

AN ACT

relating to criminal or juvenile procedures regarding persons who are or may be persons with a mental illness or intellectual disability and the operation and effects of successful completion of a mental health court program.

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

1 seriousness of each offense and that states the citation to the
2 provision or provisions of the Penal Code or other law under which
3 the defendant was convicted;

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

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

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

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

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

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

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

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

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

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

4 SECTION 2. 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 3. 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 4. 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 5. 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 6. 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 7. 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 8. 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 9. 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 10. 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 11. 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 12. 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 13. 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
5 days. Custody ordered by the court under this subsection may
6 include custody at a facility operated by the commission
7 [~~department~~].

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

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

20 SECTION 14. Article [46C.106](#)(b), Code of Criminal Procedure,
21 is amended to read as follows:

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

1 SECTION 15. Article 46C.160(b), Code of Criminal Procedure,
2 is amended to read as follows:

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

7 SECTION 16. Article 46C.202(a), Code of Criminal Procedure,
8 is amended to read as follows:

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

15 SECTION 17. Articles 46C.251(a) and (b), Code of Criminal
16 Procedure, are amended to read as follows:

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

22 (b) The court shall order that:

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

27 (2) the following information be forwarded to the

1 facility and~~[, as applicable,]~~ to the commission ~~[department or the~~
2 ~~Department of Aging and Disability Services]~~:

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

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

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

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

12 SECTION 18. Article 46C.260, Code of Criminal Procedure, is
13 amended to read as follows:

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

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

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

1 the commission [~~department or the Department of Aging and~~
2 ~~Disability Services, as appropriate~~].

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

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

15 SECTION 19. Article 55.01, Code of Criminal Procedure, is
16 amended by amending Subsection (a) and adding Subsection (a-4) to
17 read as follows:

18 (a) A person who has been placed under a custodial or
19 noncustodial arrest for commission of either a felony or
20 misdemeanor is entitled to have all records and files relating to
21 the arrest expunged if:

22 (1) the person is tried for the offense for which the
23 person was arrested and is:

24 (A) acquitted by the trial court, except as
25 provided by Subsection (c); or

26 (B) convicted and subsequently:

27 (i) pardoned for a reason other than that

1 described by Subparagraph (ii); or

2 (ii) pardoned or otherwise granted relief
3 on the basis of actual innocence with respect to that offense, if
4 the applicable pardon or court order clearly indicates on its face
5 that the pardon or order was granted or rendered on the basis of the
6 person's actual innocence; or

7 (2) the person has been released and the charge, if
8 any, has not resulted in a final conviction and is no longer pending
9 and there was no court-ordered community supervision under Chapter
10 42A for the offense, unless the offense is a Class C misdemeanor,
11 provided that:

12 (A) regardless of whether any statute of
13 limitations exists for the offense and whether any limitations
14 period for the offense has expired, an indictment or information
15 charging the person with the commission of a misdemeanor offense
16 based on the person's arrest or charging the person with the
17 commission of any felony offense arising out of the same
18 transaction for which the person was arrested:

19 (i) has not been presented against the
20 person at any time following the arrest, and:

21 (a) at least 180 days have elapsed
22 from the date of arrest if the arrest for which the expunction was
23 sought was for an offense punishable as a Class C misdemeanor and if
24 there was no felony charge arising out of the same transaction for
25 which the person was arrested;

26 (b) at least one year has elapsed from
27 the date of arrest if the arrest for which the expunction was sought

1 was for an offense punishable as a Class B or A misdemeanor and if
2 there was no felony charge arising out of the same transaction for
3 which the person was arrested;

4 (c) at least three years have elapsed
5 from the date of arrest if the arrest for which the expunction was
6 sought was for an offense punishable as a felony or if there was a
7 felony charge arising out of the same transaction for which the
8 person was arrested; or

9 (d) the attorney representing the
10 state certifies that the applicable arrest records and files are
11 not needed for use in any criminal investigation or prosecution,
12 including an investigation or prosecution of another person; or

13 (ii) if presented at any time following the
14 arrest, was dismissed or quashed, and the court finds that the
15 indictment or information was dismissed or quashed because:

16 (a) the person completed a veterans
17 treatment court program created under Chapter 124, Government Code,
18 or former law, subject to Subsection (a-3);

19 (b) the person completed a mental
20 health court program created under Chapter 125, Government Code, or
21 former law, subject to Subsection (a-4);

22 (c) the person completed a pretrial
23 intervention program authorized under Section 76.011, Government
24 Code, other than a veterans treatment court program created under
25 Chapter 124, Government Code, or former law, or a mental health
26 court program created under Chapter 125, Government Code, or former
27 law;

1 (d) [~~(e)~~] the presentment had been
2 made because of mistake, false information, or other similar reason
3 indicating absence of probable cause at the time of the dismissal to
4 believe the person committed the offense; or

5 (e) [~~(d)~~] the indictment or
6 information was void; or

7 (B) prosecution of the person for the offense for
8 which the person was arrested is no longer possible because the
9 limitations period has expired.

