

Williamson County's "Duty to Accept" Proposed Legislation Summary

Throughout the State of Texas, judges regularly order the state mental health hospital system to accept mentally ill individuals for treatment. Unfortunately, substantial time passes before these orders are followed by the State of Texas. That delay creates significant costs to county systems, damages the already fragile mental health of individuals and creates the likelihood of expensive litigation over the unconstitutional treatment afforded those individuals.

The time has come for the State of Texas to specify in law the duty to accept mentally ill patients into the state mental hospital system in a timely manner. By publicly detailing that duty, the State of Texas will improve the mental health of our most fragile citizens, strengthen the mental health partnership between the state and counties and avoid costly litigation.

According to many studies, between 16 and 20 percent of persons admitted to county jails have a mental illness. For example, 18.75% of inmates at the Williamson County Jail are currently on expensive psychotropic medications. In addition, counties shoulder the cost of additional manpower needed to supervise suicidal inmates. Even more significantly, these mentally ill individuals often suffer further mental deterioration while waiting for court-ordered mental health treatment. These delays in court-ordered treatment for mental illness impair justice for victims, jeopardize the health of the defendant, and are likely due process violations.

But there is a reasonable solution.

In 1991, the Texas Legislature faced a similar issue in regard to the duty to accept state inmates. Facing lawsuits from counties who were holding convicted felons in county jails, the Legislature passed sections 499.121-126, Government Code, acknowledging the State had a duty to transfer paper-ready inmates into a state prison within 45 days or pay the county for the cost of holding the inmate. The State of Texas should take a similar approach to resolving the mental health crisis facing counties.

The "Duty to Accept" should extend to all defendants that are being held in a county jail and have been (1) civilly committed, (2) declared incompetent to stand trial, or (3) found guilty by reason of insanity. The State should accept these mentally ill individuals into the State Hospital System within fourteen (14) days to avoid substantial deterioration and cost that occurs in county jails when proper mental health treatment is not available. If the time in a county jail exceeds fourteen days, the State should pay counties \$150 per day to cover the extra costs as outlined above.

Only by adopting such a "Duty to Accept" will the state mental health system begin to transfer individuals in a timely manner from county jails. Only by defining the duty will the state mental hospitals maintain the number of beds necessary to accommodate these individuals. And only by publicly accepting the responsibility for these mentally ill individuals will the State make true progress in treating and healing the mentally ill.