

1-1 By: Zaffirini S.B. No. 2479
 1-2 (In the Senate - Filed March 10, 2023; March 23, 2023, read
 1-3 first time and referred to Committee on Criminal Justice;
 1-4 April 26, 2023, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 6, Nays 0; April 26, 2023,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8 Whitmire	X			
1-9 Flores	X			
1-10 Bettencourt			X	
1-11 Hinojosa	X			
1-12 Huffman	X			
1-13 King	X			
1-14 Miles	X			

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 2479 By: Flores

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to procedures regarding certain persons who are or may be
 1-20 persons with a mental illness or intellectual disability.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Articles 16.22(a), (b-2), and (d), Code of
 1-23 Criminal Procedure, are amended to read as follows:

1-24 (a)(1) Not later than 12 hours after the sheriff or
 1-25 municipal jailer having custody of a defendant [~~for an offense~~
 1-26 ~~punishable as a Class B misdemeanor or any higher category of~~
 1-27 ~~offense]~~ receives credible information that may establish
 1-28 reasonable cause to believe that the defendant has a mental illness
 1-29 or is a person with an intellectual disability, the sheriff or
 1-30 municipal jailer shall provide written or electronic notice to the
 1-31 magistrate. The notice must include any information related to the
 1-32 sheriff's or municipal jailer's determination, such as information
 1-33 regarding the defendant's behavior immediately before, during, and
 1-34 after the defendant's arrest and, if applicable, the results of any
 1-35 previous assessment of the defendant. On a determination that
 1-36 there is reasonable cause to believe that the defendant has a mental
 1-37 illness or is a person with an intellectual disability, the
 1-38 magistrate, except as provided by Subdivision (2), shall order the
 1-39 service provider that contracts with the jail to provide mental
 1-40 health or intellectual and developmental disability services, the
 1-41 local mental health authority, the local intellectual and
 1-42 developmental disability authority, or another qualified mental
 1-43 health or intellectual and developmental disability expert to:

1-44 (A) interview the defendant if the defendant has
 1-45 not previously been interviewed by a qualified mental health or
 1-46 intellectual and developmental disability expert on or after the
 1-47 date the defendant was arrested for the offense for which the
 1-48 defendant is in custody and otherwise collect information regarding
 1-49 whether the defendant has a mental illness as defined by Section
 1-50 571.003, Health and Safety Code, or is a person with an intellectual
 1-51 disability as defined by Section 591.003, Health and Safety Code,
 1-52 including, if applicable, information obtained from any previous
 1-53 assessment of the defendant and information regarding any
 1-54 previously recommended treatment or service; and

1-55 (B) provide to the magistrate a written report of
 1-56 an interview described by Paragraph (A) and the other information
 1-57 collected under that paragraph on the form approved by the Texas
 1-58 Correctional Office on Offenders with Medical or Mental Impairments
 1-59 under Section 614.0032(c), Health and Safety Code.

1-60 (2) The magistrate is not required to order the

2-1 interview and collection of other information under Subdivision (1)
 2-2 if the defendant:

2-3 (A) is no longer in custody;
 2-4 (B) [~~or if the defendant~~] in the year preceding
 2-5 the defendant's applicable date of arrest has been determined to
 2-6 have a mental illness or to be a person with an intellectual
 2-7 disability by the service provider that contracts with the jail to
 2-8 provide mental health or intellectual and developmental disability
 2-9 services, the local mental health authority, the local intellectual
 2-10 and developmental disability authority, or another mental health or
 2-11 intellectual and developmental disability expert described by
 2-12 Subdivision (1); or
 2-13 (C) was only arrested or charged with an offense
 2-14 punishable as a Class C misdemeanor.

2-15 (3) A court that elects to use the results of a [~~that~~
 2-16 previous] determination described by Subdivision (2)(B) may
 2-17 proceed under Subsection (c).

