

# SENATE AMENDMENTS

## 2<sup>nd</sup> Printing

By: Price, Collier, Murr, Moody, White,  
et al.

H.B. No. 601

A BILL TO BE ENTITLED

1 AN ACT  
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 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 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  
11 regarding whether the defendant has a mental illness as defined by  
12 Section 571.003, Health and Safety Code, or is a person with an  
13 intellectual disability as defined by Section 591.003, Health and  
14 Safety Code, including, if applicable, information obtained from  
15 any previous assessment of the defendant and information regarding  
16 any previously recommended treatment or service; and

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

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

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

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

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

23 (a-1) If a magistrate orders a local mental health authority  
24 or local intellectual and developmental disability authority to  
25 conduct an interview and collect information under Subsection  
26 (a)(1), the commissioners court for the county in which the  
27 magistrate is located shall reimburse the local mental health

1 authority or local intellectual and developmental disability  
2 authority for the cost of performing those duties.

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

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

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

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

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

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

25 (3) any appropriate or recommended treatment or  
26 service.

27 (c) After the trial court receives the applicable expert's

1 written report [~~assessment~~] relating to the defendant under  
2 Subsection (b-1) or elects to use the results of a previous  
3 determination as described by Subsection (a)(2), the trial court  
4 may, as applicable:

5 (1) resume criminal proceedings against the  
6 defendant, including any appropriate proceedings related to the  
7 defendant's release on personal bond under Article 17.032 if the  
8 defendant is being held in custody;

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

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

21 (4) refer the defendant to an appropriate specialty  
22 court established or operated under Subtitle K, Title 2, Government  
23 Code.

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

27 (1) releasing a defendant who has a mental illness or

1 is a person with an intellectual disability from custody on  
2 personal or surety bond, including imposing as a condition of  
3 release that the defendant submit to an examination or other  
4 assessment; or

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

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

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

18 SECTION 3. Articles 17.032(b) and (c), Code of Criminal  
19 Procedure, as amended by Chapters 748 (S.B. 1326) and 950 (S.B.  
20 1849), Acts of the 85th Legislature, Regular Session, 2017, are  
21 reenacted and amended to read as follows:

22 (b) Notwithstanding Article 17.03(b), or a bond schedule  
23 adopted or a standing order entered by a judge, a magistrate shall  
24 release a defendant on personal bond unless good cause is shown  
25 otherwise if:

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

1           (2) the defendant is examined by the service provider  
2 that contracts with the jail to provide mental health or  
3 intellectual and developmental disability services, the local  
4 mental health authority, the local intellectual and developmental  
5 disability authority, or another qualified mental health or  
6 intellectual disability expert under Article 16.22;

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

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

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

14           (4) the magistrate determines, in consultation with  
15 the local mental health authority or local intellectual and  
16 developmental disability authority, that appropriate  
17 community-based mental health or intellectual disability services  
18 for the defendant are available in accordance with Section 534.053  
19 or 534.103, Health and Safety Code, or through another mental  
20 health or intellectual disability services provider; and

21           (5) the magistrate finds, after considering all the  
22 circumstances, a pretrial risk assessment, if applicable, and any  
23 other credible information provided by the attorney representing  
24 the state or the defendant, that release on personal bond would  
25 reasonably ensure the defendant's appearance in court as required  
26 and the safety of the community and the victim of the alleged  
27 offense.

1 (c) The magistrate, unless good cause is shown for not  
2 requiring treatment or services, shall require as a condition of  
3 release on personal bond under this article that the defendant  
4 submit to outpatient or inpatient mental health treatment or  
5 intellectual disability services as recommended by the service  
6 provider that contracts with the jail to provide mental health or  
7 intellectual and developmental disability services, the local  
8 mental health authority, the local intellectual and developmental  
9 disability authority, or another qualified mental health or  
10 intellectual disability expert if the defendant's:

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

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

16 SECTION 4. Section 8(c), Article 42.09, Code of Criminal  
17 Procedure, is amended to read as follows:

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



1 any additional information upon which the judge or jury bases the  
2 punishment decision.

