

By: Huffman

S.B. No. 1279

A BILL TO BE ENTITLED

AN ACT

relating to the release on personal bond of certain defendants with a mental illness or an intellectual disability.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Articles 17.032(a) and (b), Code of Criminal Procedure, are amended to read as follows:

(a) In this article, "offense involving violence" has the meaning assigned by Article 17.03 ~~["violent offense" means an offense under the following sections of the Penal Code:~~

- ~~[(1) Section 19.02 (murder),~~
- ~~[(2) Section 19.03 (capital murder),~~
- ~~[(3) Section 20.03 (kidnapping),~~
- ~~[(4) Section 20.04 (aggravated kidnapping),~~
- ~~[(5) Section 21.11 (indecent with a child),~~
- ~~[(6) Section 22.01(a)(1) (assault), if the offense involved family violence as defined by Section 71.004, Family Code,~~
- ~~[(7) Section 22.011 (sexual assault),~~
- ~~[(8) Section 22.02 (aggravated assault),~~
- ~~[(9) Section 22.021 (aggravated sexual assault),~~
- ~~[(10) Section 22.04 (injury to a child, elderly individual, or disabled individual),~~
- ~~[(11) Section 29.03 (aggravated robbery),~~
- ~~[(12) Section 21.02 (continuous sexual abuse of young child or disabled individual), or~~

1 ~~[(13) Section 20A.03 (continuous trafficking of~~
2 ~~persons)]~~.

3 (b) Notwithstanding Article 17.03(b), or a bond schedule
4 adopted or a standing order entered by a judge, a magistrate shall
5 release a defendant on personal bond unless good cause is shown
6 otherwise if:

7 (1) the defendant is not charged with and has not been
8 previously convicted of an ~~[a violent]~~ offense involving violence;

9 (2) the defendant is examined by the service provider
10 that contracts with the jail to provide mental health or
11 intellectual and developmental disability services, the local
12 mental health authority, the local intellectual and developmental
13 disability authority, or another qualified mental health or
14 intellectual and developmental disability expert under Article
15 16.22;

16 (3) the applicable expert, in a written report
17 submitted to the magistrate under Article 16.22:

18 (A) concludes that the defendant has a mental
19 illness or is a person with an intellectual disability and is
20 nonetheless competent to stand trial; and

21 (B) recommends mental health treatment or
22 intellectual and developmental disability services for the
23 defendant, as applicable;

24 (4) the magistrate determines, in consultation with
25 the local mental health authority or local intellectual and
26 developmental disability authority, that appropriate
27 community-based mental health or intellectual and developmental

1 disability services for the defendant are available in accordance
2 with Section 534.053 or 534.103, Health and Safety Code, or through
3 another mental health or intellectual and developmental disability
4 services provider; and

5 (5) the magistrate finds, after considering all the
6 circumstances, a pretrial risk assessment, if applicable, and any
7 other credible information provided by the attorney representing
8 the state or the defendant, that release on personal bond would
9 reasonably ensure the defendant's appearance in court as required
10 and the safety of the community and the victim of the alleged
11 offense.

12 SECTION 2. Article 46B.073(c), Code of Criminal Procedure,
13 is amended to read as follows:

14 (c) If the defendant is charged with an offense involving
15 violence as defined by ~~[listed in]~~ Article 17.03 ~~[17.032(a)]~~ or if
16 the indictment alleges an affirmative finding under Article
17 42A.054(c) or (d), the court shall enter an order committing the
18 defendant for competency restoration services to a facility
19 designated by the commission.

20 SECTION 3. Article 46B.104, Code of Criminal Procedure, is
21 amended to read as follows:

22 Art. 46B.104. CIVIL COMMITMENT PLACEMENT: FINDING OF
23 VIOLENCE. A defendant committed to a facility as a result of
24 proceedings initiated under this chapter shall be committed to the
25 facility designated by the commission if:

26 (1) the defendant is charged with an offense involving
27 violence as defined by ~~[listed in]~~ Article 17.03 ~~[17.032(a)]~~; or

1 (2) the indictment charging the offense alleges an
2 affirmative finding under Article 42A.054(c) or (d).

3 SECTION 4. Article 17.032, Code of Criminal Procedure, as
4 amended by this Act, applies only to a person who is arrested on or
5 after the effective date of this Act. A person arrested before the
6 effective date of this Act is governed by the law in effect on the
7 date the person was arrested, and the former law is continued in
8 effect for that purpose.

9 SECTION 5. This Act takes effect September 1, 2023.