

Emergency Detention Laws & Legislative Update

Justice Court Training Center
July 2026

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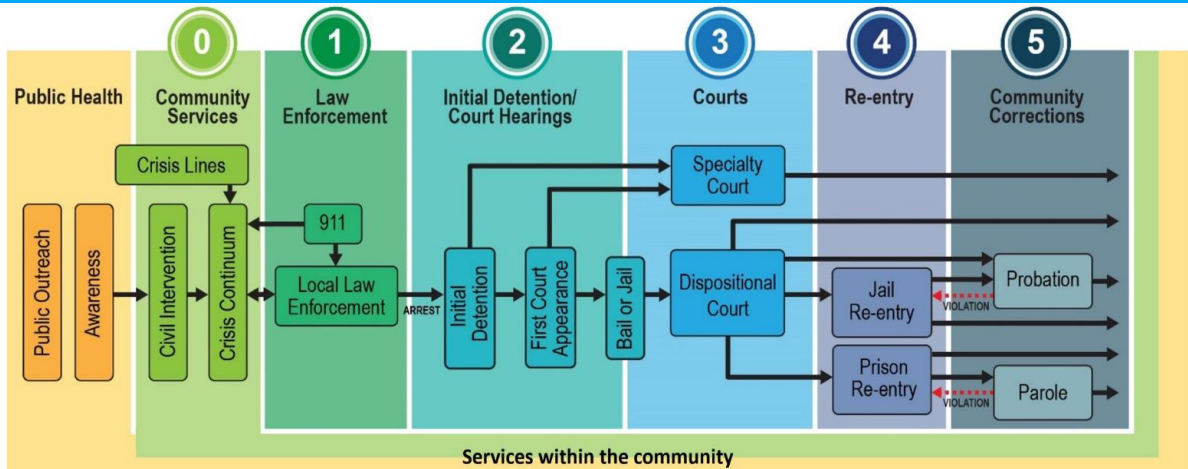
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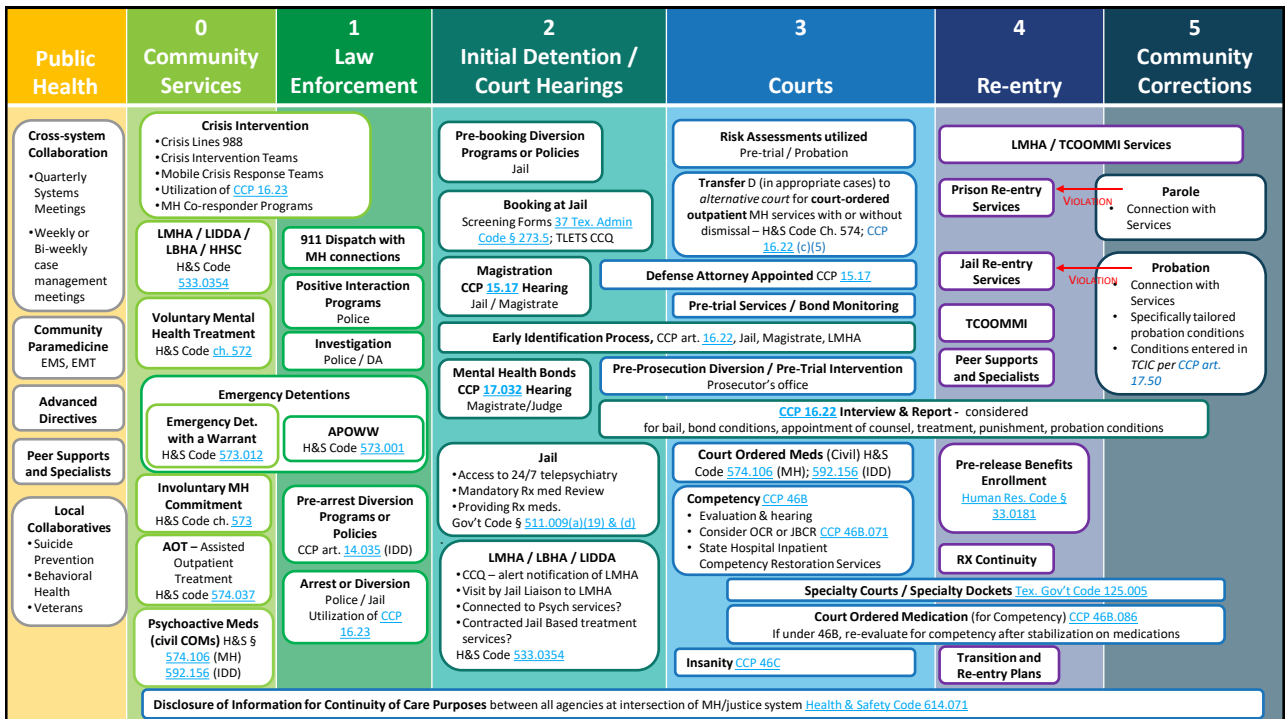
The mission of the Judicial Commission on Mental Health is to engage and empower court systems through collaboration, education, and leadership, thereby improving the lives of individuals with mental health needs, substance use disorders, and intellectual and developmental disabilities.