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

5 (a) The commission shall develop a comprehensive set of risk  
6 factors to use in assessing the overall risk level of each jail  
7 under the commission's jurisdiction. The set of risk factors must  
8 include:

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

11 (2) the population of the jail;

12 (3) the number and nature of complaints regarding the  
13 jail, including complaints regarding a violation of any required  
14 ratio of correctional officers to inmates;

15 (4) problems with the jail's internal grievance  
16 procedures;

17 (5) available mental and medical health reports  
18 relating to inmates in the jail, including reports relating to  
19 infectious disease or pregnant inmates;

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

21 (7) inmate escapes from the jail;

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

24 (9) whether the jail is in compliance with commission  
25 rules, standards developed by the Texas Correctional Office on  
26 Offenders with Medical or Mental Impairments, and the requirements  
27 of Article 16.22, Code of Criminal Procedure, regarding screening

1 and assessment protocols for the early identification of and  
2 reports concerning persons with mental illness or an intellectual  
3 disability.

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

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

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

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

15 SECTION 8. The changes in law made by this Act apply only to  
16 a defendant charged with an offense committed on or after the  
17 effective date of this Act. A defendant charged with an offense  
18 committed before the effective date of this Act is governed by the  
19 law in effect on the date the offense was committed, and the former  
20 law is continued in effect for that purpose. For purposes of this  
21 section, an offense was committed before the effective date of this  
22 Act if any element of the offense occurred before that date.

23 SECTION 9. To the extent of any conflict, this Act prevails  
24 over another Act of the 86th Legislature, Regular Session, 2019,  
25 relating to nonsubstantive additions to and corrections in enacted  
26 codes.

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

# ADOPTED

MAY 19 2019



Secretary of the Senate

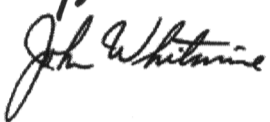
By: SENATOR ZAFFIRINI

H.B. No. 601

Substitute the following for H.B. No. 601 :

By: 

C.S. H.B. No. 601



## A BILL TO BE ENTITLED

### AN ACT

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relating to procedures and reporting requirements regarding criminal defendants 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. 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.

**ADOPTED**

FLOOR AMENDMENT NO. 1

MAY 19 2019

BY:

*Zaffini*

*Atty. Gen.*  
Secretary of the Senate

1 Amend H.B. No. 601 (Senate committee printing) as follows:

2 (1) In the recital to SECTION 4 of the bill (page 4, lines  
3 57-58), strike "Section 8(c), Article 42.09, Code of Criminal  
4 Procedure, is amended" and substitute "Sections 8(a) and (c),  
5 Article 42.09, Code of Criminal Procedure, are amended".

6 (2) Immediately following the recital to SECTION 4 of the  
7 bill (page 4, between lines 58 and 59), insert the following:

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

11 (1) a copy of the judgment entered pursuant to Article  
12 42.01, completed on a standardized felony judgment form described  
13 by Section 4 of that article;

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

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

19 (B) a copy of the client supervision plan prepared  
20 for the defendant by the community supervision and corrections  
21 department supervising the defendant, if such a plan was prepared;

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

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

28 (5) a statement as to whether there was a change in  
29 venue in the case and, if so, the names of the county prosecuting

1 the offense and the county in which the case was tried;

2 (6) if requested, information regarding the criminal  
3 history of the defendant, including the defendant's state  
4 identification number if the number has been issued;

5 (7) a copy of the indictment or information for each  
6 offense;

7 (8) a checklist sent by the department to the county  
8 and completed by the county in a manner indicating that the  
9 documents required by this subsection and Subsection (c) accompany  
10 the defendant;

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

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

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

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

21 (13) a copy of any mental health records, mental health  
22 screening reports, or similar information regarding the mental  
23 health of the defendant.

