

By: King of Parker

H.B. No. 766

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the commitment of certain criminal defendants with a
3 history of escape or flight to the maximum security unit of a mental
4 health facility for competency restoration.

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

6 SECTION 1. Articles 46B.073(c) and (d), Code of Criminal
7 Procedure, are amended to read as follows:

8 (c) ~~The [If the defendant is charged with an offense listed~~
9 ~~in Article 17.032(a), other than an offense listed in Article~~
10 ~~17.032(a)(6), or the indictment alleges an affirmative finding~~
11 ~~under Section 3g(a)(2), Article 42.12, the]~~ court shall enter an
12 order committing the defendant to the maximum security unit of any
13 facility designated by the department, to an agency of the United
14 States operating a mental hospital, or to a Department of Veterans
15 Affairs hospital if:

16 (1) the defendant is charged with an offense listed in
17 Article 17.032(a), other than an offense listed in Article
18 17.032(a)(6);

19 (2) the indictment alleges an affirmative finding
20 under Section 3g(a)(2), Article 42.12; or

21 (3) the defendant is charged with an offense for which
22 the defendant could be sentenced to imprisonment in the Texas
23 Department of Criminal Justice for a term of 20 years or more and
24 the court finds that the defendant has a documented history of

1 escape or flight and poses a risk of unauthorized departure from a
2 mental health facility if not committed to the maximum security
3 unit of the facility.

4 (d) If the defendant is not committed as described by
5 Subsection (c) [~~charged with an offense described by Subsection (c)~~
6 ~~and the indictment does not allege an affirmative finding under~~
7 ~~Section 3g(a)(2), Article 42.12~~], the court shall enter an order
8 committing the defendant to a mental health facility or residential
9 care facility determined to be appropriate by the local mental
10 health authority or local mental retardation authority.

11 SECTION 2. Article 46B.104, Code of Criminal Procedure, is
12 amended to read as follows:

13 Art. 46B.104. CIVIL COMMITMENT PLACEMENT: FINDING OF
14 VIOLENCE OR HISTORY OF ESCAPE. A defendant committed to a facility
15 as a result of proceedings initiated under this chapter shall be
16 committed to the maximum security unit of any facility designated
17 by the department if:

18 (1) the defendant is charged with an offense listed in
19 Article 17.032(a), other than an offense listed in Article
20 17.032(a)(6); [~~or~~]

21 (2) the indictment charging the offense alleges an
22 affirmative finding under Section 3g(a)(2), Article 42.12; or

23 (3) the defendant is charged with an offense for which
24 the defendant could be sentenced to imprisonment in the Texas
25 Department of Criminal Justice for a term of 20 years or more and
26 the court finds that the defendant has a documented history of
27 escape or flight and poses a risk of unauthorized departure from a

1 mental health facility if not committed to the maximum security
2 unit of the facility.

3 SECTION 3. The heading to Article 46B.106, Code of Criminal
4 Procedure, is amended to read as follows:

5 Art. 46B.106. CIVIL COMMITMENT PLACEMENT: NO FINDING OF
6 VIOLENCE OR HISTORY OF ESCAPE.

7 SECTION 4. The change in law made by this Act applies only
8 to a defendant against whom proceedings are initiated under Chapter
9 46B, Code of Criminal Procedure, on or after the effective date of
10 this Act.

11 SECTION 5. This Act takes effect September 1, 2013.