

By: Smith

H.B. No. 2436

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the release on personal bond of certain defendants with
3 a mental illness or an intellectual disability.

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

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

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

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

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

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

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

24 (B) recommends mental health treatment or

1 intellectual disability services for the defendant, as applicable;

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

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

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

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

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

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

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