10 (a-4) A person is eligible under Subsection
11 (a)(2)(A)(ii)(b) for an expunction of arrest records and files only
12 if:

13 (1) the person has not previously received an
14 expunction of arrest records and files under that sub-subparagraph;
15 and

16 (2) the person submits to the court an affidavit
17 attesting to that fact.

18 SECTION 20. Section 1a, Article 55.02, Code of Criminal
19 Procedure, is amended by adding Subsection (a-2) to read as
20 follows:

21 (a-2) A trial court dismissing a case following a person's
22 successful completion of a mental health court program created
23 under Chapter 125, Government Code, or former law, if the trial
24 court is a district court, or a district court in the county in
25 which the trial court is located may, with the consent of the
26 attorney representing the state, enter an order of expunction for a
27 person entitled to expunction under Article 55.01(a)(2)(A)(ii)(b)

1 not later than the 30th day after the date the court dismisses the
2 case or receives the information regarding that dismissal, as
3 applicable. Notwithstanding any other law, a court that enters an
4 order for expunction under this subsection may not charge any fee or
5 assess any cost for the expunction.

6 SECTION 21. Article 102.006(a), Code of Criminal Procedure,
7 is amended to read as follows:

8 (a) In addition to any other fees required by other law and
9 except as provided by Subsections [~~Subsection~~] (b) and (b-1), a
10 petitioner seeking expunction of a criminal record in a district
11 court shall pay the following fees:

12 (1) the fee charged for filing an ex parte petition in
13 a civil action in district court;

14 (2) \$1 plus postage for each certified mailing of
15 notice of the hearing date; and

16 (3) \$2 plus postage for each certified mailing of
17 certified copies of an order of expunction.

18 SECTION 22. Article 102.006(b), Code of Criminal Procedure,
19 as amended by Chapters 693 (H.B. 322) and 1149 (H.B. 557), Acts of
20 the 85th Legislature, Regular Session, 2017, is reenacted and
21 amended to read as follows:

22 (b) The fees under Subsection (a) or the fee under
23 Subsection (a-1), as applicable, shall be waived if the
24 petitioner[+]

25 [~~(1)~~] seeks expunction of a criminal record that
26 relates to an arrest for an offense of which the person was
27 acquitted, other than an acquittal for an offense described by

1 Article 55.01(c), and the petition for expunction is filed not
2 later than the 30th day after the date of the acquittal[~~, or~~

3 ~~(2) is entitled to expunction under Article~~
4 ~~55.01(a)(2)(A)(ii)(a) after successful completion of a veterans~~
5 ~~treatment court program created under Chapter 124, Government Code,~~
6 ~~or former law].~~

7 SECTION 23. Article 102.006, Code of Criminal Procedure, is
8 amended by adding Subsection (b-1) to read as follows:

9 (b-1) The fees under Subsection (a) shall be waived if the
10 petitioner is entitled to expunction:

11 (1) under Article 55.01(a)(2)(A)(ii)(a) after
12 successful completion of a veterans treatment court program created
13 under Chapter 124, Government Code, or former law; or

14 (2) under Article 55.01(a)(2)(A)(ii)(b) after
15 successful completion of a mental health court program created
16 under Chapter 125, Government Code, or former law.

17 SECTION 24. Section 125.001, Government Code, is amended to
18 read as follows:

19 Sec. 125.001. MENTAL HEALTH COURT PROGRAM DEFINED;
20 PROCEDURES FOR CERTAIN DEFENDANTS. (a) In this chapter, "mental
21 health court program" means a program that has the following
22 essential characteristics:

23 (1) the integration of mental illness treatment
24 services and mental retardation services in the processing of cases
25 in the judicial system;

26 (2) the use of a nonadversarial approach involving
27 prosecutors and defense attorneys to promote public safety and to

1 protect the due process rights of program participants;

2 (3) early identification and prompt placement of
3 eligible participants in the program;

4 (4) access to mental illness treatment services and
5 mental retardation services;

6 (5) ongoing judicial interaction with program
7 participants;

8 (6) diversion of potentially mentally ill or mentally
9 retarded defendants to needed services as an alternative to
10 subjecting those defendants to the criminal justice system;

11 (7) monitoring and evaluation of program goals and
12 effectiveness;

13 (8) continuing interdisciplinary education to promote
14 effective program planning, implementation, and operations; and

15 (9) development of partnerships with public agencies
16 and community organizations, including local mental retardation
17 authorities.

