

By: Madden

H.B. No. 3907

Substitute the following for H.B. No. 3907:

By: McReynolds

C.S.H.B. No. 3907

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the court-ordered administration of psychoactive
3 medication to certain criminal defendants and to the release of
4 those defendants from certain facilities.

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

6 SECTION 1. Article 16.22, Code of Criminal Procedure, is
7 amended by amending Subsection (d) and adding Subsection (e) to
8 read as follows:

9 (d) This article does not prevent [~~Nothing in this article~~
10 ~~prevents~~] the court from, pending an evaluation of the defendant as
11 described by this article:

12 (1) subject to Subsection (e), releasing a mentally
13 ill or mentally retarded defendant from custody on personal or
14 surety bond; or

15 (2) ordering an examination regarding the defendant's
16 competency to stand trial.

17 (e) If a sheriff releases a defendant who is a person with
18 mental illness or mental retardation from custody, except on final
19 disposition of the criminal proceedings, the sheriff must, before
20 releasing the person:

21 (1) notify the local mental health or mental
22 retardation authority, as applicable, of the impending release; and

23 (2) if possible, arrange for the release of the person
24 during normal business hours.

1 SECTION 2. Article 46B.072(d), Code of Criminal Procedure,
2 is amended to read as follows:

3 (d) An order issued under this article may require the
4 defendant to participate in:

5 (1) as appropriate, an outpatient treatment program
6 administered by a community center or an outpatient treatment
7 program administered by any other entity that provides outpatient
8 competency restoration services; and

9 (2) an appropriate prescribed regimen of medical,
10 psychiatric, or psychological care or treatment, including:

11 (A) care or treatment involving the
12 administration of psychoactive medication, including those
13 required under Article 46B.086; and

14 (B) if applicable, care or treatment
15 administered in a correctional facility pending release to an
16 outpatient treatment program described by Subdivision (1).

17 SECTION 3. Subchapter D, Chapter 46B, Code of Criminal
18 Procedure, is amended by adding Article 46B.087 to read as follows:

19 Art. 46B.087. ORDER OF RELEASE: CONTINUATION OF TREATMENT.
20 If a defendant is released under Article 46B.0095 or 46B.010, the
21 court ordering the defendant's release shall consider whether the
22 defendant could benefit from continued treatment. If the court
23 finds that the defendant could benefit from continued treatment,
24 the court shall include in the order of release a requirement that
25 the sheriff, before releasing the defendant:

26 (1) arrange for the release of the defendant during
27 normal business hours, if possible; and

1 (2) notify the local mental health or mental
2 retardation authority, as applicable, of the impending release.

3 SECTION 4. Section 574.104, Health and Safety Code, is
4 amended by adding Subsections (a-1) and (a-2) to read as follows:

5 (a-1) A physician who is treating a patient ordered to
6 receive inpatient mental health services after having been
7 determined to be incompetent to stand trial may:

8 (1) proceed under Subsection (a); or

9 (2) file, in the court in which the criminal matter is
10 pending, an application for an order to authorize the
11 administration of a psychoactive medication regardless of the
12 patient's refusal if:

13 (A) the physician believes that the patient lacks
14 the capacity to make a decision regarding the administration of the
15 psychoactive medication;

16 (B) the physician determines that the medication
17 is the proper course of treatment for the patient; and

18 (C) the patient, verbally or by other indication,
19 refuses to take the medication.

20 (a-2) An application filed as described by Subsection
21 (a-1)(2) is subject to the requirements and procedures provided by
22 Article 46B.086, Code of Criminal Procedure. Subsections (b)(3),
23 (c), (d), and (e) do not apply to the application.

24 SECTION 5. Section 574.106(c), Health and Safety Code, is
25 amended to read as follows:

26 (c) Except as provided by Subsection (d), a [A] hearing
27 under this subchapter shall be conducted on the record by the

1 probate judge, a [~~or~~] judge with probate jurisdiction, or, if
2 applicable, the judge of a criminal court who ordered the patient to
3 receive inpatient mental health services in accordance with Chapter
4 46B, Code of Criminal Procedure [~~except as provided by Subsection~~
5 ~~(d)~~].

6 SECTION 6. This Act takes effect immediately if it receives
7 a vote of two-thirds of all the members elected to each house, as
8 provided by Section 39, Article III, Texas Constitution. If this
9 Act does not receive the vote necessary for immediate effect, this
10 Act takes effect September 1, 2009.