

AN ACT

relating to criminal or juvenile procedures and reporting requirements regarding persons who are or may be persons with a mental illness or an intellectual disability.

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

SECTION 1. Article 16.22(a), 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:

(a)(1) Not later than 12 hours after the sheriff or municipal jailer having custody of a defendant for an offense punishable as a Class B misdemeanor or any higher category of offense receives credible information that may establish reasonable cause to believe that the defendant has a mental illness or is a person with an intellectual disability, the sheriff or municipal jailer shall provide written or electronic notice to the magistrate. The notice must include any information related to the sheriff's or municipal jailer's determination, such as information regarding the defendant's behavior immediately before, during, and after the defendant's arrest and, if applicable, the results of any previous assessment of the defendant. On a determination that there is reasonable cause to believe that the defendant has a mental illness or is a person with an intellectual disability, the 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 and developmental 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 regarding  
11 whether the defendant has a mental illness as defined by Section  
12 [571.003](#), Health and Safety Code, or is a person with an intellectual  
13 disability as defined by Section [591.003](#), Health and Safety Code,  
14 including, if applicable, information obtained from any previous  
15 assessment of the defendant and information regarding any  
16 previously recommended treatment or service; and

17 (B) provide to the magistrate a written report  
18 [~~assessment~~] of an interview described by Paragraph (A) and the  
19 other information collected under that paragraph [~~Paragraph (A)~~] on  
20 the form approved by the Texas Correctional Office on Offenders  
21 with Medical or Mental Impairments under Section [614.0032\(c\)](#)  
22 [~~614.0032(b)~~], Health and Safety Code.

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

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

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

21           SECTION 2. Article 16.22, Code of Criminal Procedure, is  
22 amended by adding Subsections (a-1), (a-2), (a-3), (a-4), and (f)  
23 and amending Subsections (b), (b-1), (c), (d), and (e) to read as  
24 follows:

25           (a-1) If a magistrate orders a local mental health  
26 authority, a local intellectual and developmental disability  
27 authority, or another qualified mental health or intellectual and

1 developmental disability expert to conduct an interview or collect  
2 information under Subsection (a)(1), the commissioners court for  
3 the county in which the magistrate is located shall reimburse the  
4 local mental health authority, local intellectual and  
5 developmental disability authority, or qualified mental health or  
6 intellectual and developmental disability expert for the cost of  
7 performing those duties in the amount provided by the fee schedule  
8 adopted under Subsection (a-2) or in the amount determined by the  
9 judge under Subsection (a-3), as applicable.

10 (a-2) The commissioners court for a county may adopt a fee  
11 schedule to pay for the costs to conduct an interview and collect  
12 information under Subsection (a)(1). In developing the fee  
13 schedule, the commissioners court shall consider the generally  
14 accepted reasonable cost in that county of performing the duties  
15 described by Subsection (a)(1). A fee schedule described by this  
16 subsection must be adopted in a public hearing and must be  
17 periodically reviewed by the commissioners court.

18 (a-3) If the cost of performing the duties described by  
19 Subsection (a)(1) exceeds the amount provided by the applicable fee  
20 schedule or if the commissioners court for the applicable county  
21 has not adopted a fee schedule, the authority or expert who  
22 performed the duties may request that the judge who has  
23 jurisdiction over the underlying offense determine the reasonable  
24 amount for which the authority or expert is entitled to be  
25 reimbursed under Subsection (a-1). The amount determined under  
26 this subsection may not be less than the amount provided by the fee  
27 schedule, if applicable. The judge shall determine the amount not

1 later than the 45th day after the date the request is made. The  
2 judge is not required to hold a hearing before making a  
3 determination under this subsection.

4 (a-4) An interview under Subsection (a)(1) may be conducted  
5 in person in the jail, by telephone, or through a telemedicine  
6 medical service or telehealth service.

7 (b) Except as otherwise permitted by the magistrate for good  
8 cause shown, a written report [~~assessment~~] of an interview  
9 described by Subsection (a)(1)(A) and the other information  
10 collected under that paragraph [~~Subsection (a)(1)(A)] shall be~~  
11 provided to the magistrate:

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

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

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

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

26 (2) whether there is clinical evidence to support a  
27 belief that the defendant may be incompetent to stand trial and

1 should undergo a complete competency examination under Subchapter  
2 B, Chapter 46B; and

3 (3) any appropriate or recommended treatment or  
4 service.

