with the proposed medication is in the best interest of the patient; or

(2) if the patient was ordered to receive inpatient mental health services by a criminal court with jurisdiction over the patient, that:

(A) the patient presents a danger to the patient or others in the inpatient mental health facility in which the patient is being treated as a result of a mental disorder or mental defect as determined under Section 574.1065; and

(B) treatment with the proposed medication is in the best interest of the patient.

(b) In making the finding that treatment with the proposed medication is in the best interest of the patient, the court shall consider:

(1) the patient's expressed preferences regarding treatment with psychoactive medication;

(2) the patient's religious beliefs;

(3) the risks and benefits, from the perspective of the patient, of taking psychoactive medication;

(4) the consequences to the patient if the psychoactive medication is not administered;

(5) the prognosis for the patient if the patient is treated with psychoactive medication;

(6) alternative, less intrusive treatments that are likely to produce the same results as treatment with psychoactive medication; and

(7) less intrusive treatments likely to secure the patient's agreement to take the psychoactive medication.

(c) A hearing under this subchapter shall be conducted on the record by the probate judge or judge with probate jurisdiction, except as provided by Subsection (d).

(d) A judge may refer a hearing to a magistrate or court-appointed master who has training regarding psychoactive medications. The magistrate or master may effectuate the notice,

set hearing dates, and appoint attorneys as required in this subchapter. A record is not required if the hearing is held by a magistrate or court-appointed master.

(e) A party is entitled to a hearing de novo by the judge if an appeal of the magistrate's or master's report is filed with the court within three days after the report is issued. The hearing de novo shall be held within 30 days of the filing of the application for an order to authorize psychoactive medication.

(f) If a hearing or an appeal of a master's or magistrate's report is to be held in a county court in which the judge is not a licensed attorney, the proposed patient or the proposed patient's attorney may request that the proceeding be transferred to a court with a judge who is licensed to practice law in this state. The county judge shall transfer the case after receiving the request, and the receiving court shall hear the case as if it had been originally filed in that court.

(g) As soon as practicable after the conclusion of the hearing, the patient is entitled to have provided to the patient and the patient's attorney written notification of the court's determinations under this section. The notification shall include a statement of the evidence on which the court relied and the reasons for the court's determinations.

(h) An order entered under this section shall authorize the administration to a patient, regardless of the patient's refusal, of one or more classes of psychoactive medications specified in the application and consistent with the patient's diagnosis. The order shall permit an increase or decrease in a medication's dosage, restitution of medication authorized but discontinued during the period the order is valid, or the substitution of a medication within the same class.

(i) The classes of psychoactive medications in the order must conform to classes determined by the department.

(j) An order issued under this section may be reauthorized or modified on the petition of a party. The order remains in effect pending action on a petition for reauthorization or modification. For the purpose of this subsection, "modification" means a change of a class of medication authorized in the order.

(k) This section does not apply to a patient who receives services under an order of protective custody under Section 574.021.

Added by Acts 1993, 73rd Leg., ch. 903, Sec. 1.08, eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 770, Sec. 12, eff. June 16, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 717, Sec. 3, eff. June 17, 2005.

Acts 2005, 79th Leg., Ch. 717, Sec. 4, eff. June 17, 2005.

Sec. 574.1065. FINDING THAT PATIENT PRESENTS A DANGER. In making a finding under Section 574.106 (a-1)(2) that the patient presents a danger to the patient or others in the inpatient mental health facility in which the patient is being treated as a result of a mental disorder or mental defect the court shall consider:

(1) an assessment of the patient's present mental condition;

(2) whether the patient has inflicted, attempted to inflict, or made a serious threat of inflicting substantial physical harm to the patient's self or to another while in the facility; and

(3) whether the patient, in the six months preceding the date the patient was placed in the facility, has inflicted, attempted to inflict, or made a serious threat of inflicting substantial physical harm to another that resulted in the patient being placed in the facility.

Added by Acts 2005, 79th Leg., Ch. 717, Sec. 5, eff. June 17, 2005.

Sec. 574.107. COSTS. (a) The costs for a hearing under this subchapter shall be paid in accordance with Sections 571.017 and 571.018.

(b) The county in which the applicable criminal charges are pending or were adjudicated shall pay as provided by Subsection (a) the costs of a hearing that is held under Section 574.106 to evaluate the court-ordered administration of psychoactive medication to:

(1) a patient ordered to receive inpatient mental

health services as described by Section 574.106(a)(1) after having been determined to be incompetent to stand trial or having been acquitted of an offense by reason of insanity; or

(2) a patient who:

(A) is awaiting trial after having been determined to be competent to stand trial; and

(B) was ordered to receive inpatient mental health services as described by Section 574.106(a)(2).

Added by Acts 1995, 74th Leg., ch. 770, Sec. 13, eff. June 16, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1307, Sec. 20, eff. September 1, 2007.

Sec. 574.108. APPEAL. (a) A patient may appeal an order under this subchapter in the manner provided by Section 574.070 for an appeal of an order requiring court-ordered mental health services.

(b) An order authorizing the administration of medication regardless of the refusal of the patient is effective pending an appeal of the order.

Added by Acts 1993, 73rd Leg., ch. 903, Sec. 1.08, eff. Aug. 30, 1993. Renumbered from Health & Safety Code Sec. 574.107 by Acts 1995, 74th Leg., ch. 770, Sec. 13, eff. June 16, 1995.

Sec. 574.109. EFFECT OF ORDER. (a) A person's consent to take a psychoactive medication is not valid and may not be relied on if the person is subject to an order issued under Section 574.106.

(b) The issuance of an order under Section 574.106 is not a determination or adjudication of mental incompetency and does not limit in any other respect that person's rights as a citizen or the person's property rights or legal capacity.

Added by Acts 1993, 73rd Leg., ch. 903, Sec. 1.08, eff. Aug. 30, 1993. Renumbered from Health & Safety Code Sec. 574.108 by Acts 1995, 74th Leg., ch. 770, Sec. 13, eff. June 16, 1995.

Sec. 574.110. EXPIRATION OF ORDER. (a) Except as provided by Subsection (b), an order issued under Section 574.106 expires on

the expiration or termination date of the order for temporary or extended mental health services in effect when the order for psychoactive medication is issued.

(b) An order issued under Section 574.106 for a patient awaiting trial in a criminal proceeding expires on the date the defendant is acquitted, is convicted, or enters a plea of guilty or the date on which charges in the case are dismissed. An order continued under this subsection shall be reviewed by the issuing court every six months.

Added by Acts 1993, 73rd Leg., ch. 903, Sec. 1.08, eff. Aug. 30, 1993. Renumbered from Health & Safety Code Sec. 574.109 and amended by Acts 1995, 74th Leg., ch. 770, Sec. 13, eff. June 16, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 717, Sec. 6, eff. June 17, 2005.

SUBCHAPTER H. VOLUNTARY ADMISSION FOR CERTAIN PERSONS FOR WHOM  
MOTION FOR COURT-ORDERED SERVICES HAS BEEN FILED

Sec. 574.151. APPLICABILITY. This subchapter applies only to a person for whom a motion for court-ordered mental health services is filed under Section 574.001, for whom a final order on that motion has not been entered under Section 574.034 or 574.035, and who requests voluntary admission to an inpatient mental health facility:

(1) while the person is receiving at that facility involuntary inpatient services under Subchapter B or under Chapter 573; or

(2) before the 31st day after the date the person was released from that facility under Section 573.023 or 574.028.

Added by Acts 2001, 77th Leg., ch. 1309, Sec. 1, eff. June 16, 2001.

Sec. 574.152. CAPACITY TO CONSENT TO VOLUNTARY ADMISSION. A person described by Section 574.151 is rebuttably presumed to have the capacity to consent to admission to the inpatient mental health facility for voluntary inpatient mental health services.

Added by Acts 2001, 77th Leg., ch. 1309, Sec. 1, eff. June 16, 2001.

Sec. 574.153. RIGHTS OF PERSON ADMITTED TO VOLUNTARY



INPATIENT TREATMENT. (a) A person described by Section 574.151 who is admitted to the inpatient mental health facility for voluntary inpatient mental health services has all of the rights provided by Chapter 576 for a person receiving voluntary or involuntary inpatient mental health services.

(b) A right assured by Section 576.021 may not be waived by the patient, the patient's attorney or guardian, or any other person acting on behalf of the patient.

Added by Acts 2001, 77th Leg., ch. 1309, Sec. 1, eff. June 16, 2001.

Sec. 574.154. PARTICIPATION IN RESEARCH PROGRAM.

Notwithstanding any other law, a person described by Section 574.151 may not participate in a research program in the inpatient mental health facility unless:

(1) the patient provides written consent to participate in the research program under a protocol that has been approved by the facility's institutional review board; and

(2) the institutional review board specifically reviews the patient's consent under the approved protocol.

Added by Acts 2001, 77th Leg., ch. 1309, Sec. 1, eff. June 16, 2001.

SUBCHAPTER I. USE OF VIDEO TECHNOLOGY AT PROCEEDINGS

Sec. 574.201. APPLICATION OF SUBCHAPTER. This subchapter

applies only to a hearing or proceeding related to court-ordered mental health services under this chapter.

Added by Acts 2003, 78th Leg., ch. 358, Sec. 3, eff. June 18, 2003.

Sec. 574.202. CERTAIN TESTIMONY BY CLOSED-CIRCUIT VIDEO TELECONFERENCING PERMITTED. (a) A judge or magistrate may permit a physician or a nonphysician mental health professional to testify at a hearing or proceeding by closed-circuit video teleconferencing if:

(1) closed-circuit video teleconferencing is available to the judge or magistrate for that purpose;

(2) the proposed patient and the attorney representing the proposed patient do not file with the court a written objection to the use of closed-circuit video teleconferencing;

(3) the closed-circuit video teleconferencing system provides for a simultaneous, compressed full-motion video and interactive communication of image and sound between all persons involved in the hearing; and

(4) on request of the proposed patient, the proposed patient and the proposed patient's attorney can communicate privately without being recorded or heard by the judge or magistrate or by the attorney representing the state.

(b) The judge or magistrate must provide written notice of the use of closed-circuit video teleconferencing to the proposed patient, the proposed patient's attorney, and the attorney representing the state not later than the third day before the date of the hearing.

(c) On motion of the proposed patient or of the attorney representing the state the court shall, or on the court's discretion the court may, terminate testimony by closed-circuit video teleconferencing under this section at any time during the testimony and require the physician or nonphysician mental health professional to testify in person.

(d) A recording of the testimony under Subsection (a) shall be made and preserved with the court's record of the hearing.

Added by Acts 2003, 78th Leg., ch. 358, Sec. 3, eff. June 18, 2003.

Sec. 574.203. USE OF SECURE ELECTRONIC COMMUNICATION METHOD IN CERTAIN PROCEEDINGS UNDER THIS CHAPTER. (a) A hearing may be conducted in accordance with this chapter but conducted by secure electronic means, including satellite transmission, closed-circuit television transmission, or any other method of two-way electronic communication that is secure, available to the parties, approved by the court, and capable of visually and audibly recording the proceedings, if:

(1) written consent to the use of a secure electronic communication method for the hearing is filed with the court by:

(A) the proposed patient or the attorney representing the proposed patient; and

(B) the county or district attorney, as appropriate;

(2) the secure electronic communication method provides for a simultaneous, compressed full-motion video, and interactive communication of image and sound among the judge, associate judge, or master, the county or district attorney, the attorney representing the proposed patient, and the proposed patient; and

(3) on request of the proposed patient or the attorney representing the proposed patient, the proposed patient and the attorney can communicate privately without being recorded or heard by the judge, associate judge, or master or the county or district attorney.

(b) On the motion of the patient or proposed patient, the attorney representing the patient or proposed patient, or the county or district attorney or on the court's own motion, the court may terminate an appearance made through a secure electronic communication method at any time during the appearance and require an appearance by the patient or proposed patient in open court.

(c) The court shall provide for a recording of the communication to be made and preserved until any appellate proceedings have been concluded. The patient or proposed patient may obtain a copy of the recording on payment of a reasonable amount to cover the costs of reproduction or, if the patient or proposed patient is indigent, the court shall provide a copy on the request of the patient or proposed patient without charging a cost for the copy.

Added by Acts 2007, 80th Leg., R.S., Ch. 1145, Sec. 3, eff. September 1, 2007.