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H.B. No. 601

A BILL TO BE ENTITLED

1 AN ACT
2 relating to procedures and reporting requirements regarding
3 criminal defendants who are or may be persons with a mental illness
4 or an intellectual disability.

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

6 SECTION 1. Article 16.22(a), Code of Criminal Procedure, as
7 amended by Chapters 748 (S.B. 1326) and 950 (S.B. 1849), Acts of the
8 85th Legislature, Regular Session, 2017, is reenacted and amended
9 to read as follows:

10 (a)(1) Not later than 12 hours after the sheriff or
11 municipal jailer having custody of a defendant for an offense
12 punishable as a Class B misdemeanor or any higher category of
13 offense receives credible information that may establish
14 reasonable cause to believe that the defendant has a mental illness
15 or is a person with an intellectual disability, the sheriff or
16 municipal jailer shall provide written or electronic notice to the
17 magistrate. The notice must include any information related to the
18 sheriff's or municipal jailer's determination, such as information
19 regarding the defendant's behavior immediately before, during, and
20 after the defendant's arrest and, if applicable, the results of any
21 previous assessment of the defendant. On a determination that
22 there is reasonable cause to believe that the defendant has a mental
23 illness or is a person with an intellectual disability, the
24 magistrate, except as provided by Subdivision (2), shall order the

1 service provider that contracts with the jail to provide mental
2 health or intellectual and developmental disability services, the
3 local mental health authority, the local intellectual and
4 developmental disability authority, or another qualified mental
5 health or intellectual disability expert to:

6 (A) interview the defendant if the defendant has
7 not previously been interviewed by a qualified mental health or
8 intellectual and developmental disability expert on or after the
9 date the defendant was arrested for the offense for which the
10 defendant is in custody, and otherwise collect information
11 regarding whether the defendant has a mental illness as defined by
12 Section 571.003, Health and Safety Code, or is a person with an
13 intellectual disability as defined by Section 591.003, Health and
14 Safety Code, including, if applicable, information obtained from
15 any previous assessment of the defendant and information regarding
16 any previously recommended treatment or service; and

17 (B) provide to the magistrate a written report
18 [~~assessment~~] of the interview and other information collected under
19 Paragraph (A) on the form approved by the Texas Correctional Office
20 on Offenders with Medical or Mental Impairments under Section
21 614.0032(c) [~~614.0032(b)~~], Health and Safety Code.

22 (2) The magistrate is not required to order the
23 interview and collection of other information under Subdivision (1)
24 if the defendant in the year preceding the defendant's applicable
25 date of arrest has been determined to have a mental illness or to be
26 a person with an intellectual disability by the service provider
27 that contracts with the jail to provide mental health or

1 intellectual and developmental disability services, the local
2 mental health authority, the local intellectual and developmental
3 disability authority, or another mental health or intellectual
4 disability expert described by Subdivision (1). A court that
5 elects to use the results of that previous determination may
6 proceed under Subsection (c).

7 (3) If the defendant fails or refuses to submit to the
8 interview and collection of other information regarding the
9 defendant as required under Subdivision (1), the magistrate may
10 order the defendant to submit to an examination in a jail, or in
11 another place determined to be appropriate by the local mental
12 health authority or local intellectual and developmental
13 disability authority, for a reasonable period not to exceed 72
14 hours. If applicable, the county in which the committing court is
15 located shall reimburse the local mental health authority or local
16 intellectual and developmental disability authority for the
17 mileage and per diem expenses of the personnel required to
18 transport the defendant, calculated in accordance with the state
19 travel regulations in effect at the time.

20 SECTION 2. Article 16.22, Code of Criminal Procedure, is
21 amended by adding Subsections (a-1) and (f) and amending
22 Subsections (b), (b-1), (c), (d), and (e) to read as follows:

23 (a-1) If a magistrate orders a local mental health authority
24 or local intellectual and developmental disability authority to
25 conduct an interview and collect information under Subsection
26 (a)(1), the commissioners court for the county in which the
27 magistrate is located shall reimburse the local mental health

1 authority or local intellectual and developmental disability
2 authority for the cost of performing those duties.

3 (b) Except as otherwise permitted by the magistrate for good
4 cause shown, a written report [~~assessment~~] of the interview and
5 other information collected under Subsection (a)(1)(A) shall be
6 provided to the magistrate:

7 (1) for a defendant held in custody, not later than 96
8 hours after the time an order was issued under Subsection (a); or

9 (2) for a defendant released from custody, not later
10 than the 30th day after the date an order was issued under
11 Subsection (a).

12 (b-1) The magistrate shall provide copies of the written
13 report [~~assessment~~] to the defense counsel, the attorney
14 representing the state, and the trial court. The written report
15 [~~assessment~~] must include a description of the procedures used in
16 the interview and collection of other information under Subsection
17 (a)(1)(A) and the applicable expert's observations and findings
18 pertaining to:

19 (1) whether the defendant is a person who has a mental
20 illness or is a person with an intellectual disability;

21 (2) whether there is clinical evidence to support a
22 belief that the defendant may be incompetent to stand trial and
23 should undergo a complete competency examination under Subchapter
24 B, Chapter 46B; and

25 (3) any appropriate or recommended treatment or
26 service.

27 (c) After the trial court receives the applicable expert's

1 written report [~~assessment~~] relating to the defendant under
2 Subsection (b-1) or elects to use the results of a previous
3 determination as described by Subsection (a)(2), the trial court
4 may, as applicable:

5 (1) resume criminal proceedings against the
6 defendant, including any appropriate proceedings related to the
7 defendant's release on personal bond under Article 17.032 if the
8 defendant is being held in custody;

9 (2) resume or initiate competency proceedings, if
10 required, as provided by Chapter 46B or other proceedings affecting
11 the defendant's receipt of appropriate court-ordered mental health
12 or intellectual disability services, including proceedings related
13 to the defendant's receipt of outpatient mental health services
14 under Section 574.034, Health and Safety Code;

15 (3) consider the written report [~~assessment~~] during
16 the punishment phase after a conviction of the offense for which the
17 defendant was arrested, as part of a presentence investigation
18 report, or in connection with the impositions of conditions
19 following placement on community supervision, including deferred
20 adjudication community supervision; or

21 (4) refer the defendant to an appropriate specialty
22 court established or operated under Subtitle K, Title 2, Government
23 Code.

24 (d) This article does not prevent the applicable court from,
25 before, during, or after the interview and collection of other
26 information regarding the defendant as described by this article:

27 (1) releasing a defendant who has a mental illness or

1 is a person with an intellectual disability from custody on
2 personal or surety bond, including imposing as a condition of
3 release that the defendant submit to an examination or other
4 assessment; or

5 (2) ordering an examination regarding the defendant's
6 competency to stand trial.

7 (e) The Texas Judicial Council shall adopt rules to require
8 the reporting of [~~The magistrate shall submit to the Office of~~
9 ~~Court Administration of the Texas Judicial System on a monthly~~
10 ~~basis~~] the number of written reports [~~assessments~~] provided to a
11 [~~the~~] court under Subsection (a)(1)(B). The rules must require
12 submission of the reports to the Office of Court Administration of
13 the Texas Judicial System on a monthly basis.

14 (f) A written report submitted to a magistrate under
15 Subsection (a)(1)(B) is confidential and not subject to disclosure
16 under Chapter 552, Government Code, but may be used or disclosed as
17 provided by this article.

18 SECTION 3. Articles 17.032(b) and (c), Code of Criminal
19 Procedure, as amended by Chapters 748 (S.B. 1326) and 950 (S.B.
20 1849), Acts of the 85th Legislature, Regular Session, 2017, are
21 reenacted and amended to read as follows:

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

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

1 (2) the defendant is examined by the service provider
2 that contracts with the jail to provide mental health or
3 intellectual and developmental disability services, the local
4 mental health authority, the local intellectual and developmental
5 disability authority, or another qualified mental health or
6 intellectual disability expert under Article 16.22;

7 (3) the applicable expert, in a written report
8 [~~assessment~~] submitted to the magistrate under Article 16.22:

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

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

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

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

1 (c) The magistrate, unless good cause is shown for not
2 requiring treatment or services, shall require as a condition of
3 release on personal bond under this article that the defendant
4 submit to outpatient or inpatient mental health treatment or
5 intellectual disability services as recommended by the service
6 provider that contracts with the jail to provide mental health or
7 intellectual and developmental disability services, the local
8 mental health authority, the local intellectual and developmental
9 disability authority, or another qualified mental health or
10 intellectual disability expert if the defendant's:

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

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

16 SECTION 4. Section 8(c), Article 42.09, Code of Criminal
17 Procedure, is amended to read as follows:

18 (c) A county that transfers a defendant to the Texas
19 Department of Criminal Justice under this article shall also
20 deliver to the designated officer any presentence or postsentence
21 investigation report, revocation report, psychological or
22 psychiatric evaluation of the defendant, including a written report
23 provided to a court under Article 16.22(a)(1)(B) or an evaluation
24 prepared for the juvenile court before transferring the defendant
25 to criminal court and contained in the criminal prosecutor's file,
26 and available social or psychological background information
27 relating to the defendant and may deliver to the designated officer

1 any additional information upon which the judge or jury bases the
2 punishment decision.

3 SECTION 5. Section [511.0085](#)(a), Government Code, is amended
4 to read as follows:

5 (a) The commission shall develop a comprehensive set of risk
6 factors to use in assessing the overall risk level of each jail
7 under the commission's jurisdiction. The set of risk factors must
8 include:

9 (1) a history of the jail's compliance with state law
10 and commission rules, standards, and procedures;

11 (2) the population of the jail;

12 (3) the number and nature of complaints regarding the
13 jail, including complaints regarding a violation of any required
14 ratio of correctional officers to inmates;

15 (4) problems with the jail's internal grievance
16 procedures;

17 (5) available mental and medical health reports
18 relating to inmates in the jail, including reports relating to
19 infectious disease or pregnant inmates;

20 (6) recent turnover among sheriffs and jail staff;

21 (7) inmate escapes from the jail;

22 (8) the number and nature of inmate deaths at the jail,
23 including the results of the investigations of those deaths; and

24 (9) whether the jail is in compliance with commission
25 rules, standards developed by the Texas Correctional Office on
26 Offenders with Medical or Mental Impairments, and the requirements
27 of Article [16.22](#), Code of Criminal Procedure, regarding screening

1 and assessment protocols for the early identification of and
2 reports concerning persons with mental illness or an intellectual
3 disability.

4 SECTION 6. The heading to Section 614.0032, Health and
5 Safety Code, is amended to read as follows:

6 Sec. 614.0032. SPECIAL DUTIES RELATED TO MEDICALLY
7 RECOMMENDED SUPERVISION; DETERMINATIONS REGARDING MENTAL ILLNESS
8 OR INTELLECTUAL DISABILITY [~~COMPETENCY OR FITNESS TO PROCEED~~].

9 SECTION 7. Section 614.0032, Health and Safety Code, is
10 amended by adding Subsection (c) to read as follows:

11 (c) The office shall approve and make generally available in
12 electronic format a standard form for use by a person providing a
13 written report under Article 16.22(a)(1)(B), Code of Criminal
14 Procedure.

15 SECTION 8. The changes in law made by this Act apply only to
16 a defendant charged with an offense committed on or after the
17 effective date of this Act. A defendant charged with an offense
18 committed before the effective date of this Act is governed by the
19 law in effect on the date the offense was committed, and the former
20 law is continued in effect for that purpose. For purposes of this
21 section, an offense was committed before the effective date of this
22 Act if any element of the offense occurred before that date.

23 SECTION 9. To the extent of any conflict, this Act prevails
24 over another Act of the 86th Legislature, Regular Session, 2019,
25 relating to nonsubstantive additions to and corrections in enacted
26 codes.

27 SECTION 10. This Act takes effect September 1, 2019.