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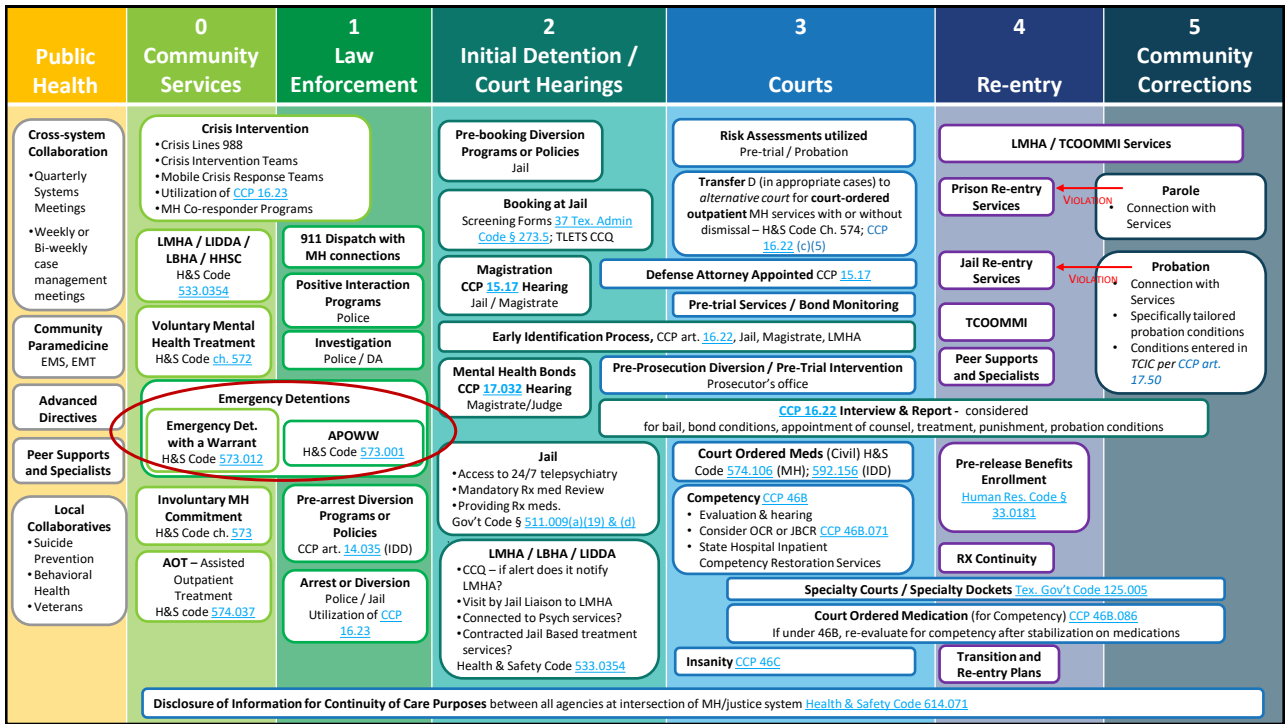
Sequential Intercept Model



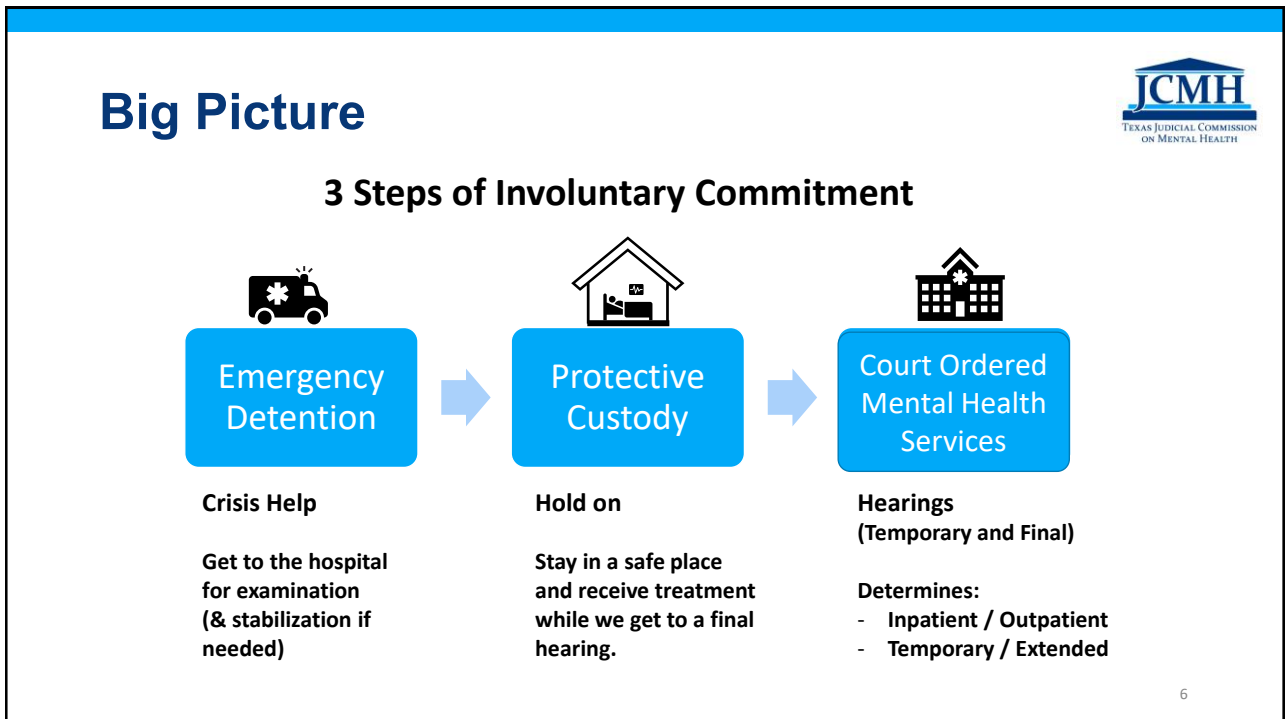
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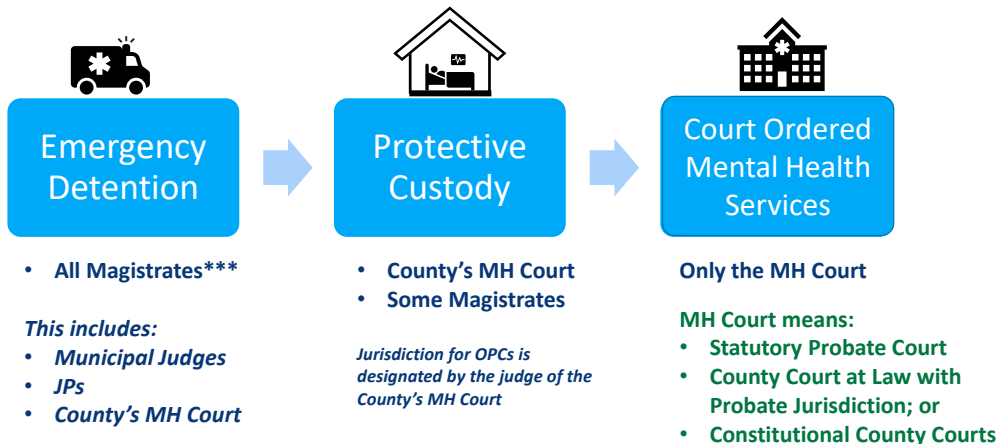


