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H.B. No. 601

A BILL TO BE ENTITLED

AN ACT

1  
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 local mental health authority, local intellectual and  
2 developmental disability authority, or another qualified mental  
3 health or intellectual disability expert to:

4 (A) interview the defendant and otherwise  
5 collect information regarding whether the defendant has a mental  
6 illness as defined by Section 571.003, Health and Safety Code, or is  
7 a person with an intellectual disability as defined by Section  
8 591.003, Health and Safety Code, including, if applicable,  
9 information obtained from any previous assessment of the defendant  
10 and information regarding any previously recommended treatment or  
11 service; and

12 (B) provide to the magistrate a written report  
13 [~~assessment~~] of the interview and other information collected under  
14 Paragraph (A) on the form approved by the Texas Correctional Office  
15 on Offenders with Medical or Mental Impairments under Section  
16 614.0032(c) [~~614.0032(b)~~], Health and Safety Code.

17 (2) The magistrate is not required to order the  
18 interview and collection of other information under Subdivision (1)  
19 if the defendant in the year preceding the defendant's applicable  
20 date of arrest has been determined to have a mental illness or to be  
21 a person with an intellectual disability by the local mental health  
22 authority, local intellectual and developmental disability  
23 authority, or another mental health or intellectual disability  
24 expert described by Subdivision (1). A court that elects to use the  
25 results of that previous determination may proceed under Subsection  
26 (c).

27 (3) If the defendant fails or refuses to submit to the

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

13 SECTION 2. Article 16.22, Code of Criminal Procedure, is  
14 amended by amending Subsections (b), (b-1), (c), (d), and (e) and  
15 adding Subsection (f) to read as follows:

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

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

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

25 (b-1) The magistrate shall provide copies of the written  
26 report [~~assessment~~] to the defense counsel, the attorney  
27 representing the state, and the trial court. The written report

1 ~~[assessment]~~ must include a description of the procedures used in  
2 the interview and collection of other information under Subsection  
3 (a)(1)(A) and the applicable expert's observations and findings  
4 pertaining to:

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

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

11 (3) any appropriate or recommended treatment or  
12 service.

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

18 (1) resume criminal proceedings against the  
19 defendant, including any appropriate proceedings related to the  
20 defendant's release on personal bond under Article 17.032 if the  
21 defendant is being held in custody;

22 (2) resume or initiate competency proceedings, if  
23 required, as provided by Chapter 46B or other proceedings affecting  
24 the defendant's receipt of appropriate court-ordered mental health  
25 or intellectual disability services, including proceedings related  
26 to the defendant's receipt of outpatient mental health services  
27 under Section 574.034, Health and Safety Code;

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

7           (4) refer the defendant to an appropriate specialty  
8 court established or operated under Subtitle K, Title 2, Government  
9 Code.

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

13           (1) releasing a defendant who has a mental illness or  
14 is a person with an intellectual disability from custody on  
15 personal or surety bond, including imposing as a condition of  
16 release that the defendant submit to an examination or other  
17 assessment; or

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

20          (e) The Texas Judicial Council shall adopt rules to require  
21 the reporting of [~~The magistrate shall submit to the Office of~~  
22 ~~Court Administration of the Texas Judicial System on a monthly~~  
23 ~~basis~~] the number of written reports [~~assessments~~] provided to a  
24 [~~the~~] court under Subsection (a)(1)(B). The rules must require  
25 submission of the reports to the Office of Court Administration of  
26 the Texas Judicial System on a monthly basis.

27          (f) A written report submitted to a magistrate under

1 Subsection (a)(1)(B) is confidential and not subject to disclosure  
2 under Chapter 552, Government Code, but may be used or disclosed as  
3 provided by this article.

4 SECTION 3. Articles 17.032(b) and (c), Code of Criminal  
5 Procedure, as amended by Chapters 748 (S.B. 1326) and 950 (S.B.  
6 1849), Acts of the 85th Legislature, Regular Session, 2017, are  
7 reenacted and amended to read as follows:

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

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

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

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

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

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

25 (4) the magistrate determines, in consultation with  
26 the local mental health authority or local intellectual and  
27 developmental disability authority, that appropriate

1 community-based mental health or intellectual disability services  
2 for the defendant are available in accordance with Section 534.053  
3 or 534.103, Health and Safety Code, or through another mental  
4 health or intellectual disability services provider; and

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

12 (c) The magistrate, unless good cause is shown for not  
13 requiring treatment or services, shall require as a condition of  
14 release on personal bond under this article that the defendant  
15 submit to outpatient or inpatient mental health treatment or  
16 intellectual disability services as recommended by the local mental  
17 health authority, local intellectual and developmental disability  
18 authority, or another qualified mental health or intellectual  
19 disability expert 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. Section 8(c), Article 42.09, Code of Criminal  
26 Procedure, is amended to read as follows:

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

1 Department of Criminal Justice under this article shall also  
2 deliver to the designated officer any presentence or postsentence  
3 investigation report, revocation report, psychological or  
4 psychiatric evaluation of the defendant, including a written report  
5 provided to a court under Article 16.22(a)(1)(B) or an evaluation  
6 prepared for the juvenile court before transferring the defendant  
7 to criminal court and contained in the criminal prosecutor's file,  
8 and available social or psychological background information  
9 relating to the defendant and may deliver to the designated officer  
10 any additional information upon which the judge or jury bases the  
11 punishment decision.

12 SECTION 5. Section 511.0085(a), Government Code, is amended  
13 to read as follows:

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

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

20 (2) the population of the jail;

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

24 (4) problems with the jail's internal grievance  
25 procedures;

26 (5) available mental and medical health reports  
27 relating to inmates in the jail, including reports relating to



1 infectious disease or pregnant inmates;

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

3 (7) inmate escapes from the jail;

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

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

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

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

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

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

24 SECTION 8. The changes in law made by this Act apply only to  
25 a defendant charged with an offense committed on or after the  
26 effective date of this Act. A defendant charged with an offense  
27 committed before the effective date of this Act is governed by the

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

5 SECTION 9. To the extent of any conflict, this Act prevails  
6 over another Act of the 86th Legislature, Regular Session, 2019,  
7 relating to nonsubstantive additions to and corrections in enacted  
8 codes.

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