2-18 (4) [~~(3)~~] If the defendant fails or refuses to submit
 2-19 to the interview and collection of other information regarding the
 2-20 defendant as required under Subdivision (1), the magistrate may
 2-21 order the defendant to submit to an examination in a jail, or in
 2-22 another place determined to be appropriate by the local mental
 2-23 health authority or local intellectual and developmental
 2-24 disability authority, for a reasonable period not to exceed 72
 2-25 hours. If applicable, the county in which the committing court is
 2-26 located shall reimburse the local mental health authority or local
 2-27 intellectual and developmental disability authority for the
 2-28 mileage and per diem expenses of the personnel required to
 2-29 transport the defendant, calculated in accordance with the state
 2-30 travel regulations in effect at the time.

2-31 (b-2) The written report must include a description of the
 2-32 procedures used in the interview and collection of other
 2-33 information under Subsection (a)(1)(A) and the applicable expert's
 2-34 observations and findings pertaining to:

2-35 (1) whether the defendant is a person who has a mental
 2-36 illness or is a person with an intellectual disability;
 2-37 (2) subject to Article 46B.002, whether there is
 2-38 clinical evidence to support a belief that the defendant may be
 2-39 incompetent to stand trial and should undergo a complete competency
 2-40 examination under Subchapter B, Chapter 46B; and
 2-41 (3) any appropriate or recommended treatment or
 2-42 service.

2-43 (d) This article does not prevent the applicable court from,
 2-44 before, during, or after the interview and collection of other
 2-45 information regarding the defendant as described by this article:

2-46 (1) releasing a defendant who has a mental illness or
 2-47 is a person with an intellectual disability from custody on
 2-48 personal or surety bond, including imposing as a condition of
 2-49 release that the defendant submit to an examination or other
 2-50 assessment; or
 2-51 (2) subject to Article 46B.002, ordering an
 2-52 examination regarding the defendant's competency to stand trial.

2-53 SECTION 2. Article 17.03(b-2), Code of Criminal Procedure,
 2-54 is amended to read as follows:

2-55 (b-2) Except as provided by Articles 15.21, 17.032, 17.033,
 2-56 and 17.151, a defendant may not be released on personal bond if the
 2-57 defendant:

2-58 (1) is charged with an offense involving violence; or
 2-59 (2) while released on bail or community supervision
 2-60 for an offense involving violence, is charged with committing:

2-61 (A) any offense punishable as a felony; or
 2-62 (B) an offense under the following provisions of
 2-63 the Penal Code:

2-64 (i) Section 22.01(a)(1) (assault);
 2-65 (ii) Section 22.05 (deadly conduct);
 2-66 (iii) Section 22.07 (terroristic threat);
 2-67 or
 2-68 (iv) Section 42.01(a)(7) or (8) (disorderly
 2-69 conduct involving firearm).

3-1 SECTION 3. Section 573.012, Health and Safety Code, is
3-2 amended by adding Subsection (d-1) and amending Subsection (h) to
3-3 read as follows:

3-4 (d-1) A peace officer who transports an apprehended person
3-5 to a facility in accordance with this section:

3-6 (1) is not required to remain at the facility while the
3-7 person is medically screened or treated or while the person's
3-8 insurance coverage is verified; and

3-9 (2) may leave the facility immediately after:
3-10 (A) the person is taken into custody by
3-11 appropriate facility staff; and
3-12 (B) the peace officer provides to the facility
3-13 the required documentation.

3-14 (h) A judge or magistrate may permit an applicant who is a
3-15 physician or a licensed mental health professional employed by a
3-16 local mental health authority to present an application by:

3-17 (1) e-mail with the application attached as a secure
3-18 document in a portable document format (PDF); or

3-19 (2) secure electronic means, including:
3-20 (A) satellite transmission;
3-21 (B) closed-circuit television transmission; or
3-22 (C) any other method of two-way electronic
3-23 communication that:

3-24 (i) is secure;

3-25 (ii) is available to the judge or
3-26 magistrate; and

3-27 (iii) provides for a simultaneous,
3-28 compressed full-motion video and interactive communication of
3-29 image and sound between the judge or magistrate and the applicant.

3-30 SECTION 4. Section 574.106, Health and Safety Code, is
3-31 amended by adding Subsection (m) to read as follows:

3-32 (m) An order issued under this section authorizes the taking
3-33 of a patient's blood sample to conduct reasonable and medically
3-34 necessary evaluations and laboratory tests to safely administer a
3-35 psychoactive medication authorized by the order.

3-36 SECTION 5. This Act takes effect September 1, 2023.

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