

By: Uresti

S.B. No. 1623

A BILL TO BE ENTITLED

AN ACT

relating to certain persons who are acquitted by reason of insanity in a criminal case and who are dangerous to the person's self.

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

SECTION 1. Article 46C.252(c), Code of Criminal Procedure, is amended to read as follows:

(c) The report must address:

(1) whether the acquitted person has a mental illness or mental retardation and, if so, whether the mental illness or mental retardation is severe;

(2) whether as a result of any severe mental illness or mental retardation the acquitted person is likely to cause serious harm to the person's self or another;

(3) whether as a result of any impairment the acquitted person is subject to commitment under Subtitle C or D, Title 7, Health and Safety Code;

(4) prospective treatment and supervision options, if any, appropriate for the acquitted person; and

(5) whether any required treatment and supervision can be safely and effectively provided as outpatient or community-based treatment and supervision.

SECTION 2. Article 46C.253(b), Code of Criminal Procedure, is amended to read as follows:

(b) At the hearing, the court shall address:

1           (1) whether the person acquitted by reason of insanity  
2 has a severe mental illness or mental retardation;

3           (2) whether as a result of any mental illness or mental  
4 retardation the person is likely to cause serious harm to the  
5 person's self or another; and

6           (3) whether appropriate treatment and supervision for  
7 any mental illness or mental retardation rendering the person  
8 dangerous to the person's self or another can be safely and  
9 effectively provided as outpatient or community-based treatment  
10 and supervision.

11           SECTION 3. Article [46C.254](#), Code of Criminal Procedure, is  
12 amended to read as follows:

13           Art. 46C.254. EFFECT OF STABILIZATION ON TREATMENT REGIMEN.  
14 If an acquitted person is stabilized on a treatment regimen,  
15 including medication and other treatment modalities, rendering the  
16 person no longer likely to cause serious harm to the person's self  
17 or another, inpatient treatment or residential care may be found  
18 necessary to protect the safety of the person's self or of others  
19 only if:

20           (1) the person would become likely to cause serious  
21 harm to the person's self or another if the person fails to follow  
22 the treatment regimen on an Order to Receive Outpatient or  
23 Community-Based Treatment and Supervision; and

24           (2) under an Order to Receive Outpatient or  
25 Community-Based Treatment and Supervision either:

26           (A) the person is likely to fail to comply with an  
27 available regimen of outpatient or community-based treatment, as

1 determined by the person's insight into the need for medication,  
2 the number, severity, and controllability of side effects, the  
3 availability of support and treatment programs for the person from  
4 community members, and other appropriate considerations; or

5 (B) a regimen of outpatient or community-based  
6 treatment will not be available to the person.

7 SECTION 4. Article 46C.255(c), Code of Criminal Procedure,  
8 is amended to read as follows:

9 (c) If a hearing is held before a jury and the jury  
10 determines that the person has a mental illness or mental  
11 retardation and is likely to cause serious harm to the person's self  
12 or another, the court shall determine whether inpatient treatment  
13 or residential care is necessary to protect the safety of the  
14 person's self or of others.

15 SECTION 5. Article 46C.256(a), Code of Criminal Procedure,  
16 is amended to read as follows:

17 (a) The court shall order the acquitted person committed to  
18 a mental hospital or other appropriate facility for inpatient  
19 treatment or residential care if the state establishes by clear and  
20 convincing evidence that:

21 (1) the person has a severe mental illness or mental  
22 retardation;

23 (2) the person, as a result of that mental illness or  
24 mental retardation, is likely to cause serious bodily injury to the  
25 person's self or another if the person is not provided with  
26 treatment and supervision; and

27 (3) inpatient treatment or residential care is

1 necessary to protect the safety of the person's self or of others.

2 SECTION 6. Article 46C.257(a), Code of Criminal Procedure,  
3 is amended to read as follows:

4 (a) The court shall order the acquitted person to receive  
5 outpatient or community-based treatment and supervision if:

6 (1) the state establishes by clear and convincing  
7 evidence that the person:

8 (A) has a severe mental illness or mental  
9 retardation; and

10 (B) as a result of that mental illness or mental  
11 retardation is likely to cause serious bodily injury to the  
12 person's self or another if the person is not provided with  
13 treatment and supervision; and

14 (2) the state fails to establish by clear and  
15 convincing evidence that inpatient treatment or residential care is  
16 necessary to protect the safety of the person's self or of others.

17 SECTION 7. Articles 46C.258(a) and (b), Code of Criminal  
18 Procedure, are amended to read as follows:

19 (a) The head of the facility to which an acquitted person is  
20 committed has, during the commitment period, a continuing  
21 responsibility to determine:

22 (1) whether the acquitted person continues to have a  
23 severe mental illness or mental retardation and is likely to cause  
24 serious harm to the person's self or another because of any severe  
25 mental illness or mental retardation; and

26 (2) if so, whether treatment and supervision cannot be  
27 safely and effectively provided as outpatient or community-based

1 treatment and supervision.

2 (b) The head of the facility must notify the committing  
3 court and seek modification of the order of commitment if the head  
4 of the facility determines that an acquitted person no longer has a  
5 severe mental illness or mental retardation, is no longer likely to  
6 cause serious harm to the person's self or another, or that  
7 treatment and supervision can be safely and effectively provided as  
8 outpatient or community-based treatment and supervision.

9 SECTION 8. Article 46C.265(b), Code of Criminal Procedure,  
10 is amended to read as follows:

11 (b) The person responsible for administering a regimen of  
12 outpatient or community-based treatment and supervision shall  
13 notify the court ordering that treatment and supervision and the  
14 attorney representing the state if the person:

15 (1) fails to comply with the regimen; and

16 (2) becomes likely to cause serious harm to the  
17 person's self or another.

18 SECTION 9. Article 46C.266(b), Code of Criminal Procedure,  
19 is amended to read as follows:

20 (b) At the hearing, the court without a jury shall determine  
21 whether the state has established clear and convincing evidence  
22 that:

23 (1) the acquitted person failed to comply with the  
24 regimen in a manner or under circumstances indicating the person  
25 will become likely to cause serious harm to the person's self or  
26 another if the person is provided continued outpatient or  
27 community-based treatment and supervision; or

1           (2) the acquitted person has become likely to cause  
2 serious harm to the person's self or another if provided continued  
3 outpatient or community-based treatment and supervision.

4           SECTION 10. Article 46C.268(f), Code of Criminal Procedure,  
5 is amended to read as follows:

6           (f) The court shall discharge the acquitted person from all  
7 court-ordered commitment and treatment and supervision and  
8 terminate the court's jurisdiction over the person if the court  
9 finds that the acquitted person has established by a preponderance  
10 of the evidence that:

11           (1) the acquitted person does not have a severe mental  
12 illness or mental retardation; or

13           (2) the acquitted person is not likely to cause  
14 serious harm to the person's self or another because of any severe  
15 mental illness or mental retardation.

16           SECTION 11. The changes in law made by this Act in amending  
17 Chapter 46C, Code of Criminal Procedure, apply only to a defendant  
18 acquitted of an offense on or after the effective date of this Act,  
19 regardless of when the offense of which the defendant was acquitted  
20 was committed. A defendant who before the effective date of this  
21 Act is acquitted of an offense is governed by the law in effect on  
22 the date the acquittal occurred, and the former law remains in  
23 effect for that purpose.

24           SECTION 12. This Act takes effect September 1, 2017.