

By: Zaffirini

S.B. No. 562

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the delivery of certain mental health information  
3 regarding a defendant transferred from a county to the custody of  
4 the Texas Department of Criminal Justice, the commitment of certain  
5 defendants for competency restoration, and the use of  
6 telepsychiatry in determining whether a defendant is manifestly  
7 dangerous before commitment.

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

9 SECTION 1. Section 8(a), Article 42.09, Code of Criminal  
10 Procedure, is amended to read as follows:

11 (a) A county that transfers a defendant to the Texas  
12 Department of Criminal Justice under this article shall deliver to  
13 an officer designated by the department:

14 (1) a copy of the judgment entered pursuant to Article  
15 42.01, completed on a standardized felony judgment form described  
16 by Section 4 of that article;

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

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

22 (B) a copy of the client supervision plan  
23 prepared for the defendant by the community supervision and  
24 corrections department supervising the defendant, if such a plan

1 was prepared;

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

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

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

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

14 (7) a copy of the indictment or information for each  
15 offense;

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

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

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

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

27 (12) a written description of a hold or warrant,

1 issued by any other jurisdiction, that the county is aware of and  
2 that has been placed on or issued for the defendant; and

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

6 SECTION 2. Articles 46B.073(c) and (d), Code of Criminal  
7 Procedure, are amended to read as follows:

8 (c) If the defendant is charged with an offense listed in  
9 Article 17.032(a), other than an offense under Section 22.01(a)(1),  
10 Penal Code, or the indictment alleges an affirmative finding under  
11 Article 42A.054(c) or (d), the court may [~~shall~~] enter an order  
12 committing the defendant for competency restoration services to the  
13 maximum security unit of any facility designated by the Department  
14 of State Health Services, to an agency of the United States  
15 operating a mental hospital, or to a Department of Veterans Affairs  
16 hospital. The court may base its decision whether to commit the  
17 defendant to a facility described by this subsection on a  
18 determination made by a review board established under Article  
19 46B.105(b) that the defendant is manifestly dangerous. The court  
20 may request that the review board make a determination of whether  
21 the defendant is manifestly dangerous in the manner provided by  
22 Article 46B.105(b-1), including by assessing the defendant through  
23 telepsychiatry. If the court requests a review board to make a  
24 recommendation under this subsection, Article 46B.105(e) does not  
25 apply to the determination made by the review board and the review  
26 board shall provide its determination directly to the court.

27 (d) The court shall enter an order committing a defendant to

1 whom this article applies and who is not committed to a facility [~~if~~  
2 ~~the defendant is not charged with an offense]~~ described by  
3 Subsection (c) [~~and the indictment does not allege an affirmative~~  
4 ~~finding under Article 42A.054(c) or (d), the court shall enter an~~  
5 ~~order committing the defendant]~~ to a mental health facility or  
6 residential care facility determined to be appropriate by the local  
7 mental health authority or local intellectual and developmental  
8 disability authority or to a jail-based competency restoration  
9 program. A defendant may be committed to a jail-based competency  
10 restoration program only if the program provider determines the  
11 defendant will begin to receive competency restoration services  
12 within 72 hours of arriving at the program.

13 SECTION 3. Article 46B.105, Code of Criminal Procedure, is  
14 amended by adding Subsection (b-1) to read as follows:

15 (b-1) A review board established under Subsection (b) may  
16 make a determination of whether a defendant is manifestly dangerous  
17 by assessing the defendant through telepsychiatry and by reviewing  
18 appropriate records necessary for an assessment of the danger the  
19 defendant presents, as provided by rules adopted for that purpose  
20 by the executive commissioner of the Health and Human Services  
21 Commission. In this subsection, "telepsychiatry" means the  
22 practice of psychiatry, including conducting a psychiatric  
23 evaluation, through videoconferencing or similar technology that  
24 allows a psychiatrist to interact with another person without being  
25 present at the same location as that person.

26 SECTION 4. The change in law made by this Act to Article  
27 46B.073, Code of Criminal Procedure, applies to an order for

1 commitment entered under that article on or after the effective  
2 date of this Act, regardless of when the offense with which the  
3 defendant is charged was committed.

4 SECTION 5. As soon as practicable after the effective date  
5 of this Act, the executive commissioner of the Health and Human  
6 Services Commission shall adopt or amend rules regarding a  
7 determination of whether a defendant is manifestly dangerous as  
8 necessary to conform with the changes in law made by this Act to  
9 Articles [46B.073](#) and [46B.105](#), Code of Criminal Procedure.

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