

House Bill 601
Senate Amendments
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HOUSE VERSION

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 service provider that contracts with the jail to provide mental health or intellectual and developmental disability services, the local mental health authority, the local intellectual and developmental disability authority, or another qualified mental health or intellectual disability expert to:

(A) interview the defendant if the defendant has not previously been interviewed by a qualified mental health or intellectual and developmental disability expert on or after the date the defendant was arrested for the offense for which the defendant is in custody, and otherwise collect information regarding whether the defendant has a mental illness as defined by Section 571.003, Health and Safety Code, or is a

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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 service provider that contracts with the jail to provide mental health or intellectual and developmental disability services, the local mental health authority, the local intellectual and developmental disability authority, or another qualified mental health or intellectual and developmental disability expert to:

(A) interview the defendant if the defendant has not previously been interviewed by a qualified mental health or intellectual and developmental disability expert on or after the date the defendant was arrested for the offense for which the defendant is in custody and otherwise collect information regarding whether the defendant has a mental illness as defined by Section 571.003, Health and Safety Code, or is a

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person with an intellectual disability as defined by Section 591.003, Health and Safety Code, including, if applicable, information obtained from any previous assessment of the defendant and information regarding any previously recommended treatment or service; and

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

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

(3) If the defendant fails or refuses to submit to the interview and collection of other information regarding the defendant as required under Subdivision (1), the magistrate may order the defendant to submit to an examination in a jail, or in another place determined to be appropriate by the local mental health authority or local intellectual and developmental disability authority, for a reasonable period not to exceed 72 hours. If applicable, the county in which the committing court is located shall reimburse the local mental health authority or

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person with an intellectual disability as defined by Section 591.003, Health and Safety Code, including, if applicable, information obtained from any previous assessment of the defendant and information regarding any previously recommended treatment or service; and

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

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

(3) If the defendant fails or refuses to submit to the interview and collection of other information regarding the defendant as required under Subdivision (1), the magistrate may order the defendant to submit to an examination in a jail, or in another place determined to be appropriate by the local mental health authority or local intellectual and developmental disability authority, for a reasonable period not to exceed 72 hours. If applicable, the county in which the committing court is located shall reimburse the local mental health authority or

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local intellectual and developmental disability authority for the mileage and per diem expenses of the personnel required to transport the defendant, calculated in accordance with the state travel regulations in effect at the time.

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

(a-1) If a magistrate orders a local mental health authority or local intellectual and developmental disability authority to conduct an interview and collect information under Subsection (a)(1), the commissioners court for the county in which the magistrate is located shall reimburse the local mental health authority or local intellectual and developmental disability authority for the cost of performing those duties.

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local intellectual and developmental disability authority for the mileage and per diem expenses of the personnel required to transport the defendant, calculated in accordance with the state travel regulations in effect at the time.

SECTION 2. Article 16.22, Code of Criminal Procedure, is amended by adding Subsections (a-1), (a-2), (a-3), (a-4), and (f) and amending Subsections (b), (b-1), (c), (d), and (e) to read as follows:

(a-1) If a magistrate orders a local mental health authority, a local intellectual and developmental disability authority, or another qualified mental health or intellectual and developmental disability expert to conduct an interview or collect information under Subsection (a)(1), the commissioners court for the county in which the magistrate is located shall reimburse the local mental health authority, local intellectual and developmental disability authority, or qualified mental health or intellectual and developmental disability expert for the cost of performing those duties in the amount provided by the fee schedule adopted under Subsection (a-2) or in the amount determined by the judge under Subsection (a-3), as applicable.

(a-2) The commissioners court for a county may adopt a fee schedule to pay for the costs to conduct an interview and collect information under Subsection (a)(1). In developing the fee schedule, the commissioners court shall consider the generally accepted reasonable cost in that county of performing the duties described by Subsection (a)(1). A fee schedule described by this subsection must be adopted in a public hearing and must be periodically reviewed by the commissioners court.

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

- (1) for a defendant held in custody, not later than 96 hours after the time an order was issued under Subsection (a); or
- (2) for a defendant released from custody, not later than the 30th day after the date an order was issued under Subsection (a).

(b-1) The magistrate shall provide copies of the written report [assessment] to the defense counsel, the attorney representing the state, and the trial court. The written report [assessment] must include a description of the procedures used in the interview and collection of other information under

(a-3) If the cost of performing the duties described by Subsection (a)(1) exceeds the amount provided by the applicable fee schedule or if the commissioners court for the applicable county has not adopted a fee schedule, the authority or expert who performed the duties may request that the judge who has jurisdiction over the underlying offense determine the reasonable amount for which the authority or expert is entitled to be reimbursed under Subsection (a-1). The amount determined under this subsection may not be less than the amount provided by the fee schedule, if applicable. The judge shall determine the amount not later than the 45th day after the date the request is made. The judge is not required to hold a hearing before making a determination under this subsection.

(a-4) An interview under Subsection (a)(1) may be conducted in person in the jail, by telephone, or through a telemedicine medical service or telehealth service.

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

- (1) for a defendant held in custody, not later than 96 hours after the time an order was issued under Subsection (a); or
- (2) for a defendant released from custody, not later than the 30th day after the date an order was issued under Subsection (a).

(b-1) The magistrate shall provide copies of the written report [assessment] to the defense counsel, the attorney representing the state, and the trial court. The written report [assessment] must include a description of the procedures used in the interview and collection of other information under

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Subsection (a)(1)(A) and the applicable expert's observations and findings pertaining to:

- (1) whether the defendant is a person who has a mental illness or is a person with an intellectual disability;
 - (2) whether there is clinical evidence to support a belief that the defendant may be incompetent to stand trial and should undergo a complete competency examination under Subchapter B, Chapter 46B; and
 - (3) any appropriate or recommended treatment or service.
- (c) After the trial court receives the applicable expert's written report [assessment] relating to the defendant under Subsection (b-1) or elects to use the results of a previous determination as described by Subsection (a)(2), the trial court may, as applicable:
- (1) resume criminal proceedings against the defendant, including any appropriate proceedings related to the defendant's release on personal bond under Article 17.032 if the defendant is being held in custody;
 - (2) resume or initiate competency proceedings, if required, as provided by Chapter 46B or other proceedings affecting the defendant's receipt of appropriate court-ordered mental health or intellectual disability services, including proceedings related to the defendant's receipt of outpatient mental health services under Section 574.034, Health and Safety Code;
 - (3) consider the written report [assessment] during the punishment phase after a conviction of the offense for which the defendant was arrested, as part of a presentence investigation report, or in connection with the impositions of conditions following placement on community supervision, including deferred adjudication community supervision; or
 - (4) refer the defendant to an appropriate specialty court

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Subsection (a)(1)(A) and the applicable expert's observations and findings pertaining to:

- (1) whether the defendant is a person who has a mental illness or is a person with an intellectual disability;
 - (2) whether there is clinical evidence to support a belief that the defendant may be incompetent to stand trial and should undergo a complete competency examination under Subchapter B, Chapter 46B; and
 - (3) any appropriate or recommended treatment or service.
- (c) After the trial court receives the applicable expert's written report [assessment] relating to the defendant under Subsection (b-1) or elects to use the results of a previous determination as described by Subsection (a)(2), the trial court may, as applicable:
- (1) resume criminal proceedings against the defendant, including any appropriate proceedings related to the defendant's release on personal bond under Article 17.032 if the defendant is being held in custody;
 - (2) resume or initiate competency proceedings, if required, as provided by Chapter 46B or other proceedings affecting the defendant's receipt of appropriate court-ordered mental health or intellectual and developmental disability services, including proceedings related to the defendant's receipt of outpatient mental health services under Section 574.034, Health and Safety Code;
 - (3) consider the written report [assessment] during the punishment phase after a conviction of the offense for which the defendant was arrested, as part of a presentence investigation report, or in connection with the impositions of conditions following placement on community supervision, including deferred adjudication community supervision; or
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established or operated under Subtitle K, Title 2, Government Code.

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

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

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

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

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

SECTION 3. Articles 17.032(b) and (c), 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, are reenacted and amended to read as follows:

(b) Notwithstanding Article 17.03(b), or a bond schedule

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established or operated under Subtitle K, Title 2, Government Code.

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

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

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

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

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

SECTION 3. Articles 17.032(b) and (c), 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, are reenacted and amended to read as follows:

(b) Notwithstanding Article 17.03(b), or a bond schedule

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adopted or a standing order entered by a judge, a magistrate shall release a defendant on personal bond unless good cause is shown otherwise if:

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

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

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

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

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

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

(5) the magistrate finds, after considering all the circumstances, a pretrial risk assessment, if applicable, and any other credible information provided by the attorney representing the state or the defendant, that release on personal bond would reasonably ensure the defendant's

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adopted or a standing order entered by a judge, a magistrate shall release a defendant on personal bond unless good cause is shown otherwise if:

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

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

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

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

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

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

(5) the magistrate finds, after considering all the circumstances, a pretrial risk assessment, if applicable, and any other credible information provided by the attorney representing the state or the defendant, that release on personal bond would reasonably ensure the defendant's

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appearance in court as required and the safety of the community and the victim of the alleged offense.

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

- (1) mental illness or intellectual disability is chronic in nature; or
- (2) ability to function independently will continue to deteriorate if the defendant does not receive the recommended treatment or services [~~is not treated~~].

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

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appearance in court as required and the safety of the community and the victim of the alleged offense.

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

- (1) mental illness or intellectual disability is chronic in nature; or
- (2) ability to function independently will continue to deteriorate if the defendant does not receive the recommended treatment or services [~~is not treated~~].

SECTION 4. Sections 8(a) and (c), Article 42.09, Code of Criminal Procedure, are amended to read as follows:

[FA1(1)]

(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,

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

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

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

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

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

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

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

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

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

(12) a written description of a hold or warrant, issued by any other jurisdiction, that the county is aware of and that has been

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

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

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

- (1) a history of the jail's compliance with state law and commission rules, standards, and procedures;
- (2) the population of the jail;
- (3) the number and nature of complaints regarding the jail, including complaints regarding a violation of any required ratio of correctional officers to inmates;
- (4) problems with the jail's internal grievance procedures;

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placed on or issued for the defendant; and
(13) a copy of any mental health records, mental health screening reports, or similar information regarding the mental health of the defendant. [FA1(2)]

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

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- (5) available mental and medical health reports relating to inmates in the jail, including reports relating to infectious disease or pregnant inmates;
- (6) recent turnover among sheriffs and jail staff;
- (7) inmate escapes from the jail;
- (8) the number and nature of inmate deaths at the jail, including the results of the investigations of those deaths; and
- (9) whether the jail is in compliance with commission rules, standards developed by the Texas Correctional Office on Offenders with Medical or Mental Impairments, and the requirements of Article 16.22, Code of Criminal Procedure, regarding screening and assessment protocols for the early identification of and reports concerning persons with mental illness or an intellectual disability.

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

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

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

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

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SECTION 6. Same as House version.

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

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

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

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SECTION 8. (a) The changes in law made by this Act to Articles 16.22 and 17.032, Code of Criminal Procedure, and to Section 8(c), Article 42.09, Code of Criminal Procedure, apply only to a defendant charged with an offense committed on or after the effective date of this Act. A defendant charged with an offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

(b) The changes in law made by this Act to Section 8(a), Article 42.09, Code of Criminal Procedure, and to Chapters 46B and 46C, Code of Criminal Procedure, apply only to a proceeding that begins on or after the effective date of this Act, regardless of when the defendant committed the underlying offense for which the defendant became subject to the proceeding. A proceeding that begins before the effective date of this Act is governed by the law in effect on the date the proceeding began, and the former law is continued in effect for that purpose. [FA1(3)]

SECTION 9. Same as House version.

SECTION 10. Same as House version.

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No equivalent provision.

SECTION __. Article 46B.001, Code of Criminal Procedure, is amended to read as follows:

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

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

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

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

(4) "Developmental period" means the period of a person's life from birth through 17 years of age.

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

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

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

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

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

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

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

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

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

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

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

~~(14) "Subaverage general intellectual functioning" means a measured intelligence two or more standard deviations below the age-group mean, using a standardized psychometric instrument.~~

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

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

[FA1(4)]

No equivalent provision.

SECTION __. Subchapter A, Chapter 46B, Code of Criminal

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Procedure, is amended by adding Article 46B.0021 to read as follows:

Art. 46B.0021. FACILITY DESIGNATION. The commission may designate for the commitment of a defendant under this chapter only a facility operated by the commission or under a contract with the commission for that purpose.
[FA1(4)]

No equivalent provision.

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

(c) If the defendant is charged with an offense listed in Article 17.032(a)[, ~~other than an offense under Section 22.01(a)(1), Penal Code,~~] or if the indictment alleges an affirmative finding under Article 42A.054(c) or (d), the court shall enter an order committing the defendant for competency restoration services to a the maximum security unit of any facility designated by the commission [~~Department of State Health Services, to an agency of the United States operating a mental hospital,~~ or to a Department of Veterans Affairs hospital]. [FA1(4)]

No equivalent provision.

SECTION __. Subchapter D, Chapter 46B, Code of Criminal Procedure, is amended by adding Article 46B.0831 to read as follows:

Art. 46B.0831. DETERMINATION WHETHER DEFENDANT IS MANIFESTLY DANGEROUS. A defendant committed to a maximum security unit by the commission may be assessed, at any time before the defendant is restored to competency, by the review board established under Section 46B.105 to determine whether the defendant is

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manifestly dangerous. If the review board determines the defendant is not manifestly dangerous, the commission shall transfer the defendant to a non-maximum security facility designated by the commission. [FA1(4)]

No equivalent provision.

SECTION __. Article 46B.104, Code of Criminal Procedure, is amended to read as follows:

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

- (1) the defendant is charged with an offense listed in Article 17.032(a)~~], other than an offense listed in Article 17.032(a)(6)]~~; or
- (2) the indictment charging the offense alleges an affirmative finding under Article 42A.054(c) or (d). [FA1(4)]

No equivalent provision.

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

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

- (1) a unit of an inpatient mental health facility other than a maximum security unit;
- (2) a residential care facility; or
- (3) a program designated by a local mental health authority or

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a local intellectual and developmental disability authority.

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

(e) If the superintendent of the facility at which the maximum security unit is located disagrees with the determination, the matter shall be referred to the executive commissioner [~~of state health services~~]. The executive commissioner shall decide whether the defendant is manifestly dangerous. [FA1(4)]

No equivalent provision.

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

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

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

(2) an outpatient treatment program. [FA1(4)]

No equivalent provision.

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

(a) The release of a defendant committed under this chapter

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from the commission [~~Department of State Health Services, the Department of Aging and Disability Services~~], an outpatient treatment program, or another facility is subject to disapproval by the committing court if the court or the attorney representing the state has notified the head of the facility or outpatient treatment provider, as applicable, to which the defendant has been committed that a criminal charge remains pending against the defendant.

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

- (1) at the facility; or
- (2) by means of an electronic broadcast system as provided by Article 46B.013. [FA1(4)]

No equivalent provision.

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

(c) Notwithstanding Subsection (b), a defendant placed in a facility of the commission [~~Department of State Health Services or the Department of Aging and Disability Services~~]

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pending civil hearing under this article may be detained in that facility only with the consent of the head of the facility and pursuant to an order of protective custody issued under Subtitle C, Title 7, Health and Safety Code. [FA1(4)]

No equivalent provision.

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

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

(2) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission [~~"Department" means the Department of State Health Services~~]. [FA1(4)]

No equivalent provision.

SECTION __. Subchapter A, Chapter 46C, Code of Criminal Procedure, is amended by adding Article 46C.0011 to read as follows:

Art. 46C.0011. FACILITY DESIGNATION. The commission may designate for the commitment of a defendant under this chapter only a facility operated by the commission or under a contract with the commission for that purpose. [FA1(4)]

No equivalent provision.

SECTION __. Article 46C.104, Code of Criminal Procedure, is amended to read as follows:

Art. 46C.104. ORDER COMPELLING DEFENDANT TO SUBMIT TO EXAMINATION. (a) For the purposes described by this chapter, the court may order any defendant

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to submit to examination, including a defendant who is free on bail. If the defendant fails or refuses to submit to examination, the court may order the defendant to custody for examination for a reasonable period not to exceed 21 days. Custody ordered by the court under this subsection may include custody at a facility operated by the commission [~~department~~].

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

(c) The court may not order a defendant to a facility operated by the commission [~~department~~] for examination without the consent of the head of that facility. [FA1(4)]

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

(b) The county in which the indictment was returned or information was filed shall reimburse a facility operated by the commission [~~department~~] that accepts a defendant for examination under this subchapter for expenses incurred that are determined by the commission [~~department~~] to be reasonably necessary and incidental to the proper examination of the defendant. [FA1(4)]

No equivalent provision.

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No equivalent provision.

SECTION __. Article 46C.160(b), Code of Criminal Procedure, is amended to read as follows:
(b) The court may order a defendant detained in a facility of the commission ~~[department or a facility of the Department of Aging and Disability Services]~~ under this article only with the consent of the head of the facility. [FA1(4)]

No equivalent provision.

SECTION __. Article 46C.202(a), Code of Criminal Procedure, is amended to read as follows:
(a) Notwithstanding Article 46C.201(b), a person placed in a commission ~~[department]~~ facility ~~[or a facility of the Department of Aging and Disability Services]~~ pending civil hearing as described by that subsection may be detained only with the consent of the head of the facility and under an Order of Protective Custody issued under Subtitle C or D, Title 7, Health and Safety Code. [FA1(4)]

No equivalent provision.

SECTION __. Articles 46C.251(a) and (b), Code of Criminal Procedure, are amended to read as follows:
(a) The court shall order the acquitted person to be committed for evaluation of the person's present mental condition and for treatment to the ~~[maximum security unit of any]~~ facility designated by the commission ~~[department]~~. The period of commitment under this article may not exceed 30 days.
(b) The court shall order that:
(1) a transcript of all medical testimony received in the criminal proceeding be prepared as soon as possible by the court reporter and the transcript be forwarded to the facility to which the acquitted person is committed; and
(2) the following information be forwarded to the facility

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

- (A) the complete name, race, and gender of the person;
- (B) any known identifying number of the person, including social security number, driver's license number, or state identification number;
- (C) the person's date of birth; and
- (D) the offense of which the person was found not guilty by reason of insanity and a statement of the facts and circumstances surrounding the alleged offense. [FA1(4)]

No equivalent provision.

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

Art. 46C.260. TRANSFER OF COMMITTED PERSON TO NON-MAXIMUM SECURITY ~~[NONSECURE]~~ FACILITY.

- (a) A person committed to a facility under this subchapter shall be committed to a designated facility ~~[the maximum security unit of any] facility designated by the commission [department]~~.
- (b) A person committed under this subchapter shall be transferred to the designated facility ~~[maximum security unit]~~ immediately on the entry of the order of commitment.
- (c) Unless a ~~[the]~~ person committed to a maximum security unit by the commission is determined to be manifestly dangerous by a review board under this article ~~[within the department]~~, not later than the 60th day following the date of the person's arrival at the maximum security unit the person shall be transferred to a non-maximum security ~~[nonsecure]~~ unit of a facility designated by the commission ~~[department or the Department of Aging and Disability Services, as appropriate]~~.
- (d) The executive commissioner shall appoint a review board

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of five members, including one psychiatrist licensed to practice medicine in this state and two persons who work directly with persons with mental illnesses or with mental retardation, to determine whether the person is manifestly dangerous and, as a result of the danger the person presents, requires continued placement in a maximum security unit.

(e) If the head of the facility at which the maximum security unit is located disagrees with the determination, then the matter shall be referred to the executive commissioner. The executive commissioner shall decide whether the person is manifestly dangerous. [FA1(4)]

No equivalent provision.

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

(a) In this section:

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

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

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

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

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

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

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

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(2) "Forensic services" means a competency examination, competency restoration services, or mental health or intellectual disability services provided to a current or former forensic patient in the community or at a department facility.
[FA1(4)]