18 (b) If a defendant successfully completes a mental health
19 court program, after notice to the attorney representing the state
20 and a hearing in the mental health court at which that court
21 determines that a dismissal is in the best interest of justice, the
22 mental health court shall provide to the court in which the criminal
23 case is pending information about the dismissal and shall include
24 all of the information required about the defendant for a petition
25 for expunction under Section 2(b), Article 55.02, Code of Criminal
26 Procedure. The court in which the criminal case is pending shall
27 dismiss the case against the defendant and:

1 (1) if that trial court is a district court, the court
2 may, with the consent of the attorney representing the state, enter
3 an order of expunction on behalf of the defendant under Section
4 1a(a-2), Article 55.02, Code of Criminal Procedure; or

5 (2) if that trial court is not a district court, the
6 court may, with the consent of the attorney representing the state,
7 forward the appropriate dismissal and expunction information to
8 enable a district court with jurisdiction to enter an order of
9 expunction on behalf of the defendant under Section 1a(a-2),
10 Article 55.02, Code of Criminal Procedure.

11 SECTION 25. Chapter 125, Government Code, is amended by
12 adding Sections 125.0025 and 125.005 to read as follows:

13 Sec. 125.0025. ESTABLISHMENT OF REGIONAL PROGRAM. The
14 commissioners courts of two or more counties may elect to establish
15 a regional mental health court program under this chapter for the
16 participating counties.

17 Sec. 125.005. PROGRAM IN CERTAIN COUNTIES MANDATORY.

18 (a) The commissioners court of a county with a population of more
19 than 200,000 shall:

20 (1) establish a mental health court program under
21 Section 125.002; and

22 (2) direct the judge, magistrate, or coordinator to
23 comply with Section 121.002(c)(1).

24 (b) A county required under this section to establish a
25 mental health court program shall apply for federal and state funds
26 available to pay the costs of the program. The criminal justice
27 division of the governor's office may assist a county in applying

1 for federal funds as required by this subsection.

2 (c) Notwithstanding Subsection (a), a county is required to
3 establish a mental health court program under this section only if:

4 (1) the county receives federal or state funding
5 specifically for that purpose in an amount sufficient to pay the
6 fund costs of the mental health court program; and

7 (2) the judge, magistrate, or coordinator receives the
8 verification described by Section 121.002(c)(2).

9 (d) A county that is required under this section to
10 establish a mental health court program and fails to establish or to
11 maintain that program is ineligible to receive grant funding from
12 this state or any state agency.

13 SECTION 26. Section 532.013(a), Health and Safety Code, is
14 amended to read as follows:

15 (a) In this section:

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

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

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

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

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

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

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

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

10 SECTION 27. (a) This Act applies only to a proceeding
11 under Chapter 46B or 46C, Code of Criminal Procedure, that begins on
12 or after the effective date of this Act, regardless of when the
13 defendant committed the underlying offense for which the defendant
14 became subject to the proceeding. A proceeding that begins before
15 the effective date of this Act is governed by the law in effect on
16 the date the proceeding began, and the former law is continued in
17 effect for that purpose.

18 (b) Except as provided by Subsection (c) of this section,
19 the changes in law made to Articles 55.01 and 55.02, Code of
20 Criminal Procedure, apply to the expunction of arrest records and
21 files for a person who successfully completes a mental health court
22 program under Chapter 125, Government Code, or former law before,
23 on, or after the effective date of this Act, regardless of when the
24 underlying arrest occurred.

25 (c) The change in law made by this Act to Article 102.006,
26 Code of Criminal Procedure, applies to the fees charged or costs
27 assessed for an expunction order entered on or after the effective

1 date of this Act, regardless of whether the underlying arrest
2 occurred before, on, or after the effective date of this Act.

3 (d) For a person who is entitled to expunction under Article
4 55.01(a)(2)(A)(ii)(b), Code of Criminal Procedure, as amended by
5 this Act, based on a successful completion of a mental health court
6 program under Chapter 125, Government Code, or former law before
7 the effective date of this Act, notwithstanding the 30-day time
8 limit provided for the court to enter an automatic order of
9 expunction under Section 1a(a-2), Article 55.02, Code of Criminal
10 Procedure, as added by this Act, the court may, with the consent of
11 the attorney representing the state, enter an order of expunction
12 for the person as soon as practicable after the court receives
13 written notice from any party to the case about the person's
14 entitlement to the expunction.

15 SECTION 28. This Act takes effect immediately if it
16 receives a vote of two-thirds of all the members elected to each
17 house, as provided by Section 39, Article III, Texas Constitution.
18 If this Act does not receive the vote necessary for immediate
19 effect, this Act takes effect September 1, 2019.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 562 passed the Senate on April 29, 2019, by the following vote: Yeas 31, Nays 0; May 23, 2019, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 23, 2019, House granted request of the Senate; May 25, 2019, Senate adopted Conference Committee Report by the following vote: Yeas 30, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 562 passed the House, with amendments, on May 22, 2019, by the following vote: Yeas 134, Nays 7, two present not voting; May 23, 2019, House granted request of the Senate for appointment of Conference Committee; May 26, 2019, House adopted Conference Committee Report by the following vote: Yeas 145, Nays 0, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor