

# 87TH TEXAS LEGISLATIVE UPDATE

## SPOTLIGHT: SB 1511 / HB 3977



Texas Judicial Commission on Mental Health

### **SEN. JUDITH ZAFFIRINI / REP. JOE MOODY**

Relating to the emergency detention of certain persons with a mental illness or cognitive disability and the scope of an order for psychoactive medication for certain patients.

#### **Section 1: Seizure & Disposal of Firearms in Possession of Person Taken into Custody by Warrant for Emergency Detention.**

*Issue:* Emergency detentions are issued when a person with mental illness presents a substantial risk of serious harm to themselves or others based on the person's behavior or evidence of severe emotional distress or deterioration, and the necessary restraint cannot be accomplished without emergency detention. There are two ways an emergency detention can be carried out: by a peace officer either with or without a magistrate's warrant. The law already allows a peace officer to seize a weapon from a person apprehended by an officer without a warrant. The law does not address what an officer should do in the situation where a firearm is found in possession of a person apprehended by an officer with a warrant.

*SB 1511/HB 3977:* This bill authorizes a peace officer to seize a firearm found in possession of a person who is apprehended under the authority of a warrant for an emergency detention issued by a magistrate. This bill will grant the peace officer the same authority in both emergency detention situations. Additionally, this bill allows for an orderly disposition of a seized firearm in the same manner and statute that a weapon seized from a person approached without a warrant is disposed.

#### **Section 2: Expansion of the Types of Professionals Who May Make an Electronic Application for Emergency Detention Warrant.**

*Issue:* The law currently allows physicians to request a warrant for emergency detention electronically. In an emergency situation, it can be challenging for some hospitals to require that a physician be diverted from patient care to complete the application for a warrant. This can result in a person, who is potentially a substantial risk of serious harm to himself or others, leaving the hospital against medical advice, because they cannot comprehend the advice that is offered due to symptoms of their mental illness.

*SB 1511/HB 3977:* This bill allows, in addition to physicians, licensed or credentialed professionals versed in mental health matters who possess mental health training and education to make an electronic application for an emergency detention warrant. These additional professionals include physician's assistants, nurse practitioners, psychologists, and certain licensed master's-level mental health professional counselors or social workers who are currently authorized to make clinical assessments. The application for emergency detention warrants by those other than physicians would be limited to situations where the subject of the application is currently receiving care at a hospital or facility operated by a local mental health authority.

### **Section 3: Authorization for Blood Draws to Monitor Blood Levels of Psychoactive Medications Involuntarily Administered to Patients in Accordance with Lawful Orders**

*Issue:* When an individual is receiving psychoactive medications, it is sometimes medically necessary to draw and test the patient's blood for physicians to monitor medication levels and determine whether the medications are having their desired effect or need adjustment. Currently, when individuals are admitted to the state hospitals and are under court order for involuntary psychoactive medication, physicians have no authority to draw blood to independently monitor the medication levels of psychoactive medications. Each blood draw requires a separate hearing and court order for a routine, medically necessary procedure.

*SB 1511/HB 3977:* This bill allows mandatory blood draws for patients admitted to the state hospitals and under a court order for involuntary psychoactive medication and ensures that treating physicians can monitor the medication levels of these patients.