24 (3) Strike SECTION 8 of the bill (page 5, lines 41 through  
25 48) and substitute the following appropriately numbered SECTION:

26 SECTION \_\_. (a) The changes in law made by this Act to  
27 Articles 16.22 and 17.032, Code of Criminal Procedure, and to  
28 Section 8(c), Article 42.09, Code of Criminal Procedure, apply  
29 only to a defendant charges with an offense committed on or after  
30 the effective date of this Act. A defendant charged with an  
31 offense committed before the effective date of this Act is governed



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

15 (4) Add the following appropriately numbered SECTIONS to the  
16 bill:

17 SECTION \_\_. Article 46B.001, Code of Criminal Procedure, is  
18 amended to read as follows:

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

20 (1) "Adaptive behavior" means the effectiveness with or  
21 degree to which a person meets the standards of personal  
22 independence and social responsibility expected of the person's  
23 age and cultural group.

24 (2) "Commission" means the Health and Human Services  
25 Commission.

26 (3) "Competency restoration" means the treatment or  
27 education process for restoring a person's ability to consult with  
28 the person's attorney with a reasonable degree of rational  
29 understanding, including a rational and factual understanding of  
30 the court proceedings and charges against the person.

31 (4) "Developmental period" means the period of a

1 person's life from birth through 17 years of age.

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

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

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

9 (8) ~~[+2]~~ "Intellectual disability" means  
10 significantly subaverage general intellectual functioning that is  
11 concurrent with deficits in adaptive behavior and originates  
12 during the developmental period ~~[has the meaning assigned by~~  
13 ~~Section 591.003, Health and Safety Code].~~

14 (9) ~~[+3]~~ "Local mental health authority" has the  
15 meaning assigned by Section 571.003, Health and Safety Code.

16 (10) ~~[+4]~~ "Local intellectual and developmental  
17 disability authority" has the meaning assigned by Section 531.002,  
18 Health and Safety Code.

19 (11) ~~[+5]~~ "Mental health facility" has the meaning  
20 assigned by Section 571.003, Health and Safety Code.

21 (12) ~~[+6]~~ "Mental illness" means an illness, disease,  
22 or condition, other than epilepsy, dementia, substance abuse, or  
23 intellectual disability, that grossly impairs:

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

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

29 (13) ~~[+7]~~ "Residential care facility" has the meaning  
30 assigned by Section 591.003, Health and Safety Code.

31 (14) "Subaverage general intellectual functioning"

1 means a measured intelligence two or more standard deviations below  
2 the age-group mean, using a standardized psychometric instrument.

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

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

11 SECTION \_\_. Subchapter A, Chapter 46B, Code of Criminal  
12 Procedure, is amended by adding Article 46B.0021 to read as  
13 follows:

14 Art. 46B.0021. FACILITY DESIGNATION. The commission may  
15 designate for the commitment of a defendant under this chapter  
16 only a facility operated by the commission or under a contract  
17 with the commission for that purpose.

18 SECTION \_\_. Article 46B.073(c), Code of Criminal Procedure,  
19 is amended to read as follows:

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

29 SECTION \_\_. Subchapter D, Chapter 46B, Code of Criminal  
30 Procedure, is amended by adding Article 46B.0831 to read as  
31 follows:

1           Art. 46B.0831. DETERMINATION WHETHER DEFENDANT IS  
2 MANIFESTLY DANGEROUS. A defendant committed to a maximum security  
3 unit by the commission may be assessed, at any time before the  
4 defendant is restored to competency, by the review board  
5 established under Section 46B.105 to determine whether the  
6 defendant is manifestly dangerous. If the review board determines  
7 the defendant is not manifestly dangerous, the commission shall  
8 transfer the defendant to a non-maximum security facility  
9 designated by the commission.

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

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

17           (1) the defendant is charged with an offense listed in  
18 Article 17.032(a) [~~, other than an offense listed in Article~~  
19 ~~17.032(a)(6)~~]; or

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

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

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

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

31           (2) a residential care facility; or

1 (3) a program designated by a local mental health  
2 authority or a local intellectual and developmental disability  
3 authority.

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

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

16 SECTION \_\_. Article 46B.106(a), Code of Criminal Procedure,  
17 is amended to read as follows:

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

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

24 (2) an outpatient treatment program.

