

**SUBJECT:** Reporting of certain information about arrestees' mental health

**COMMITTEE:** Criminal Jurisprudence — favorable, without amendment

**VOTE:** 7 ayes — Collier, K. Bell, J. González, Hunter, Moody, Murr, Pacheco

0 nays

2 absent — Zedler, P. King

**WITNESSES:** For — Lee Johnson, Texas Council of Community Centers; (*Registered, but did not testify*: Nicholas Hudson, American Civil Liberties Union of Texas; Melissa Shannon, Bexar County Commissioners Court; Dennis Borel, Coalition of Texans with Disabilities; Frederick Frazier, Dallas Police Association and Texas Fraternal Order of Police; Christine Yanas, Methodist Healthcare Ministries of South Texas Inc.; Greg Hansch, National Alliance on Mental Illness-Texas; Eric Kunish, National Alliance on Mental Illness-Austin; Will Francis, National Association of Social Workers-Texas Chapter; AJ Louderback, Sheriffs Association of Texas; Mia Hutchens, Texas Association of Business; Michael Barba, Texas Catholic Conference of Bishops; Mitch Landry, Texas Municipal Police Association; Kevin Stewart, Texas Psychological Association; Kyle Piccola, The Arc of Texas)

Against — None

On — David Slayton, Office of Court Administration, Texas Judicial Council; (*Registered, but did not testify*: Megan LaVoie, Office of Court Administration; Raoul Schonemann)

**BACKGROUND:** Code of Criminal Procedure art. 16.22 establishes procedures for identifying an arrestee who might be a person with a mental illness or intellectual disability. Sheriffs and jailers have 12 hours to notify magistrates about having credible information that may cause them to believe that someone in their custody has a mental illness or was a person with an intellectual disability. If it is determined that there is reasonable

cause to believe the person has a mental illness or is a person with intellectual disability, magistrates must order the local mental health or intellectual and developmental disability authority to collect information about the defendant. That information is provided in a written assessment to the magistrate, defense counsel, prosecutor, and trial court. Magistrates have to submit information on the number of monthly reports to the Office of Court Administration.

**DIGEST:**

HB 601 would require interviews with defendants when local mental health and intellectual and developmental disability authorities collect information about those in custody whom sheriffs believe may be a person with a mental illness or an intellectual disability. The interview would have to be included in a report when the authorities share information they have collected with the magistrate, defense attorney, prosecutor, and the court. The report would replace the assessment of defendants currently required and would be confidential and not subject to the state's public information law.

HB 601 would authorize magistrates to order defendants to obtain services, in addition to the current authority to obtain treatment, when releasing them on bond.

The Texas Judicial Council would be required to adopt rules about the monthly reporting to the Office of Court Administration of the written reports. The Texas Correctional Office on Offenders with Medical or Mental Impairments would be required to make available an electronic form for the reports.

HB 601 would require the report to be included with the information given to the Texas Department of Criminal Justice when a county transferred a defendant to the agency.

The bill would add compliance with certain standards relating to the early identification of persons with intellectual disabilities to the list of risk factors developed by the Commission on Jail Standards to assess jails.

The bill would take effect September 1, 2019, and would apply only to defendants charged with offenses committed on or after that date. HB 601 would prevail over any other conflicting act of the 86th Legislature's regular session relating to nonsubstantive additions and corrections to codes.

**SUPPORTERS  
SAY:**

HB 601 would clarify procedures revised by the 85th Legislature in 2017 for identifying and handling arrestees who might be persons with a mental illness or an intellectual disability.

The process requires local mental health professionals to gather information about the arrestee, and HB 601 would require an interview with the defendant to ensure that this process included first-hand, comprehensive information and should not require duplication of efforts. The bill would clear up confusion about the nature of the information by using the term "report," instead of "assessment," which might have other meanings when dealing with mental health or intellectual disability.

The bill would standardize the reporting of the information by requiring an electronic form and rules be developed for the monthly reporting. The bill would make sure that the sensitive mental health information in the reports remained private by making the reports confidential and not subject to the state's open records law. The bill would facilitate appropriate treatment and services for these arrestees if they were sentenced to prison by requiring the report to be included with information sent with them to the Texas Department of Criminal Justice.

Currently, courts may order certain types of treatment when releasing these defendants on bond, and HB 601 would give courts additional tools by allowing courts to also order services. This would ensure defendants received the necessary support, such as help with housing or job training, that could keep them from returning to the criminal justice system.

**OPPONENTS  
SAY:**

Requiring an interview to gather information about arrestees who might be persons with a mental illness or intellectual disability could cause confusion on the local level. In some situations an interview with the

defendant already could have taken place and other pertinent information already could have been gathered before a magistrate ordered the interview required by the bill. Simply requiring that information be collected might make it clear that efforts would not have to be duplicated.