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Big Picture



Who has Jurisdiction to Order Each?



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Magistrate Jurisdiction May Be Limited



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What is Emergency Detention?

What → Legal procedure to *detain*

Who → a person *experiencing a severe mental health crisis*

Why → for a *preliminary examination and crisis stabilization*

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Purpose of an Emergency Detention?

- Keep a person from harming themselves or others.
- Get someone to a facility for any necessary treatment.
- Place the person in the least restrictive, most appropriate setting while safeguarding their legal due process rights.

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Types of Emergency Detention



**WARRANTLESS DETENTION
BY A PEACE OFFICER**



**APPLICATION BY AN
ADULT**

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Starting the Process of Getting a Warrant



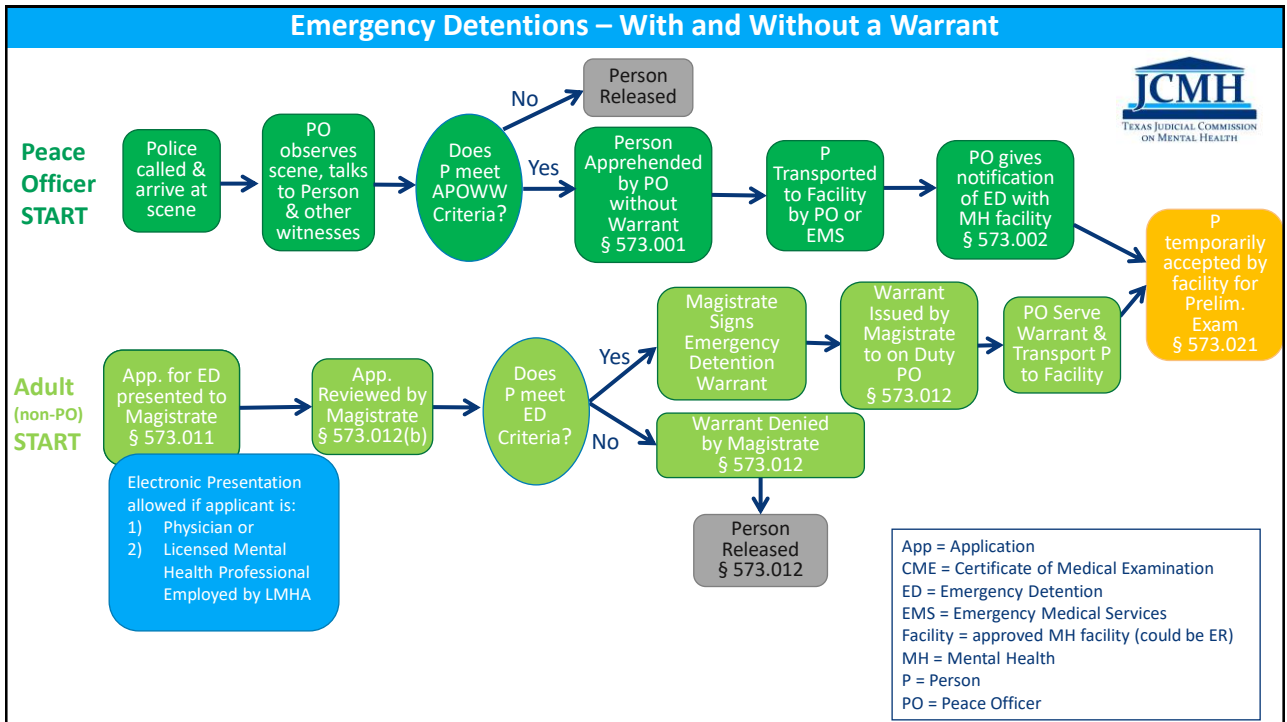
- ▶ Patient goes to ER (voluntarily)
- ▶ Patient wants to leave
- ▶ Doctor files an Application for Emergency Detention Warrant

OR

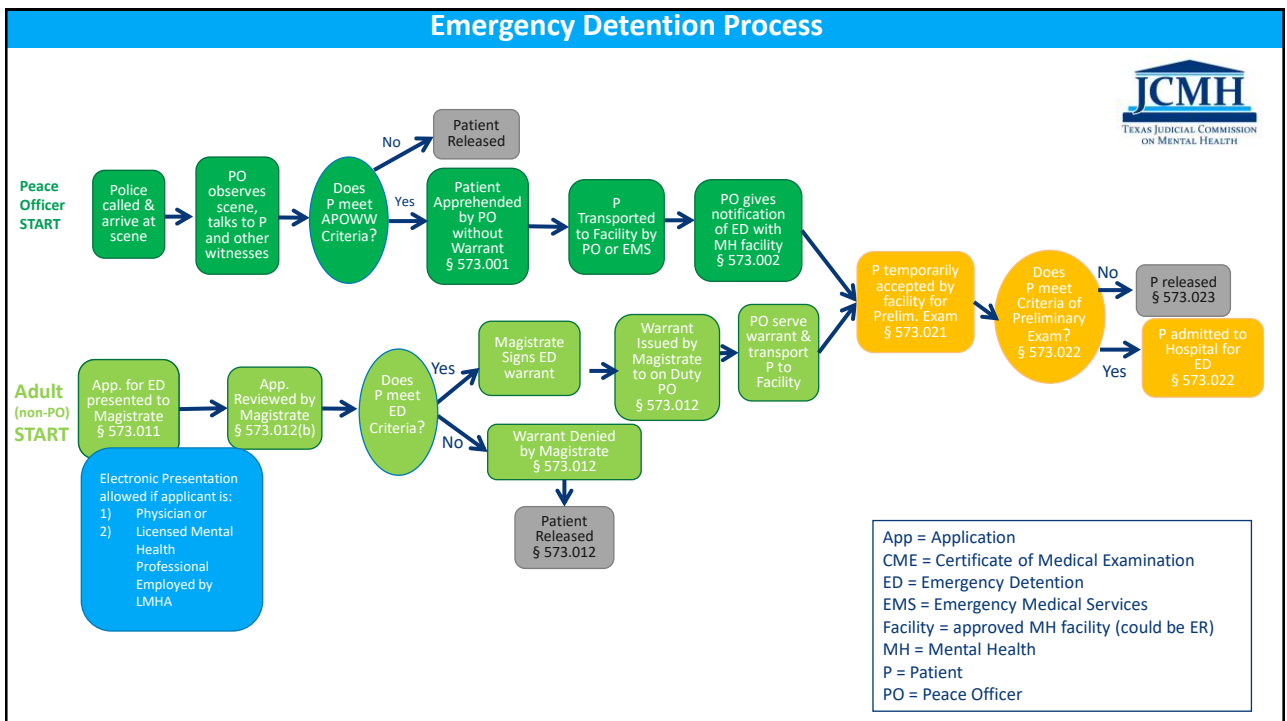
- ▶ Family files an Application for Emergency Detention Warrant
- ▶ Warrant gets issued
- ▶ Patient brought to hospital with a warrant

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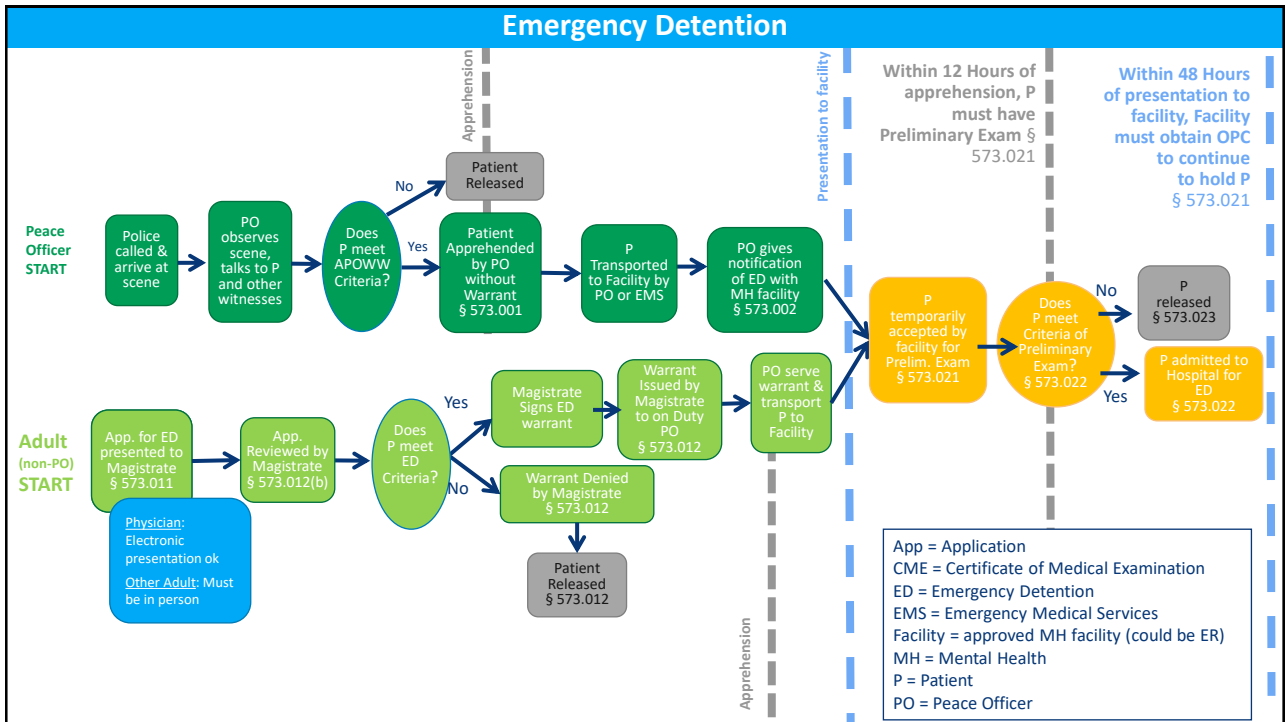
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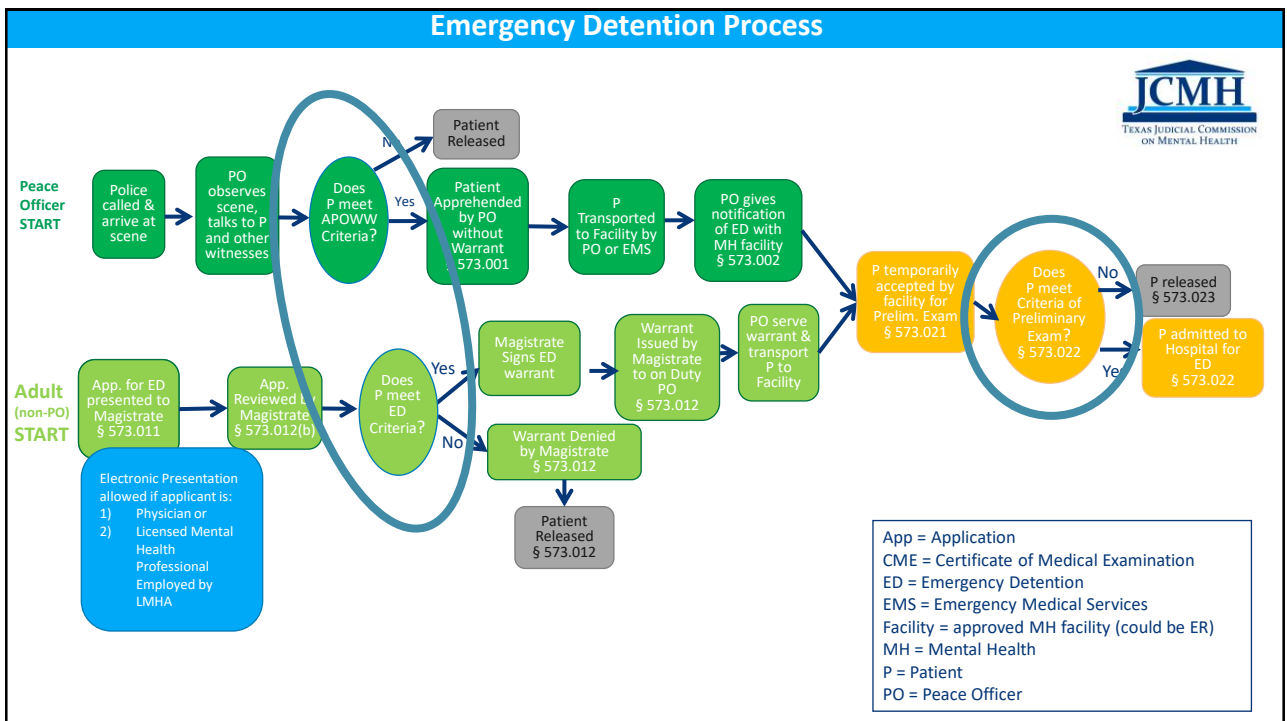
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Legislative Changes



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Legislative Change 1

Anosognosia Can be Considered in Emergency Detentions

- ▶ The new law adds the “inability of the person to recognize symptoms or appreciate the risks and benefits of treatment” when looking at the criteria for an emergency detention.
- ▶ This law improves access to mental health care when a person has anosognosia, a neurological condition that causes people to be unaware of their psychiatric condition and can be diagnosed in connection with psychotic disorders, including schizophrenia and bipolar disorder.

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Apprehension by a Peace Officer Without a Warrant



§ 573.001

Old Law

(a) A peace officer, without a warrant, may take a person into custody, regardless of the age of the person, if the officer:

- (1) has reason to believe and does believe that:
 - (A) the person is a person with mental illness; and
 - (B) because of that mental illness there is a substantial risk of serious harm to the person or to others unless the person is immediately restrained; and
- (2) believes that there is not sufficient time to obtain a warrant before taking the person into custody.

