

By: Zaffirini

S.B. No. 49

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to procedures regarding defendants who are or may be  
3 persons with 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)(2), Code of Criminal Procedure,  
6 is amended to read as follows:

7 (2) The magistrate is not required to order the  
8 interview and collection of other information under Subdivision (1)  
9 if the defendant is no longer in custody or if the defendant in the  
10 year preceding the defendant's applicable date of arrest has been  
11 determined to have a mental illness or to be a person with an  
12 intellectual disability by the service provider that contracts with  
13 the jail to provide mental health or intellectual and developmental  
14 disability services, the local mental health authority, the local  
15 intellectual and developmental disability authority, or another  
16 mental health or intellectual and developmental disability expert  
17 described by Subdivision (1). A court that elects to use the  
18 results of that previous determination may proceed under Subsection  
19 (c).

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

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

1           (1) the defense counsel;

2           (2) [7] the attorney representing the state;

3           (3) [~~7~~ and] the trial court;

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

7           (5) as applicable:

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

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

15           (b-2) The written report must include a description of the  
16 procedures used in the interview and collection of other  
17 information under Subsection (a)(1)(A) and the applicable expert's  
18 observations and findings 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           SECTION 3. The change in law made by this Act applies only

1 to a person who is arrested on or after the effective date of this  
2 Act. A person arrested before the effective date of this Act is  
3 governed by the law in effect on the date the person was arrested,  
4 and the former law is continued in effect for that purpose.

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