86R8016 LHC-F

By:  Smith H.B. No. 2436

A BILL TO BE ENTITLED

AN ACT

relating to the release on personal bond of certain defendants with a mental illness or an intellectual disability.

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

SECTION 1.  Article 17.032(b), Code of Criminal Procedure, as amended by Chapters 748 (S.B. 1326) and 950 (S.B. 1849), Acts of the 85th Legislature, Regular Session, 2017, is reenacted to read as follows:

(b)  Notwithstanding Article 17.03(b), or a bond schedule adopted or a standing order entered by a judge, a magistrate shall release a defendant on personal bond unless good cause is shown otherwise if:

(1)  the defendant is not charged with and has not been previously convicted of a violent offense;

(2)  the defendant is examined by the local mental health authority, local intellectual and developmental disability authority, or another qualified mental health or intellectual disability expert under Article 16.22;

(3)  the applicable expert, in a written assessment submitted to the magistrate under Article 16.22:

(A)  concludes that the defendant has a mental illness or is a person with an intellectual disability and is nonetheless competent to stand trial; and

(B)  recommends mental health treatment or intellectual disability services for the defendant, as applicable;

(4)  the magistrate determines, in consultation with the local mental health authority or local intellectual and developmental disability authority, that appropriate community-based mental health or intellectual disability services for the defendant are available in accordance with Section 534.053 or 534.103, Health and Safety Code, or through another mental health or intellectual disability services provider; and

(5)  the magistrate finds, after considering all the circumstances, a pretrial risk assessment, if applicable, and any other credible information provided by the attorney representing the state or the defendant, that release on personal bond would reasonably ensure the defendant's appearance in court as required and the safety of the community and the victim of the alleged offense.

SECTION 2.  Article 17.032(c), Code of Criminal Procedure, as amended by Chapters 748 (S.B. 1326) and 950 (S.B. 1849), Acts of the 85th Legislature, Regular Session, 2017, is reenacted and amended to read as follows:

(c)  The magistrate, unless good cause is shown for not requiring treatment or services, shall require as a condition of release on personal bond under this article that the defendant submit to outpatient or inpatient mental health treatment or intellectual disability services as recommended by the local mental health authority, local intellectual and developmental disability authority, or another qualified mental health or intellectual disability expert if the defendant's:

(1)  mental illness or intellectual disability is chronic in nature; or

(2)  ability to function independently will continue to deteriorate if the defendant does not receive the recommended treatment or services [~~is not treated~~].

SECTION 3.  This Act takes effect September 1, 2019.