25 SECTION \_\_. Articles 46B.107(a) and (d), Code of Criminal  
26 Procedure, are amended to read as follows:

27 (a) The release of a defendant committed under this chapter  
28 from the commission [~~Department of State Health Services, the~~  
29 ~~Department of Aging and Disability Services~~], an outpatient  
30 treatment program, or another facility is subject to disapproval  
31 by the committing court if the court or the attorney representing

1 the state has notified the head of the facility or outpatient  
2 treatment provider, as applicable, to which the defendant has been  
3 committed that a criminal charge remains pending against the  
4 defendant.

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

- 18 (1) at the facility; or  
19 (2) by means of an electronic broadcast system as  
20 provided by Article 46B.013.

21 SECTION \_\_. Article 46B.151(c), Code of Criminal Procedure,  
22 is amended to read as follows:

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

30 SECTION \_\_. Articles 46C.001(1) and (2), Code of Criminal  
31 Procedure, are amended to read as follows:

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

4           (2) "Executive commissioner" means the executive  
5 commissioner of the Health and Human Services Commission  
6 [~~"Department" means the Department of State Health Services~~].

7           SECTION \_\_. Subchapter A, Chapter 46C, Code of Criminal  
8 Procedure, is amended by adding Article 46C.0011 to read as  
9 follows:

10          Art. 46C.0011. FACILITY DESIGNATION. The commission may  
11 designate for the commitment of a defendant under this chapter  
12 only a facility operated by the commission or under a contract  
13 with the commission for that purpose.

14          SECTION \_\_. Article 46C.104, Code of Criminal Procedure, is  
15 amended to read as follows:

16          Art. 46C.104. ORDER COMPELLING DEFENDANT TO SUBMIT TO  
17 EXAMINATION. (a) For the purposes described by this chapter, the  
18 court may order any defendant to submit to examination, including  
19 a defendant who is free on bail. If the defendant fails or refuses  
20 to submit to examination, the court may order the defendant to  
21 custody for examination for a reasonable period not to exceed 21  
22 days. Custody ordered by the court under this subsection may  
23 include custody at a facility operated by the commission  
24 [~~department~~].

25          (b) If a defendant who has been ordered to a facility  
26 operated by the commission [~~department~~] for examination remains in  
27 the facility for a period that exceeds 21 days, the head of that  
28 facility shall cause the defendant to be immediately transported  
29 to the committing court and placed in the custody of the sheriff  
30 of the county in which the committing court is located. That  
31 county shall reimburse the facility for the mileage and per diem

1 expenses of the personnel required to transport the defendant,  
2 calculated in accordance with the state travel rules in effect at  
3 that time.

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

7 SECTION \_\_. Article 46C.106(b), Code of Criminal Procedure,  
8 is amended to read as follows:

9 (b) The county in which the indictment was returned or  
10 information was filed shall reimburse a facility operated by the  
11 commission [~~department~~] that accepts a defendant for examination  
12 under this subchapter for expenses incurred that are determined by  
13 the commission [~~department~~] to be reasonably necessary and  
14 incidental to the proper examination of the defendant.

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

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

21 SECTION \_\_. Article 46C.202(a), Code of Criminal Procedure,  
22 is amended to read as follows:

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

30 SECTION \_\_. Articles 46C.251(a) and (b), Code of Criminal  
31 Procedure, are amended to read as follows:



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

6 (b) The court shall order that:

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

11 (2) the following information be forwarded to the  
12 facility and [~~as applicable,~~] to the commission [~~department or~~  
13 ~~the Department of Aging and Disability Services~~]:

14 (A) the complete name, race, and gender of the  
15 person;

16 (B) any known identifying number of the person,  
17 including social security number, driver's license number, or  
18 state identification number;

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

20 (D) the offense of which the person was found not  
21 guilty by reason of insanity and a statement of the facts and  
22 circumstances surrounding the alleged offense.

23 SECTION \_\_. Article 46C.260, Code of Criminal Procedure, is  
24 amended to read as follows:

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

30 (b) A person committed under this subchapter shall be  
31 transferred to the designated facility [~~maximum security unit~~]

1 immediately on the entry of the order of commitment.

2 (c) Unless a [the] person committed to a maximum security  
3 unit by the commission is determined to be manifestly dangerous by  
4 a review board under this article [~~within the department~~], not  
5 later than the 60th day following the date of the person's arrival  
6 at the maximum security unit the person shall be transferred to a  
7 non-maximum security [~~nonsecure~~] unit of a facility designated by  
8 the commission [~~department or the Department of Aging and~~  
9 ~~Disability Services, as appropriate~~].

10 (d) The executive commissioner shall appoint a review board  
11 of five members, including one psychiatrist licensed to practice  
12 medicine in this state and two persons who work directly with  
13 persons with mental illnesses or with mental retardation, to  
14 determine whether the person is manifestly dangerous and, as a  
15 result of the danger the person presents, requires continued  
16 placement in a maximum security unit.

17 (e) If the head of the facility at which the maximum security  
18 unit is located disagrees with the determination, then the matter  
19 shall be referred to the executive commissioner. The executive  
20 commissioner shall decide whether the person is manifestly  
21 dangerous.

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

24 (a) In this section:

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

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

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

1 (C) committed to court-ordered mental health  
2 services under Subchapter E, Chapter 46B, Code of Criminal  
3 Procedure; [øø]

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

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

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

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

15 (5) Appropriately renumber SECTIONS of the bill.

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**May 20, 2019**

**TO:** Honorable Dennis Bonnen, Speaker of the House, House of Representatives

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB601** by Price (Relating to procedures and reporting requirements regarding criminal defendants who are or may be persons with a mental illness or an intellectual disability. ),  
**As Passed 2nd House**

<p><b>No significant fiscal implication to the State is anticipated.</b></p>
--

The bill would amend the Code of Criminal Procedure to require local mental health personnel or a service provider that contracts with a jail to provide mental health or intellectual and developmental disability services to interview and collect information regarding potential mental illness or intellectual disability of a defendant if the defendant has not previously been interviewed by a qualified mental health expert on or after the date of arrest. The local mental health personnel or service providers would be required to provide a magistrate with a written report of the interview and the information collected.

The bill would require the commissioner's court of a county in which a magistrate ordered a local mental health authority or local intellectual and developmental disability authority to conduct an interview to reimburse the local mental health authority or local intellectual and developmental disability authority for the cost of performing those duties. The commissioner's court may adopt a fee schedule for the services of the authority who conducted the interview and allows the authority to request that a magistrate determine the amount for reimbursement.

The bill would require the Texas Judicial Council to adopt rules to require the reporting of the number of written reports submitted to a magistrate to the Office of Court Administration on a monthly basis.

The bill would require a county that transfers a defendant to the Department of Criminal Justice to deliver the written report of the interview and information collected to the Department.

The bill would add certain services alongside treatment, and allow a judge to require a defendant, as a condition of release on a mental health bond, to submit to certain mental health treatment or services if the defendant's ability to function independently will continue to deteriorate if the defendant does not receive the recommended treatment or services.

The bill would add intellectual disability to the identification and assessment protocols of jail risk-level factors assessed by the Commission on Jail Standards.

The bill would amend the Health and Safety Code to require the Texas Correctional Office on

Offenders with Medical or Mental Impairments to approve and make available an electronic, standard form for use by a person providing a written report to a magistrate.

The bill would require counties transferring a defendant to the Texas Department of Criminal Justice (TDCJ) to provide a copy of a defendant's mental health records to an officer designated by TDCJ. The bill would require the Health and Human Services Commission (HHSC) to transfer a defendant from a maximum security unit to a non-maximum security unit if a review board determines the defendant is not manifestly dangerous. The bill would also require a court, upon receiving notice from the head of a facility or outpatient treatment provider of intent to release the defendant, to hold a hearing to determine whether release from the facility or program is appropriate. The bill would amend the definition of a forensic patient to include persons with intellectual disabilities.

Based on the analysis of the Office of Court Administration, the Office of the Attorney General, the Commission on Jail Standards, the Department of Criminal Justice, and the Health and Human Services Commission, duties and responsibilities associated with implementing the provisions of the bill could be accomplished using existing resources.

The bill would take effect September 1, 2019.

### **Local Government Impact**

Harris County estimates the bill would cost the county between \$650,000 to \$750,000 per year to staff 11-12 full-time employees to conduct interviews, contact defendants who have been released on bond to schedule interviews, and process court orders. The County's key assumptions are as follows: the courts would request an average of 1,800 orders for an interview per month; each interview would last 45 minutes; Q-level staff (Bachelor or Masters level) would conduct the interviews. However, if a higher level of staff would be required, the costs would increase.

There may be a cost to counties to provide additional information when transferring a defendant to TDCJ.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General, 409 Commission on Jail Standards, 529 Health and Human Services Commission, 696 Department of Criminal Justice

**LBB Staff:** WP, AF, LBO, MW, DA, GDz

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**May 16, 2019**

**TO:** Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB601** by Price (relating to procedures and reporting requirements regarding criminal defendants who are or may be persons with a mental illness or an intellectual disability.),  
**Committee Report 2nd House, Substituted**

<p><b>No significant fiscal implication to the State is anticipated.</b></p>
--

The bill would amend the Code of Criminal Procedure to require local mental health personnel or a service provider that contracts with a jail to provide mental health or intellectual and developmental disability services to interview and collect information regarding potential mental illness or intellectual disability of a defendant if the defendant has not previously been interviewed by a qualified mental health expert on or after the date of arrest. The local mental health personnel or service providers would be required to provide a magistrate with a written report of the interview and the information collected.

The bill would require the commissioner's court of a county in which a magistrate ordered a local mental health authority or local intellectual and developmental disability authority to conduct an interview to reimburse the local mental health authority or local intellectual and developmental disability authority for the cost of performing those duties. The commissioner's court may adopt a fee schedule for the services of the authority who conducted the interview and allows the authority to request that a magistrate determine the amount for reimbursement.

The bill would require the Texas Judicial Council to adopt rules to require the reporting of the number of written reports submitted to a magistrate to the Office of Court Administration on a monthly basis.

The bill would require a county that transfers a defendant to the Department of Criminal Justice to deliver the written report of the interview and information collected to the Department.

The bill would add certain services alongside treatment, and allow a judge to require a defendant, as a condition of release on a mental health bond, to submit to certain mental health treatment or services if the defendant's ability to function independently will continue to deteriorate if the defendant does not receive the recommended treatment or services.

The bill would add intellectual disability to the identification and assessment protocols of jail risk-level factors assessed by the Commission on Jail Standards.

The bill would amend the Health and Safety Code to require the Texas Correctional Office on

Offenders with Medical or Mental Impairments to approve and make available an electronic, standard form for use by a person providing a written report to a magistrate.

Based on the analysis of the Office of Court Administration, the Office of the Attorney General, the Commission on Jail Standards, and the Department of Criminal Justice, duties and responsibilities associated with implementing the provisions of the bill could be accomplished using existing resources.

The bill would take effect September 1, 2019.

### **Local Government Impact**

Harris County estimates the bill would cost the county between \$650,000 to \$750,000 per year to staff 11-12 full-time employees to conduct interviews, contact defendants who have been released on bond to schedule interviews, and process court orders. The County's key assumptions are as follows: the courts would request an average of 1,800 orders for an interview per month; each interview would last 45 minutes; Q-level staff (Bachelor or Masters level) would conduct the interviews. However, if a higher level of staff would be required, the costs would increase.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General, 409 Commission on Jail Standards, 696 Department of Criminal Justice

**LBB Staff:** WP, AF, LBO, MW, DA, GDz

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**May 7, 2019**

**TO:** Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB601** by Price (Relating to procedures and reporting requirements regarding criminal defendants who are or may be persons with a mental illness or an intellectual disability.),  
**As Engrossed**

<b>No significant fiscal implication to the State is anticipated.</b>
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The bill would amend the Code of Criminal Procedure to require local mental health personnel or a service provider that contracts with a jail to provide mental health or intellectual and developmental disability services to interview and collect information regarding potential mental illness or intellectual disability of a defendant if the defendant has not previously been interviewed by a qualified mental health expert on or after the date of arrest. The local mental health personnel or service providers would be required to provide a magistrate with a written report of the interview and the information collected.

The bill would require the commissioner's court of a county in which a magistrate ordered a local mental health authority or local intellectual and developmental disability authority to conduct an interview to reimburse the local mental health authority or local intellectual and developmental disability authority for the cost of performing those duties.

The bill would require the Texas Judicial Council to adopt rules to require the reporting of the number of written reports submitted to a magistrate to the Office of Court Administration on a monthly basis.

The bill would require a county that transfers a defendant to the Department of Criminal Justice to deliver the written report of the interview and information collected to the Department.

The bill would add certain services alongside treatment, and allow a judge to require a defendant, as a condition of release on a mental health bond, to submit to certain mental health treatment or services if the defendant's ability to function independently will continue to deteriorate if the defendant does not receive the recommended treatment or services.

The bill would add intellectual disability to the identification and assessment protocols of jail risk-level factors assessed by the Commission on Jail Standards.

The bill would amend the Health and Safety Code to require the Texas Correctional Office on Offenders with Medical or Mental Impairments to approve and make available an electronic, standard form for use by a person providing a written report to a magistrate.



Based on the analysis of the Office of Court Administration, the Office of the Attorney General, the Commission on Jail Standards, and the Department of Criminal Justice, duties and responsibilities associated with implementing the provisions of the bill could be accomplished using existing resources.

The bill would take effect September 1, 2019.

### **Local Government Impact**

According to Bexar, Travis, and Midland counties, no significant fiscal implication to units of local government is anticipated.

The Jackson County Sheriff anticipates a significant fiscal impact to the department due to an increased workload, however the exact impact cannot be determined at this time.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General, 409 Commission on Jail Standards, 696 Department of Criminal Justice

**LBB Staff:** WP, AF, LBO, MW, DA, GDz

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**March 17, 2019**

**TO:** Honorable Nicole Collier, Chair, House Committee on Criminal Jurisprudence

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB601** by Price (Relating to procedures and reporting requirements regarding criminal defendants who are or may be persons with a mental illness or an intellectual disability.),  
**As Introduced**

<b>No significant fiscal implication to the State is anticipated.</b>
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The bill would amend the Code of Criminal Procedure to require local mental health personnel to interview and collect information regarding potential mental illness or intellectual disability of a defendant and provide a magistrate with a written report of the interview and the information collected.

The bill would require the Texas Judicial Council to adopt rules to require the reporting of the number of written reports submitted to a magistrate to the Office of Court Administration on a monthly basis.

The bill would require a county that transfers a defendant to the Department of Criminal Justice to deliver the written report of the interview and information collected to the Department.

The bill would add certain services alongside treatment, and allow a judge to require a defendant, as a condition of release on a mental health bond, to submit to certain mental health treatment or services if the defendant's ability to function independently will continue to deteriorate if the defendant does not receive the recommended treatment or services.

The bill would add intellectual disability to the identification and assessment protocols of jail risk-level factors assessed by the Commission on Jail Standards.

The bill would amend the Health and Safety Code to require the Texas Correctional Office on Offenders with Medical or Mental Impairments to approve and make available an electronic, standard form for use by a person providing a written report to a magistrate.

Based on the analysis of the Office of Court Administration, the Office of the Attorney General, the Commission on Jail Standards, and the Department of Criminal Justice, duties and responsibilities associated with implementing the provisions of the bill could be accomplished using existing resources.

The bill would take effect September 1, 2019.

## **Local Government Impact**

According to Bexar, Travis, and Midland counties, no significant fiscal implication to units of local government is anticipated.

The Jackson County Sheriff anticipates a significant fiscal impact to the department due to an increased workload, however the exact impact cannot be determined at this time.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General, 409 Commission on Jail Standards, 696 Department of Criminal Justice

**LBB Staff:** WP, LBO, MW, DA, AF, GDz