

HSC Sec. 573.001 APPREHENSION BY PEACE OFFICER WITHOUT A WARRANT (EPOW)

- (a) A peace officer, without a warrant, may take a person into custody if the officer:
 - (1) has reason to believe and does believe that:
 - (A) the person is mentally ill; and
 - (B) because of that mental illness there is a substantial risk of serious harm to the person or to others unless the person is immediately restrained; and
 - (2) believes that there is not sufficient time to obtain a warrant before taking the person into custody.

- (b) A substantial risk of serious harm to the person or others under Subsection (a)(1)(B) may be demonstrated by:
 - (1) the person's behavior; or
 - (2) evidence of severe emotional distress and deterioration in the person's mental condition to the extent that the person cannot remain at liberty.

- (c) The peace officer may form the belief that the person meets the criteria for apprehension:
 - (1) from a representation of a credible person; or
 - (2) on the basis of the conduct of the apprehended person or the circumstances under which the apprehended person is found.

- (d) A peace officer who takes a person into custody under Subsection (a) shall immediately transport the apprehended person to:
 - (1) the nearest appropriate inpatient mental health facility; or
 - (2) a mental health facility deemed suitable by the local mental health authority, if an appropriate inpatient mental health facility is not available.

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

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

HSC Sec. 573.002 PEACE OFFICER'S APPLICATION FOR DETENTION

- (a) A peace officer shall immediately file an application for detention after transporting a person to a facility under Section 573.001.

- (b) The application for detention must contain:
 - (1) a statement that the officer has reason to believe and does believe that the person evidences mental illness;
 - (2) a statement that the officer has reason to believe and does believe that the person evidences a substantial risk of serious harm to himself or others;
 - (3) a specific description of the risk of harm;
 - (4) a statement that the officer has reason to believe and does believe that the risk of harm is imminent unless the person is immediately restrained;
 - (5) a statement that the officer's beliefs are derived from specific recent behavior, overt acts, attempts, or threats that were observed by or reliably reported to the officer;
 - (6) a detailed description of the specific behavior, acts, attempts, or threats; and
 - (7) the name and relationship to the apprehended person of any person who reported or observed the behavior, acts, attempts, or threats.

Peace Officer (Printed Name)

Peace Officer (Signature)