

By: Zaffirini

S.B. No. 2479

A BILL TO BE ENTITLED

1 AN ACT
2 relating to procedures regarding certain persons who are or may be
3 persons with a mental illness or intellectual disability.

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

5 SECTION 1. Articles 16.22(a), (b-2), and (d), Code of
6 Criminal Procedure, are amended to read as follows:

7 (a)(1) Not later than 12 hours after the sheriff or
8 municipal jailer having custody of a defendant [~~for an offense~~
9 ~~punishable as a Class B misdemeanor or any higher category of~~
10 ~~offense~~] receives credible information that may establish
11 reasonable cause to believe that the defendant has a mental illness
12 or is a person with an intellectual disability, the sheriff or
13 municipal jailer shall provide written or electronic notice to the
14 magistrate. The notice must include any information related to the
15 sheriff's or municipal jailer's determination, such as information
16 regarding the defendant's behavior immediately before, during, and
17 after the defendant's arrest and, if applicable, the results of any
18 previous assessment of the defendant. On a determination that
19 there is reasonable cause to believe that the defendant has a mental
20 illness or is a person with an intellectual disability, the
21 magistrate, except as provided by Subdivision (2), shall order the
22 service provider that contracts with the jail to provide mental
23 health or intellectual and developmental disability services, the
24 local mental health authority, the local intellectual and

1 developmental disability authority, or another qualified mental
2 health or intellectual and developmental disability expert to:

3 (A) interview the defendant if the defendant has
4 not previously been interviewed by a qualified mental health or
5 intellectual and developmental disability expert on or after the
6 date the defendant was arrested for the offense for which the
7 defendant is in custody and otherwise collect information regarding
8 whether the defendant has a mental illness as defined by Section
9 571.003, Health and Safety Code, or is a person with an intellectual
10 disability as defined by Section 591.003, Health and Safety Code,
11 including, if applicable, information obtained from any previous
12 assessment of the defendant and information regarding any
13 previously recommended treatment or service; and

14 (B) provide to the magistrate a written report of
15 an interview described by Paragraph (A) and the other information
16 collected under that paragraph on the form approved by the Texas
17 Correctional Office on Offenders with Medical or Mental Impairments
18 under Section 614.0032(c), Health and Safety Code.

19 (2) The magistrate is not required to order the
20 interview and collection of other information under Subdivision (1)
21 if the defendant:

22 (A) is no longer in custody;

23 (B) ~~[or if the defendant]~~ in the year preceding
24 the defendant's applicable date of arrest has been determined to
25 have a mental illness or to be a person with an intellectual
26 disability by the service provider that contracts with the jail to
27 provide mental health or intellectual and developmental disability

1 services, the local mental health authority, the local intellectual
2 and developmental disability authority, or another mental health or
3 intellectual and developmental disability expert described by
4 Subdivision (1); or

5 (C) was only arrested or charged with an offense
6 punishable as a Class C misdemeanor.

7 (3) A court that elects to use the results of a [~~that~~
8 previous] determination described by Subdivision (2)(B) may
9 proceed under Subsection (c).

10 (4) [~~(3)~~] If the defendant fails or refuses to submit
11 to the interview and collection of other information regarding the
12 defendant as required under Subdivision (1), the magistrate may
13 order the defendant to submit to an examination in a jail, or in
14 another place determined to be appropriate by the local mental
15 health authority or local intellectual and developmental
16 disability authority, for a reasonable period not to exceed 72
17 hours. If applicable, the county in which the committing court is
18 located shall reimburse the local mental health authority or local
19 intellectual and developmental disability authority for the
20 mileage and per diem expenses of the personnel required to
21 transport the defendant, calculated in accordance with the state
22 travel regulations in effect at the time.

23 (b-2) The written report must include a description of the
24 procedures used in the interview and collection of other
25 information under Subsection (a)(1)(A) and the applicable expert's
26 observations and findings pertaining to:

27 (1) whether the defendant is a person who has a mental

1 illness or is a person with an intellectual disability;

2 (2) subject to Article 46B.002, whether there is
3 clinical evidence to support a belief that the defendant may be
4 incompetent to stand trial and should undergo a complete competency
5 examination under Subchapter B, Chapter 46B; and

6 (3) any appropriate or recommended treatment or
7 service.

8 (d) This article does not prevent the applicable court from,
9 before, during, or after the interview and collection of other
10 information regarding the defendant as described by this article:

11 (1) releasing a defendant who has a mental illness or
12 is a person with an intellectual disability from custody on
13 personal or surety bond, including imposing as a condition of
14 release that the defendant submit to an examination or other
15 assessment; or

16 (2) subject to Article 46B.002, ordering an
17 examination regarding the defendant's competency to stand trial.

18 SECTION 2. Article 17.03(b-2), Code of Criminal Procedure,
19 is amended to read as follows:

20 (b-2) Except as provided by Articles 15.21, 17.032, 17.033,
21 and 17.151, a defendant may not be released on personal bond if the
22 defendant:

23 (1) is charged with an offense involving violence; or

24 (2) while released on bail or community supervision
25 for an offense involving violence, is charged with committing:

26 (A) any offense punishable as a felony; or

27 (B) an offense under the following provisions of

1 the Penal Code:

- 2 (i) Section 22.01(a)(1) (assault);
- 3 (ii) Section 22.05 (deadly conduct);
- 4 (iii) Section 22.07 (terroristic threat);
- 5 or
- 6 (iv) Section 42.01(a)(7) or (8) (disorderly
- 7 conduct involving firearm).

8 SECTION 3. Section 573.012, Health and Safety Code, is
9 amended by adding Subsection (d-1) and amending Subsection (h) to
10 read as follows:

11 (d-1) A peace officer who transports an apprehended person
12 to a facility in accordance with this section:

13 (1) is not required to remain at the facility while the
14 person is medically screened or treated or while the person's
15 insurance coverage is verified; and

16 (2) may leave the facility immediately after:

17 (A) the person is taken into custody by
18 appropriate facility staff; and

19 (B) the peace officer provides to the facility
20 the required documentation.

21 (h) A judge or magistrate may permit an applicant who is a
22 physician or a licensed mental health professional employed by a
23 local mental health authority to present an application by:

24 (1) e-mail with the application attached as a secure
25 document in a portable document format (PDF); or

26 (2) secure electronic means, including:

27 (A) satellite transmission;

- 1 (B) closed-circuit television transmission; or
- 2 (C) any other method of two-way electronic
- 3 communication that:
 - 4 (i) is secure;
 - 5 (ii) is available to the judge or
 - 6 magistrate; and
 - 7 (iii) provides for a simultaneous,
 - 8 compressed full-motion video and interactive communication of
 - 9 image and sound between the judge or magistrate and the applicant.

10 SECTION 4. Section [574.106](#), Health and Safety Code, is
11 amended by adding Subsection (m) to read as follows:

12 (m) An order issued under this section authorizes the taking
13 of a patient's blood sample to conduct reasonable and medically
14 necessary evaluations and laboratory tests to safely administer a
15 psychoactive medication authorized by the order.

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