

By: Collier

H.B. No. 4196

A BILL TO BE ENTITLED

AN ACT

relating to the commitment of a defendant who is found incompetent to stand trial and who is a person with an intellectual disability.

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

SECTION 1. Article 46B.073(c), Code of Criminal Procedure, is amended to read as follows:

(c) If the defendant is charged with an offense listed in Article 17.032(a), other than an offense listed in Article 17.032(a)(6), or the indictment alleges an affirmative finding under Article 42A.054(c) or (d), the court shall enter an order committing the defendant:

(1) to the maximum security unit of any facility designated by the Department of State Health Services, to an agency of the United States operating a mental hospital, or to a Department of Veterans Affairs hospital, if the defendant is a person with mental illness; or

(2) to a forensic state supported living center designated under Section 555.002(a), Health and Safety Code, if the defendant is a person with an intellectual disability.

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

Art. 46B.104. CIVIL COMMITMENT PLACEMENT: FINDING OF VIOLENCE. (a) A defendant who is a person with mental illness and who is committed to a facility as a result of proceedings initiated

1 under this chapter shall be committed to the maximum security unit
2 of any facility designated by the Department of State Health
3 Services if:

4 (1) the defendant is charged with an offense listed in
5 Article 17.032(a), other than an offense listed in Article
6 17.032(a)(6); or

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

9 (b) A defendant who is a person with an intellectual
10 disability and who is committed to a facility as a result of
11 proceedings initiated under this chapter shall be committed to a
12 forensic state supported living center designated under Section
13 555.002(a), Health and Safety Code, if:

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

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

19 SECTION 3. The heading to Article 46B.105, Code of Criminal
20 Procedure, is amended to read as follows:

21 Art. 46B.105. TRANSFER FOLLOWING CIVIL COMMITMENT
22 PLACEMENT: MENTAL ILLNESS.

23 SECTION 4. Articles 46B.105(a), (b), and (d), Code of
24 Criminal Procedure, are amended to read as follows:

25 (a) Unless a defendant who is a person with mental illness
26 is determined to be manifestly dangerous by a review board
27 established under Subsection (b), not later than the 60th day after

1 the date the defendant arrives at the maximum security unit, the
2 defendant shall be transferred to:

3 (1) a unit of an inpatient mental health facility
4 other than a maximum security unit; or

5 (2) [~~a residential care facility, or~~
6 (~~3~~)] a program designated by a local mental health
7 authority [~~or a local intellectual and developmental disability~~
8 ~~authority~~].

9 (b) The commissioner of state health services shall appoint
10 a review board of five members, including one psychiatrist licensed
11 to practice medicine in this state and two persons who work directly
12 with persons with mental illness [~~or an intellectual disability~~],
13 to determine whether the defendant is manifestly dangerous and
14 whether, as a result of the danger the defendant presents, the
15 defendant requires continued placement in a maximum security unit.

16 (d) A finding that the defendant is not manifestly dangerous
17 is not a medical determination that the defendant no longer meets
18 the criteria for involuntary civil commitment under Subtitle C [~~or~~
19 ~~D~~], Title 7, Health and Safety Code.

20 SECTION 5. Subchapter E, Chapter 46B, Code of Criminal
21 Procedure, is amended by adding Article 46B.1055 to read as
22 follows:

23 Art. 46B.1055. TRANSFER FOLLOWING CIVIL COMMITMENT
24 PLACEMENT: INTELLECTUAL DISABILITY. (a) Unless a defendant who is
25 a person with an intellectual disability is determined to be a
26 high-risk alleged offender under Section 555.003, Health and Safety
27 Code, not later than the 30th day after the date the defendant

1 arrives at the forensic state supported living center designated
2 under Section 555.002(a) of that code, the defendant shall be
3 transferred to:

4 (1) a unit of a state supported living center other
5 than a forensic state supported living center; or

6 (2) a program designated by a local intellectual and
7 developmental disability authority.

8 (b) In accordance with Section 555.003, Health and Safety
9 Code, the defendant's interdisciplinary team shall determine
10 whether the defendant is a high-risk alleged offender and whether,
11 as a result of the danger the defendant presents, the defendant
12 requires continued placement in a forensic state supported living
13 center.

14 (c) A finding that the defendant is not a high-risk alleged
15 offender is not a medical determination that the defendant no
16 longer meets the criteria for involuntary civil commitment under
17 Subtitle D, Title 7, Health and Safety Code.

18 SECTION 6. The change in law made by this Act applies only
19 to a proceeding under Chapter 46B, Code of Criminal Procedure, that
20 commences on or after the effective date of this Act, regardless of
21 when the defendant may have committed the underlying offense for
22 which the defendant became subject to the proceeding.

23 SECTION 7. This Act takes effect September 1, 2017.