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

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

New Law (2025)

(a) A peace officer, without a warrant, may take a person into custody, regardless of the age of the person, if the officer has reason to believe and does believe that:

- (1) the person is person with mental illness and because of that mental illness:
 - (A) there is a substantial risk of serious harm to the person or to others;
 - (B) the person evidences severe emotional distress and deterioration in the person's mental condition; or
 - (C) the person evidences an inability to recognize symptoms or appreciate the risks and benefits of treatment;
- (2) the person is likely without immediate detention to suffer serious risk of harm or to inflict serious harm on another person; and
- (3) there is not sufficient time to obtain a warrant before taking the person into custody.

(b) – repealed – S.B. 1164, 89th Leg., 2025

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Emergency Detention Warrant Standard



Old Law

To Issue a Warrant, Magistrate Must Find Reasonable Cause to Believe:

- (1) The person evidences MI;
- (2) There is a substantial risk of serious harm to self or others;
- (3) The risk of harm is imminent unless person is immediately restrained;
- (4) Risk of Harm Demonstrated by:
 - Person's Behavior
 - Evidence of severe emotional distress and deterioration in the person's mental condition to the extent the person cannot remain at liberty
- (5) Necessary restraint cannot be accomplished without emergency detention.

Health & Safety Code § 573.012

New Law (2025)

To Issue a Warrant, Magistrate Must Find Reasonable Cause to Believe:

- (1) the person evidences MI and because of that mental illness the person evidences:
 - (A) a substantial risk of serious harm to himself or others;
 - (B) severe emotional distress and deterioration in the person's mental condition; or
 - (C) an inability to recognize symptoms or appreciate the risks and benefits of treatment;
- (2) the person is likely without immediate detention to suffer serious risk of harm or to inflict serious harm to another person;
- (3) the risk of harm is imminent unless the person is immediately restrained; and
- (4) the necessary restraint cannot be accomplished without emergency detention.

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Updated Emergency Detention Standard



Mental Illness
+ likely imminent harm
+ one of these →

Meets ED standard

- A. a substantial risk of serious harm to himself or others;
- B. severe emotional distress and deterioration in the person's mental condition; or
- C. **an inability to recognize symptoms or appreciate the risks and benefits of treatment;**

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Legislative Change 2



Update to the Law Enforcement Emergency Detention Form



New Notification
of Emerg.
Detention Form

This new law improves the required form for peace officers carrying out emergency detentions without a warrant.

The proposed modifications add areas for officers to explain the bases for affirmative declarations of evidence of mental illness, substantial risk of harm, and the need for temporary restraint.

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Old Form

Notification – Emergency Detention NO. _____

Date: _____ Time: _____

THE STATE OF TEXAS
FOR THE BEST INTEREST AND PROTECTION OF:

NOTIFICATION OF EMERGENCY DETENTION

Now comes _____, a peace officer with (name of agency) _____, of the State of Texas, and states as follows:

1. I have reason to believe and do believe that (name of person to be detained) _____ evidences mental illness.

2. I have reason to believe and do believe that the above-named person evidences a substantial risk of serious harm to himself/herself or others based upon the following:

3. I have reason to believe and do believe that the above risk of harm is imminent unless the above-named person is immediately restrained.

4. My beliefs are based upon the following recent behavior, overt acts, attempts, statements, or threats observed by me or reliably reported to me:

5. The names, addresses, and relationship to the above-named person of those persons who reported or observed recent behavior, acts, attempts, statements, or threats of the above-named person are (if applicable):

For the above reasons, I present this notification to seek temporary admission to the (name of facility) _____ inpatient mental health facility or hospital facility for the detention of (name of person to be detained) _____ on an emergency basis.

6. Was the person restrained in any way? Yes ☐ No ☐

PEACE OFFICER'S SIGNATURE _____ BADGE NO. _____

Address: _____ Zip Code: _____

Telephone: _____

A mental health facility or hospital emergency department may not require a peace officer to execute any form other than this form as a predicate to accepting for temporary admission a person detained under Section 573.001, Texas Health and Safety Code.

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NOTIFICATION OF EMERGENCY DETENTION

CASE NO. _____ DATE: _____ TIME: _____

THE STATE OF TEXAS

FOR THE BEST INTEREST AND PROTECTION OF: _____

DOB: _____ Race: _____ Gender: _____ Phone Number: _____

Address: _____

Now comes _____ a peace officer with _____
(name of agency) of the State of Texas, and states as follows:☐ I have reason to believe and do believe that _____ (person detained) evidences mental illness; AND☐ I have reason to believe and do believe that the above-named person evidences a substantial risk of serious harm to himself/herself or others based on the person's behavior or evidence the person is experiencing severe emotional distress and deterioration or the person evidences an inability to recognize symptoms or appreciate the risks and benefits of treatment to the extent that the person cannot remain at liberty; AND☐ I have reason to believe and do believe that the risk of harm is imminent unless the above-named person is immediately restrained.

1. My above-stated beliefs are based upon the following recent behavior, severe emotional distress and deterioration, overt acts, attempts, statements, or threats observed by me or reliably reported to me (may use attachments).

