By:  Zaffirini S.B. No. 2479

(In the Senate - Filed March 10, 2023; March 23, 2023, read first time and referred to Committee on Criminal Justice; April 26, 2023, reported adversely, with favorable Committee Substitute by the following vote: Yeas 6, Nays 0; April 26, 2023, sent to printer.)

COMMITTEE VOTE

               Yea Nay Absent  PNV

Whitmire        X

Flores          X

Bettencourt               X

Hinojosa        X

Huffman         X

King            X

Miles           X

COMMITTEE SUBSTITUTE FOR S.B. No. 2479 By:  Flores

A BILL TO BE ENTITLED

AN ACT

relating to procedures regarding certain persons 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.  Articles 16.22(a), (b-2), and (d), Code of Criminal Procedure, are 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 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 of an interview described by Paragraph (A) and the other information collected under that paragraph on the form approved by the Texas Correctional Office on Offenders with Medical or Mental Impairments under Section 614.0032(c), 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:

(A)  is no longer in custody;

(B)  [~~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); or

(C)  was only arrested or charged with an offense punishable as a Class C misdemeanor.

(3)  A court that elects to use the results of a [~~that previous~~] determination described by Subdivision (2)(B) may proceed under Subsection (c).

(4) [~~(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 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.

(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)  subject to Article 46B.002, 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.

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

SECTION 2.  Article 17.03(b-2), Code of Criminal Procedure, is amended to read as follows:

(b-2)  Except as provided by Articles 15.21, 17.032, 17.033, and 17.151, a defendant may not be released on personal bond if the defendant:

(1)  is charged with an offense involving violence; or

(2)  while released on bail or community supervision for an offense involving violence, is charged with committing:

(A)  any offense punishable as a felony; or

(B)  an offense under the following provisions of the Penal Code:

(i)  Section 22.01(a)(1) (assault);

(ii)  Section 22.05 (deadly conduct);

(iii)  Section 22.07 (terroristic threat); or

(iv)  Section 42.01(a)(7) or (8) (disorderly conduct involving firearm).

SECTION 3.  Section 573.012, Health and Safety Code, is amended by adding Subsection (d-1) and amending Subsection (h) to read as follows:

(d-1)  A peace officer who transports an apprehended person to a facility in accordance with this section:

(1)  is not required to remain at the facility while the person is medically screened or treated or while the person's insurance coverage is verified; and

(2)  may leave the facility immediately after:

(A)  the person is taken into custody by appropriate facility staff; and

(B)  the peace officer provides to the facility the required documentation.

(h)  A judge or magistrate may permit an applicant who is a physician or a licensed mental health professional employed by a local mental health authority to present an application by:

(1)  e-mail with the application attached as a secure document in a portable document format (PDF); or

(2)  secure electronic means, including:

(A)  satellite transmission;

(B)  closed-circuit television transmission; or

(C)  any other method of two-way electronic communication that:

(i)  is secure;

(ii)  is available to the judge or magistrate; and

(iii)  provides for a simultaneous, compressed full-motion video and interactive communication of image and sound between the judge or magistrate and the applicant.

SECTION 4.  Section 574.106, Health and Safety Code, is amended by adding Subsection (m) to read as follows:

(m)  An order issued under this section authorizes the taking of a patient's blood sample to conduct reasonable and medically necessary evaluations and laboratory tests to safely administer a psychoactive medication authorized by the order.

SECTION 5.  This Act takes effect September 1, 2023.

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