86R1778 GCB-F

By:  Zaffirini S.B. No. 562

A BILL TO BE ENTITLED

AN ACT

relating to the delivery of certain mental health information regarding a defendant transferred from a county to the custody of the Texas Department of Criminal Justice, the commitment of certain defendants for competency restoration, and the use of telepsychiatry in determining whether a defendant is manifestly dangerous before commitment.

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

SECTION 1.  Section 8(a), Article 42.09, Code of Criminal Procedure, is amended to read as follows:

(a)  A county that transfers a defendant to the Texas Department of Criminal Justice under this article shall deliver to an officer designated by the department:

(1)  a copy of the judgment entered pursuant to Article 42.01, completed on a standardized felony judgment form described by Section 4 of that article;

(2)  a copy of any order revoking community supervision and imposing sentence pursuant to Article 42A.755, including:

(A)  any amounts owed for restitution, fines, and court costs, completed on a standardized felony judgment form described by Section 4, Article 42.01; and

(B)  a copy of the client supervision plan prepared for the defendant by the community supervision and corrections department supervising the defendant, if such a plan was prepared;

(3)  a written report that states the nature and the seriousness of each offense and that states the citation to the provision or provisions of the Penal Code or other law under which the defendant was convicted;

(4)  a copy of the victim impact statement, if one has been prepared in the case under Article 56.03;

(5)  a statement as to whether there was a change in venue in the case and, if so, the names of the county prosecuting the offense and the county in which the case was tried;

(6)  if requested, information regarding the criminal history of the defendant, including the defendant's state identification number if the number has been issued;

(7)  a copy of the indictment or information for each offense;

(8)  a checklist sent by the department to the county and completed by the county in a manner indicating that the documents required by this subsection and Subsection (c) accompany the defendant;

(9)  if prepared, a copy of a presentence or postsentence report prepared under Subchapter F, Chapter 42A;

(10)  a copy of any detainer, issued by an agency of the federal government, that is in the possession of the county and that has been placed on the defendant;

(11)  if prepared, a copy of the defendant's Texas Uniform Health Status Update Form; [~~and~~]

(12)  a written description of a hold or warrant, issued by any other jurisdiction, that the county is aware of and that has been placed on or issued for the defendant; and

(13)  a copy of any mental health records, mental health screening reports, or similar information regarding the mental health of the defendant.

SECTION 2.  Articles 46B.073(c) and (d), Code of Criminal Procedure, are amended to read as follows:

(c)  If the defendant is charged with an offense listed in Article 17.032(a), other than an offense under Section 22.01(a)(1), Penal Code, or the indictment alleges an affirmative finding under Article 42A.054(c) or (d), the court may [~~shall~~] enter an order committing the defendant for competency restoration services 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. The court may base its decision whether to commit the defendant to a facility described by this subsection on a determination made by a review board established under Article 46B.105(b) that the defendant is manifestly dangerous. The court may request that the review board make a determination of whether the defendant is manifestly dangerous in the manner provided by Article 46B.105(b-1), including by assessing the defendant through telepsychiatry. If the court requests a review board to make a recommendation under this subsection, Article 46B.105(e) does not apply to the determination made by the review board and the review board shall provide its determination directly to the court.

(d)  The court shall enter an order committing a defendant to whom this article applies and who is not committed to a facility [~~If the defendant is not charged with an offense~~] described by Subsection (c) [~~and the indictment does not allege an affirmative finding under Article 42A.054(c) or (d), the court shall enter an order committing the defendant~~] to a mental health facility or residential care facility determined to be appropriate by the local mental health authority or local intellectual and developmental disability authority or to a jail-based competency restoration program. A defendant may be committed to a jail-based competency restoration program only if the program provider determines the defendant will begin to receive competency restoration services within 72 hours of arriving at the program.

SECTION 3.  Article 46B.105, Code of Criminal Procedure, is amended by adding Subsection (b-1) to read as follows:

(b-1)  A review board established under Subsection (b) may make a determination of whether a defendant is manifestly dangerous by assessing the defendant through telepsychiatry and by reviewing appropriate records necessary for an assessment of the danger the defendant presents, as provided by rules adopted for that purpose by the executive commissioner of the Health and Human Services Commission. In this subsection, "telepsychiatry" means the practice of psychiatry, including conducting a psychiatric evaluation, through videoconferencing or similar technology that allows a psychiatrist to interact with another person without being present at the same location as that person.

SECTION 4.  The change in law made by this Act to Article 46B.073, Code of Criminal Procedure, applies to an order for commitment entered under that article on or after the effective date of this Act, regardless of when the offense with which the defendant is charged was committed.

SECTION 5.  As soon as practicable after the effective date of this Act, the executive commissioner of the Health and Human Services Commission shall adopt or amend rules regarding a determination of whether a defendant is manifestly dangerous as necessary to conform with the changes in law made by this Act to Articles 46B.073 and 46B.105, Code of Criminal Procedure.

SECTION 6.  This Act takes effect September 1, 2019.