2. The names, addresses, phone numbers, and relationship to the above-named person or those persons who reported or observed recent behavior, acts, attempts, statements, or threats of the above-named person or relevant witnesses who witnessed the above-named person being detained are (if applicable):

ADULT 65 YEARS OF AGE OR OLDER ☐ YES ☐ NO (if yes, age: _____)CHILD 17 YEARS OF AGE OR YOUNGER ☐ YES ☐ NO (if yes, age: _____)

FOR A CHILD 17 YEARS OF AGE OR YOUNGER (if yes):

My belief the child is at risk of imminent serious harm unless immediately removed from the parents' custody is based on the above-stated facts showing the parents or guardians are presently unable to protect the child from imminent serious harm.

☐ I provided notice to the child's parent(s) or guardian(s) of my intention to file this notification.☐ I was not able to provide notice to the child's parent(s) or guardian(s) of my intention to file this notification because:

Parent(s)/Guardian(s) Contact Information (if known): _____

USE OF RESTRAINT

Was the person physically restrained in any way? ☐ YES ☐ NOIf YES, reason for physical restraint: ☐ Officer Safety ☐ Person's Safety ☐ Other: _____CALL ORIGINATED AT: ☐ Public Area ☐ Residence ☐ School/University ☐ Group Home ☐ Hospital ☐ Other: _____

OBSERVATIONS/HISTORY (if YES to any question below, provide additional information).

	YES	NO	UNK	NOTES
Harm to self or stating an intention to harm self?				
Previous suicide attempt?				
Harm to others or stating an intention to harm others?				
Previous serious harm or injury to others?				
Previous psychiatric hospital treatment?				
Reported mental health diagnosis?				
Prescribed psychiatric medications?				
Current psychiatric medications taken?				
Sleeping difficulty?				
Substance Use Disorder?				

TRANSPORTED TO: ☐ Hospital/Emergency Room ☐ Mental Health Facility ☐ Other: _____

For the above reasons, I present this notification to seek temporary admission to the (name of facility) _____

_____ inpatient mental health facility or hospital facility for the detention of (person detained) _____ on an emergency basis.

(if applicable) I have transferred the person detained to Emergency Medical Services Personnel (Name & Agency) _____

_____ for transport on (date) ____/____/____ at (time) ____:____ M.,

pursuant to a memorandum of understanding between agencies, and I have determined that transferring the person for transport is safe for both the person and the personnel.

PEACE OFFICER'S PRINTED NAME: _____ BADGE NO. _____

PEACE OFFICER'S SIGNATURE: _____

Address: _____ Zip Code: _____ Telephone: _____

A mental health facility or hospital emergency department may not require a peace officer or emergency medical services personnel to execute any form other than this form as a predicate to accepting for temporary admission a person detained by a peace officer under Section 573.005, Texas Health and Safety Code.

AUGUST 2025

NOTIFICATION OF EMERGENCY DETENTION

CASE NO. _____ DATE: _____ TIME: _____

THE STATE OF TEXAS

FOR THE BEST INTEREST AND PROTECTION OF: _____

DOB: _____ Race: _____ Gender: _____ Phone Number: _____

Address: _____

Now comes _____ a peace officer with _____
(name of agency) of the State of Texas, and states as follows:☐ I have reason to believe and do believe that _____ (person detained) evidences mental illness; AND☐ I have reason to believe and do believe that the above-named person evidences a **substantial risk of serious harm to himself/herself or others based on the person's behavior or evidence the person is experiencing severe emotional distress and deterioration or the person evidences an inability to recognize symptoms or appreciate the risks and benefits of treatment** to the extent that the person cannot remain at liberty; AND☐ I have reason to believe and do believe that the risk of harm is imminent unless the above-named person is immediately restrained.

1. My above-stated beliefs are based upon the following recent behavior, severe emotional distress and deterioration, overt acts, attempts, statements, or threats observed by me or reliably reported to me (may use attachments).

OBSERVATIONS/HISTORY If YES to any question below, provide additional information.

	YES	NO	UNK	NOTES
Harm to self or stating an intention to harm self?				
Previous suicide attempt?				
Harm to others or stating an intention to harm others?				
Previous serious harm or injury to others?				
Previous psychiatric hospital treatment?				
Reported mental health diagnosis?				
Prescribed psychiatric medications?				
Current psychiatric medications taken?				
Sleeping difficulty?				
Substance Use Disorder?				

