By:  Zaffirini S.B. No. 49

A BILL TO BE ENTITLED

AN ACT

relating to procedures regarding defendants who are or may be persons with a mental illness or intellectual disability.

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

SECTION 1.  Article 16.22(a)(2), Code of Criminal Procedure, is amended to read as follows:

(2)  The magistrate is not required to order the interview and collection of other information under Subdivision (1) if the defendant is no longer in custody or 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).

SECTION 2.  Article 16.22, Code of Criminal Procedure, is amended by amending Subsection (b-1) and adding Subsection (b-2) to read as follows:

(b-1)  The magistrate shall provide copies of the written report to:

(1)  the defense counsel;

(2)  [~~,~~] the attorney representing the state;

(3)  [~~, and~~] the trial court;

(4)  the sheriff or other person responsible for the defendant's medical records while the defendant is confined in county jail; and

(5)  as applicable:

(A)  any personal bond office established under Article 17.42 for the county in which the defendant is being confined; or

(B)  the director of the office or department that is responsible for supervising the defendant while the defendant is released on bail and receiving mental health or intellectual and developmental disability services as a condition of bail.

(b-2)  The written report must include a description of the procedures used in the interview and collection of other information under 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.

SECTION 3.  The change in law made by this Act applies only to a person who is arrested on or after the effective date of this Act. A person arrested before the effective date of this Act is governed by the law in effect on the date the person was arrested, and the former law is continued in effect for that purpose.

SECTION 4.  This Act takes effect September 1, 2021.