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RQ-0515-KP

Senate Committee on Water, Agriculture, and Rural Affairs

Senator Charles Perry, *Chairman*

October 5, 2023

The Honorable Ken Paxton
Office of the Attorney General
Attention Opinion Committee
P.O. Box 12548
Austin, Texas 78711-2548
Submitted Via Email to opinion.committee@oag.texas.gov

RE: House Bill 4085 of the 88th Regular Legislative Session

Dear Attorney General Paxton:

I respectfully request an Attorney General Opinion in regards to the following question:

Does Section 571.018, Health and Safety Code, as amended by House Bill 4085 in the 88th Regular Legislative Session, require a court to refund all court costs related to the treatment of relevant persons by a mental health facility, regardless of whether that person was committed to the facility, provided that the facility files an affidavit with the clerk of the court that satisfies the requirements of the statute and otherwise complies with applicable law?

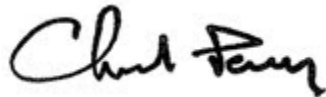
Section 571.018(j), Health and Safety Code, was amended this year by the Texas Legislature to provide that, if a mental health facility files a qualifying affidavit, the judge of a court conducting a relevant hearing or proceeding shall order the clerk of the court to “**refund court costs paid or advanced for a person by an inpatient mental health facility**” under certain circumstances where the facility received little or no compensation or reimbursement for treatment of the person (*emphasis added*). I believe that the plain language of this subsection does not limit refunds to patients who are committed to the facility, rather it explicitly allows refunds for “court costs paid or advanced for a person.” Likewise, Section 571.018(j)(1), (2), and (3) refers only to “treatment” for a person and makes no mention of “commitment” of a person. It was certainly my intent as the Senate sponsor of this legislation that reimbursement be available for all relevant patients treated by a facility during the course of these proceedings – not just those patients formally committed to a facility.

Despite the plain meaning of the statute and my legislative intent, I have become aware that some local authorities are attempting to limit the scope of refunds to only those persons who are *committed* to a mental health facility. Presumably, this interpretation is a misreading of Section 571.018(h), Health and Safety Code, which limits the ability of the state or a county to pay “costs for a patient committed to a private mental hospital.” House Bill 4085 includes an amendment to this section, providing an exception for payment of a filing fee or other cost associated with a

relevant hearing or proceeding. This amendment to Section 571.018(h), was included in House Bill 4085 as a conforming amendment, adopted only for the purpose of conforming Section 571.018(h) to the new language that was added to Section 571.018(j). The current reference in Section 571.018(h) to a “committed” patient is separate and apart from the provisions of Section 571.018(j), and it does not impart any limitations or qualifications on the provisions of Section 571.018(j).

Thank you for your attention to this matter.

Respectfully,

A handwritten signature in black ink that reads "Charles Perry". The signature is written in a cursive, slightly slanted style.

Charles Perry
Texas State Senator, District 28
Chairman, Senate Committee on Water, Agriculture & Rural Affairs