5 (c) After the trial court receives the applicable expert's  
6 written report [~~assessment~~] relating to the defendant under  
7 Subsection (b-1) or elects to use the results of a previous  
8 determination as described by Subsection (a)(2), the trial court  
9 may, as applicable:

10 (1) resume criminal proceedings against the  
11 defendant, including any appropriate proceedings related to the  
12 defendant's release on personal bond under Article 17.032 if the  
13 defendant is being held in custody;

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

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

26 (4) refer the defendant to an appropriate specialty  
27 court established or operated under Subtitle K, Title 2, Government

1 Code.

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

5 (1) releasing a defendant who has a mental illness or  
6 is a person with an intellectual disability from custody on  
7 personal or surety bond, including imposing as a condition of  
8 release that the defendant submit to an examination or other  
9 assessment; or

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

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

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

23 SECTION 3. Articles 17.032(b) and (c), Code of Criminal  
24 Procedure, as amended by Chapters 748 (S.B. 1326) and 950 (S.B.  
25 1849), Acts of the 85th Legislature, Regular Session, 2017, are  
26 reenacted and amended to read as follows:

27 (b) Notwithstanding Article 17.03(b), or a bond schedule

1 adopted or a standing order entered by a judge, a magistrate shall  
2 release a defendant on personal bond unless good cause is shown  
3 otherwise if:

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

6 (2) the defendant is examined by the service provider  
7 that contracts with the jail to provide mental health or  
8 intellectual and developmental disability services, the local  
9 mental health authority, the local intellectual and developmental  
10 disability authority, or another qualified mental health or  
11 intellectual and developmental disability expert under Article  
12 [16.22](#);

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

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

18 (B) recommends mental health treatment or  
19 intellectual and developmental disability services for the  
20 defendant, as applicable;

21 (4) the magistrate determines, in consultation with  
22 the local mental health authority or local intellectual and  
23 developmental disability authority, that appropriate  
24 community-based mental health or intellectual and developmental  
25 disability services for the defendant are available in accordance  
26 with Section [534.053](#) or [534.103](#), Health and Safety Code, or through  
27 another mental health or intellectual and developmental disability



1 services provider; and

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

9 (c) The magistrate, unless good cause is shown for not  
10 requiring treatment or services, shall require as a condition of  
11 release on personal bond under this article that the defendant  
12 submit to outpatient or inpatient mental health treatment or  
13 intellectual and developmental disability services as recommended  
14 by the service provider that contracts with the jail to provide  
15 mental health or intellectual and developmental disability  
16 services, the local mental health authority, the local intellectual  
17 and developmental disability authority, or another qualified  
18 mental health or intellectual and developmental disability expert  
19 if the defendant's:

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

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

25 SECTION 4. Sections 8(a) and (c), Article 42.09, Code of  
26 Criminal Procedure, are amended to read as follows:

27 (a) A county that transfers a defendant to the Texas

1 Department of Criminal Justice under this article shall deliver to  
2 an officer designated by the department:

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

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

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

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

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

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

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

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

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

1 offense;

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

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

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

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

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

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

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

1 relating to the defendant and may deliver to the designated officer  
2 any additional information upon which the judge or jury bases the  
3 punishment decision.

4 SECTION 5. Article 46B.001, Code of Criminal Procedure, is  
5 amended to read as follows:

6 Art. 46B.001. DEFINITIONS. In this chapter:

7 (1) "Adaptive behavior" means the effectiveness with  
8 or degree to which a person meets the standards of personal  
9 independence and social responsibility expected of the person's age  
10 and cultural group.

11 (2) "Commission" means the Health and Human Services  
12 Commission.

13 (3) "Competency restoration" means the treatment or  
14 education process for restoring a person's ability to consult with  
15 the person's attorney with a reasonable degree of rational  
16 understanding, including a rational and factual understanding of  
17 the court proceedings and charges against the person.

18 (4) "Developmental period" means the period of a  
19 person's life from birth through 17 years of age.

20 (5) "Electronic broadcast system" means a two-way  
21 electronic communication of image and sound between the defendant  
22 and the court and includes secure Internet videoconferencing.

23 (6) "Executive commissioner" means the executive  
24 commissioner of the Health and Human Services Commission.

25 (7) "Inpatient mental health facility" has the meaning  
26 assigned by Section 571.003, Health and Safety Code.

27 (8) [~~2~~] "Intellectual disability" means

1 significantly subaverage general intellectual functioning that is  
2 concurrent with deficits in adaptive behavior and originates during  
3 the developmental period [~~has the meaning assigned by Section~~  
4 ~~591.003, Health and Safety Code~~].

5 (9) [~~(3)~~] "Local mental health authority" has the  
6 meaning assigned by Section 571.003, Health and Safety Code.

7 (10) [~~(4)~~] "Local intellectual and developmental  
8 disability authority" has the meaning assigned by Section 531.002,  
9 Health and Safety Code.

10 (11) [~~(5)~~] "Mental health facility" has the meaning  
11 assigned by Section 571.003, Health and Safety Code.

12 (12) [~~(6)~~] "Mental illness" means an illness,  
13 disease, or condition, other than epilepsy, dementia, substance  
14 abuse, or intellectual disability, that grossly impairs:

15 (A) a person's thought, perception of reality,  
16 emotional process, or judgment; or

17 (B) behavior as demonstrated by recent disturbed  
18 behavior [~~has the meaning assigned by Section 571.003, Health and~~  
19 ~~Safety Code~~].

20 (13) [~~(7)~~] "Residential care facility" has the  
21 meaning assigned by Section 591.003, Health and Safety Code.

22 (14) "Subaverage general intellectual functioning"  
23 means a measured intelligence two or more standard deviations below  
24 the age-group mean, using a standardized psychometric instrument.

25 [~~(8) "Electronic broadcast system" means a two-way~~  
26 ~~electronic communication of image and sound between the defendant~~  
27 ~~and the court and includes secure Internet videoconferencing.~~

1           ~~[(9) "Competency restoration" means the treatment or~~  
2 ~~education process for restoring a person's ability to consult with~~  
3 ~~the person's attorney with a reasonable degree of rational~~  
4 ~~understanding, including a rational and factual understanding of~~  
5 ~~the court proceedings and charges against the person.]~~

6           SECTION 6. Subchapter A, Chapter 46B, Code of Criminal  
7 Procedure, is amended by adding Article 46B.0021 to read as  
8 follows:

9           Art. 46B.0021. FACILITY DESIGNATION. The commission may  
10 designate for the commitment of a defendant under this chapter only  
11 a facility operated by the commission or under a contract with the  
12 commission for that purpose.

13           SECTION 7. Article 46B.073(c), Code of Criminal Procedure,  
14 is amended to read as follows:

15           (c) If the defendant is charged with an offense listed in  
16 Article 17.032(a) [~~, other than an offense under Section~~  
17 ~~22.01(a)(1), Penal Code,~~] or if the indictment alleges an  
18 affirmative finding under Article 42A.054(c) or (d), the court  
19 shall enter an order committing the defendant for competency  
20 restoration services to a [~~the maximum security unit of any~~  
21 ~~facility designated by the commission [Department of State Health~~  
22 ~~Services, to an agency of the United States operating a mental~~  
23 ~~hospital, or to a Department of Veterans Affairs hospital].~~

24           SECTION 8. Subchapter D, Chapter 46B, Code of Criminal  
25 Procedure, is amended by adding Article 46B.0831 to read as  
26 follows:

27           Art. 46B.0831. DETERMINATION WHETHER DEFENDANT IS

1 MANIFESTLY DANGEROUS. A defendant committed to a maximum security  
2 unit by the commission may be assessed, at any time before the  
3 defendant is restored to competency, by the review board  
4 established under Section 46B.105 to determine whether the  
5 defendant is manifestly dangerous. If the review board determines  
6 the defendant is not manifestly dangerous, the commission shall  
7 transfer the defendant to a non-maximum security facility  
8 designated by the commission.

9 SECTION 9. Article 46B.104, Code of Criminal Procedure, is  
10 amended to read as follows:

11 Art. 46B.104. CIVIL COMMITMENT PLACEMENT: FINDING OF  
12 VIOLENCE. A defendant committed to a facility as a result of  
13 proceedings initiated under this chapter shall be committed to the  
14 [~~maximum security unit of any~~] facility designated by the  
15 commission [~~Department of State Health Services~~] if:

16 (1) the defendant is charged with an offense listed in  
17 Article 17.032(a) [~~, other than an offense listed in Article~~  
18 ~~17.032(a)(6)~~]; or

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

21 SECTION 10. Articles 46B.105(a), (b), and (e), Code of  
22 Criminal Procedure, are amended to read as follows:

23 (a) Unless a defendant committed to a maximum security unit  
24 by the commission is determined to be manifestly dangerous by a  
25 review board established under Subsection (b), not later than the  
26 60th day after the date the defendant arrives at the maximum  
27 security unit, the defendant shall be transferred to:

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

3           (2) a residential care facility; or

4           (3) a program designated by a local mental health  
5 authority or a local intellectual and developmental disability  
6 authority.

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

14           (e) If the superintendent of the facility at which the  
15 maximum security unit is located disagrees with the determination,  
16 the matter shall be referred to the executive commissioner [~~of~~  
17 ~~state health services~~]. The executive commissioner shall decide  
18 whether the defendant is manifestly dangerous.

19           SECTION 11. Article 46B.106(a), Code of Criminal Procedure,  
20 is amended to read as follows:

21           (a) A defendant committed to a facility as a result of the  
22 proceedings initiated under this chapter, other than a defendant  
23 described by Article 46B.104, shall be committed to:

24           (1) a facility designated by the commission  
25 [~~Department of State Health Services or the Department of Aging and~~  
26 ~~Disability Services, as appropriate~~]; or

27           (2) an outpatient treatment program.



1 SECTION 12. Articles 46B.107(a) and (d), Code of Criminal  
2 Procedure, are amended to read as follows:

3 (a) The release of a defendant committed under this chapter  
4 from the commission [~~Department of State Health Services, the~~  
5 ~~Department of Aging and Disability Services~~], an outpatient  
6 treatment program, or another facility is subject to disapproval by  
7 the committing court if the court or the attorney representing the  
8 state has notified the head of the facility or outpatient treatment  
9 provider, as applicable, to which the defendant has been committed  
10 that a criminal charge remains pending against the defendant.

11 (d) The court shall, on receiving notice from the head of a  
12 facility or outpatient treatment provider of intent to release the  
13 defendant under Subsection (b) [~~may, on motion of the attorney~~  
14 ~~representing the state or on its own motion~~], hold a hearing to  
15 determine whether release is appropriate under the applicable  
16 criteria in Subtitle C or D, Title 7, Health and Safety Code. The  
17 court may, on motion of the attorney representing the state or on  
18 its own motion, hold a hearing to determine whether release is  
19 appropriate under the applicable criteria in Subtitle C or D, Title  
20 7, Health and Safety Code, regardless of whether the court receives  
21 notice that the head of a facility or outpatient treatment provider  
22 provides notice of intent to release the defendant under Subsection  
23 (b). The court may conduct the hearing:

24 (1) at the facility; or

25 (2) by means of an electronic broadcast system as  
26 provided by Article 46B.013.

27 SECTION 13. Article 46B.151(c), Code of Criminal Procedure,

1 is amended to read as follows:

2 (c) Notwithstanding Subsection (b), a defendant placed in a  
3 facility of the commission [~~Department of State Health Services or~~  
4 ~~the Department of Aging and Disability Services~~] pending civil  
5 hearing under this article may be detained in that facility only  
6 with the consent of the head of the facility and pursuant to an  
7 order of protective custody issued under Subtitle C, Title 7,  
8 Health and Safety Code.

9 SECTION 14. Articles 46C.001(1) and (2), Code of Criminal  
10 Procedure, are amended to read as follows:

11 (1) "Commission" means the Health and Human Services  
12 Commission [~~"Commissioner" means the commissioner of state health~~  
13 ~~services~~].

14 (2) "Executive commissioner" means the executive  
15 commissioner of the Health and Human Services Commission  
16 [~~"Department" means the Department of State Health Services~~].

17 SECTION 15. Subchapter A, Chapter 46C, Code of Criminal  
18 Procedure, is amended by adding Article 46C.0011 to read as  
19 follows:

20 Art. 46C.0011. FACILITY DESIGNATION. The commission may  
21 designate for the commitment of a defendant under this chapter only  
22 a facility operated by the commission or under a contract with the  
23 commission for that purpose.

24 SECTION 16. Article 46C.104, Code of Criminal Procedure, is  
25 amended to read as follows:

26 Art. 46C.104. ORDER COMPELLING DEFENDANT TO SUBMIT TO  
27 EXAMINATION. (a) For the purposes described by this chapter, the

1 court may order any defendant to submit to examination, including a  
2 defendant who is free on bail. If the defendant fails or refuses to  
3 submit to examination, the court may order the defendant to custody  
4 for examination for a reasonable period not to exceed 21 days.  
5 Custody ordered by the court under this subsection may include  
6 custody at a facility operated by the commission [~~department~~].

7 (b) If a defendant who has been ordered to a facility  
8 operated by the commission [~~department~~] for examination remains in  
9 the facility for a period that exceeds 21 days, the head of that  
10 facility shall cause the defendant to be immediately transported to  
11 the committing court and placed in the custody of the sheriff of the  
12 county in which the committing court is located. That county shall  
13 reimburse the facility for the mileage and per diem expenses of the  
14 personnel required to transport the defendant, calculated in  
15 accordance with the state travel rules in effect at that time.

16 (c) The court may not order a defendant to a facility  
17 operated by the commission [~~department~~] for examination without the  
18 consent of the head of that facility.

19 SECTION 17. Article [46C.106](#)(b), Code of Criminal Procedure,  
20 is amended to read as follows:

21 (b) The county in which the indictment was returned or  
22 information was filed shall reimburse a facility operated by the  
23 commission [~~department~~] that accepts a defendant for examination  
24 under this subchapter for expenses incurred that are determined by  
25 the commission [~~department~~] to be reasonably necessary and  
26 incidental to the proper examination of the defendant.

27 SECTION 18. Article [46C.160](#)(b), Code of Criminal Procedure,

1 is amended to read as follows:

2 (b) The court may order a defendant detained in a facility  
3 of the commission [~~department or a facility of the Department of~~  
4 ~~Aging and Disability Services~~] under this article only with the  
5 consent of the head of the facility.

6 SECTION 19. Article 46C.202(a), Code of Criminal Procedure,  
7 is amended to read as follows:

8 (a) Notwithstanding Article 46C.201(b), a person placed in  
9 a commission [~~department~~] facility [~~or a facility of the Department~~  
10 ~~of Aging and Disability Services~~] pending civil hearing as  
11 described by that subsection may be detained only with the consent  
12 of the head of the facility and under an Order of Protective Custody  
13 issued under Subtitle C or D, Title 7, Health and Safety Code.

14 SECTION 20. Articles 46C.251(a) and (b), Code of Criminal  
15 Procedure, are amended to read as follows:

16 (a) The court shall order the acquitted person to be  
17 committed for evaluation of the person's present mental condition  
18 and for treatment to the [~~maximum security unit of any~~] facility  
19 designated by the commission [~~department~~]. The period of  
20 commitment under this article may not exceed 30 days.

21 (b) The court shall order that:

22 (1) a transcript of all medical testimony received in  
23 the criminal proceeding be prepared as soon as possible by the court  
24 reporter and the transcript be forwarded to the facility to which  
25 the acquitted person is committed; and

26 (2) the following information be forwarded to the  
27 facility and [~~as applicable,~~] to the commission [~~department or the~~

1 ~~Department of Aging and Disability Services~~]:

2 (A) the complete name, race, and gender of the  
3 person;

4 (B) any known identifying number of the person,  
5 including social security number, driver's license number, or state  
6 identification number;

7 (C) the person's date of birth; and

8 (D) the offense of which the person was found not  
9 guilty by reason of insanity and a statement of the facts and  
10 circumstances surrounding the alleged offense.

11 SECTION 21. Article 46C.260, Code of Criminal Procedure, is  
12 amended to read as follows:

13 Art. 46C.260. TRANSFER OF COMMITTED PERSON TO NON-MAXIMUM  
14 SECURITY [~~NONSECURE~~] FACILITY. (a) A person committed to a  
15 facility under this subchapter shall be committed to a a [~~the maximum~~  
16 ~~security unit of any~~] facility designated by the commission  
17 [~~department~~].

18 (b) A person committed under this subchapter shall be  
19 transferred to the designated facility [~~maximum security unit~~]  
20 immediately on the entry of the order of commitment.

21 (c) Unless a a [~~the~~] person committed to a maximum security  
22 unit by the commission is determined to be manifestly dangerous by a  
23 review board under this article [~~within the department~~], not later  
24 than the 60th day following the date of the person's arrival at the  
25 maximum security unit the person shall be transferred to a  
26 non-maximum security [~~nonsecure~~] unit of a facility designated by  
27 the commission [~~department or the Department of Aging and~~

1 ~~Disability Services, as appropriate].~~

2 (d) The executive commissioner shall appoint a review board  
3 of five members, including one psychiatrist licensed to practice  
4 medicine in this state and two persons who work directly with  
5 persons with mental illnesses or with mental retardation, to  
6 determine whether the person is manifestly dangerous and, as a  
7 result of the danger the person presents, requires continued  
8 placement in a maximum security unit.

