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H.B. No. 4486

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to procedures for identifying defendants suspected of  
3 having a mental illness or intellectual disability.

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

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

7 (a)(1) Not later than 12 hours after the sheriff or  
8 municipal jailer having custody of a defendant [~~for an offense~~  
9 ~~punishable as a Class B misdemeanor or any higher category of~~  
10 ~~offense~~] receives credible information that may establish  
11 reasonable cause to believe that the defendant has a mental illness  
12 or is a person with an intellectual disability, the sheriff or  
13 municipal jailer shall provide written or electronic notice to the  
14 magistrate. The notice must include any information related to the  
15 sheriff's or municipal jailer's determination, such as information  
16 regarding the defendant's behavior immediately before, during, and  
17 after the defendant's arrest and, if applicable, the results of any  
18 previous assessment of the defendant. On a determination that  
19 there is reasonable cause to believe that the defendant has a mental  
20 illness or is a person with an intellectual disability, the  
21 magistrate, except as provided by Subdivision (2), shall order the  
22 service provider that contracts with the jail to provide mental  
23 health or intellectual and developmental disability services, the  
24 local mental health authority, the local intellectual and

1 developmental disability authority, or another qualified mental  
2 health or intellectual and developmental disability expert to:

3 (A) interview the defendant if the defendant has  
4 not previously been interviewed by a qualified mental health or  
5 intellectual and developmental disability expert on or after the  
6 date the defendant was arrested for the offense for which the  
7 defendant is in custody and otherwise collect information regarding  
8 whether the defendant has a mental illness as defined by Section  
9 571.003, Health and Safety Code, or is a person with an intellectual  
10 disability as defined by Section 591.003, Health and Safety Code,  
11 including, if applicable, information obtained from any previous  
12 assessment of the defendant and information regarding any  
13 previously recommended treatment or service; and

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

19 SECTION 2. Articles 16.22(b-1) and (d), Code of Criminal  
20 Procedure, are amended to read as follows:

21 (b-1) The magistrate shall provide copies of the written  
22 report to the defense counsel, the attorney representing the state,  
23 and the trial court. The written report must include a description  
24 of the procedures used in the interview and collection of other  
25 information under Subsection (a)(1)(A) and the applicable expert's  
26 observations and findings pertaining to:

27 (1) whether the defendant is a person who has a mental

1 illness or is a person with an intellectual disability;

2 (2) subject to Article 46B.002, whether there is  
3 clinical evidence to support a belief that the defendant may be  
4 incompetent to stand trial and should undergo a complete competency  
5 examination under Subchapter B, Chapter 46B; and

6 (3) any appropriate or recommended treatment or  
7 service.

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

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

16 (2) subject to Article 46B.002, ordering an  
17 examination regarding the defendant's competency to stand trial.

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

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