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Dr. Xavier Amador



► Video

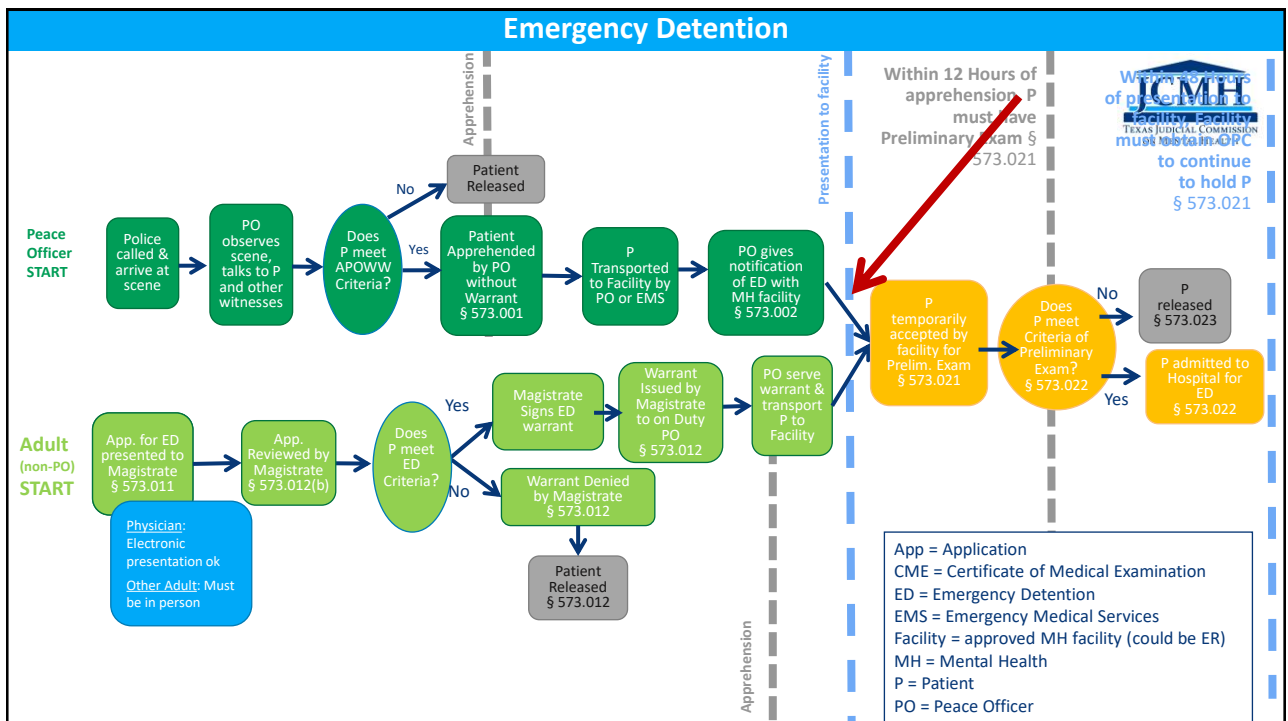
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Legislative Change 3



Clarify a Peace Officer does not have to remain after Presentation & providing documentation of an APOWW

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Legislative Change 4

Clarify Court-ordered Mental Health Services Venue Law

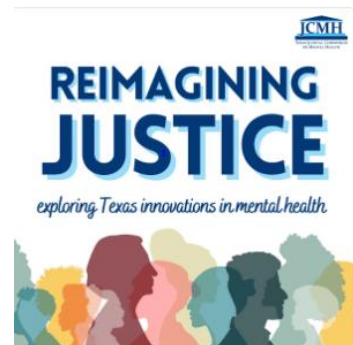
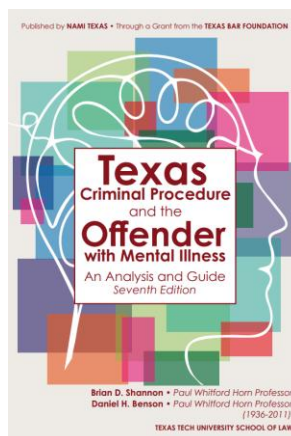
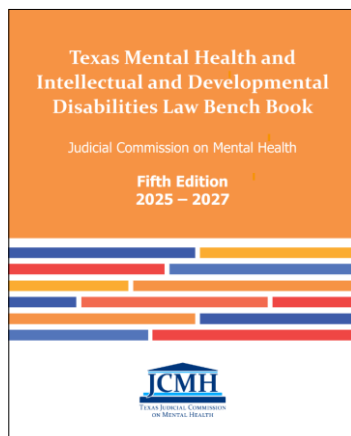
SECTION 7. Section 574.001(b), Health and Safety Code, is amended to read as follows:

(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 located at the time the application is filed ~~[is found];~~ ~~[or]~~
- (3) was apprehended under Chapter 573; or
- (4) is receiving mental health services by court order or under Subchapter A, Chapter 573.

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Resources



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2026 JUDICIAL SUMMIT ON MENTAL HEALTH

November 5–6, 2026
Embassy Suites, San Marcos, TX

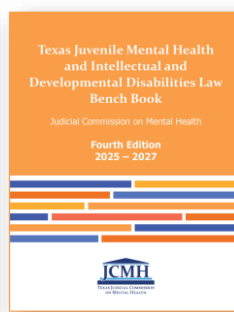
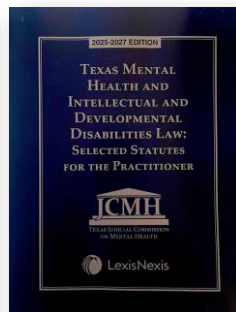
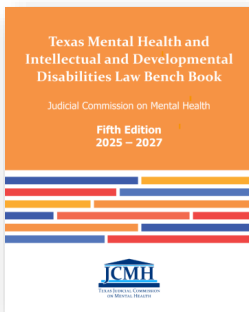
Registration now open!



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Order Bench Books and Mental Health Code Book



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Contact JCMH!

Kama Harris Kama.Harris@txcourts.gov

www.texasjcmh.gov