9 (e) If the head of the facility at which the maximum  
10 security unit is located disagrees with the determination, then the  
11 matter shall be referred to the executive commissioner. The  
12 executive commissioner shall decide whether the person is  
13 manifestly dangerous.

14 SECTION 22. Section 511.0085(a), Government Code, is  
15 amended to read as follows:

16 (a) The commission shall develop a comprehensive set of risk  
17 factors to use in assessing the overall risk level of each jail  
18 under the commission's jurisdiction. The set of risk factors must  
19 include:

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

22 (2) the population of the jail;

23 (3) the number and nature of complaints regarding the  
24 jail, including complaints regarding a violation of any required  
25 ratio of correctional officers to inmates;

26 (4) problems with the jail's internal grievance  
27 procedures;

1 (5) available mental and medical health reports  
2 relating to inmates in the jail, including reports relating to  
3 infectious disease or pregnant inmates;

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

5 (7) inmate escapes from the jail;

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

8 (9) whether the jail is in compliance with commission  
9 rules, standards developed by the Texas Correctional Office on  
10 Offenders with Medical or Mental Impairments, and the requirements  
11 of Article 16.22, Code of Criminal Procedure, regarding screening  
12 and assessment protocols for the early identification of and  
13 reports concerning persons with mental illness or an intellectual  
14 disability.

15 SECTION 23. Section 532.013(a), Health and Safety Code, is  
16 amended to read as follows:

17 (a) In this section:

18 (1) "Forensic patient" means a person with mental  
19 illness or a person with an intellectual disability who is:

20 (A) examined on the issue of competency to stand  
21 trial by an expert appointed under Subchapter B, Chapter 46B, Code  
22 of Criminal Procedure;

23 (B) found incompetent to stand trial under  
24 Subchapter C, Chapter 46B, Code of Criminal Procedure;

25 (C) committed to court-ordered mental health  
26 services under Subchapter E, Chapter 46B, Code of Criminal  
27 Procedure; [~~or~~]

1 (D) found not guilty by reason of insanity under  
2 Chapter 46C, Code of Criminal Procedure;

3 (E) examined on the issue of fitness to proceed  
4 with juvenile court proceedings by an expert appointed under  
5 Chapter 51, Family Code; or

6 (F) found unfit to proceed under Subchapter C,  
7 Chapter 55, Family Code.

8 (2) "Forensic services" means a competency  
9 examination, competency restoration services, or mental health or  
10 intellectual disability services provided to a current or former  
11 forensic patient in the community or at a department facility.

12 SECTION 24. The heading to Section 614.0032, Health and  
13 Safety Code, is amended to read as follows:

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

17 SECTION 25. Section 614.0032, Health and Safety Code, is  
18 amended by adding Subsection (c) to read as follows:

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

23 SECTION 26. (a) The changes in law made by this Act to  
24 Articles 16.22 and 17.032, Code of Criminal Procedure, and to  
25 Section 8(c), Article 42.09, Code of Criminal Procedure, apply only  
26 to a defendant charged with an offense committed on or after the  
27 effective date of this Act. A defendant charged with an offense



1 committed before the effective date of this Act is governed by the  
2 law in effect on the date the offense was committed, and the former  
3 law is continued in effect for that purpose. For purposes of this  
4 section, an offense was committed before the effective date of this  
5 Act if any element of the offense occurred before that date.

6 (b) The changes in law made by this Act to Section 8(a),  
7 Article 42.09, Code of Criminal Procedure, and to Chapters 46B and  
8 46C, Code of Criminal Procedure, apply only to a proceeding that  
9 begins on or after the effective date of this Act, regardless of  
10 when the defendant committed the underlying offense for which the  
11 defendant became subject to the proceeding. A proceeding that  
12 begins before the effective date of this Act is governed by the law  
13 in effect on the date the proceeding began, and the former law is  
14 continued in effect for that purpose.

15 SECTION 27. To the extent of any conflict, this Act prevails  
16 over another Act of the 86th Legislature, Regular Session, 2019,  
17 relating to nonsubstantive additions to and corrections in enacted  
18 codes.

19 SECTION 28. This Act takes effect September 1, 2019.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 601 was passed by the House on April 10, 2019, by the following vote: Yeas 146, Nays 1, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 601 on May 23, 2019, by the following vote: Yeas 141, Nays 1, 1 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 601 was passed by the Senate, with amendments, on May 19, 2019, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor