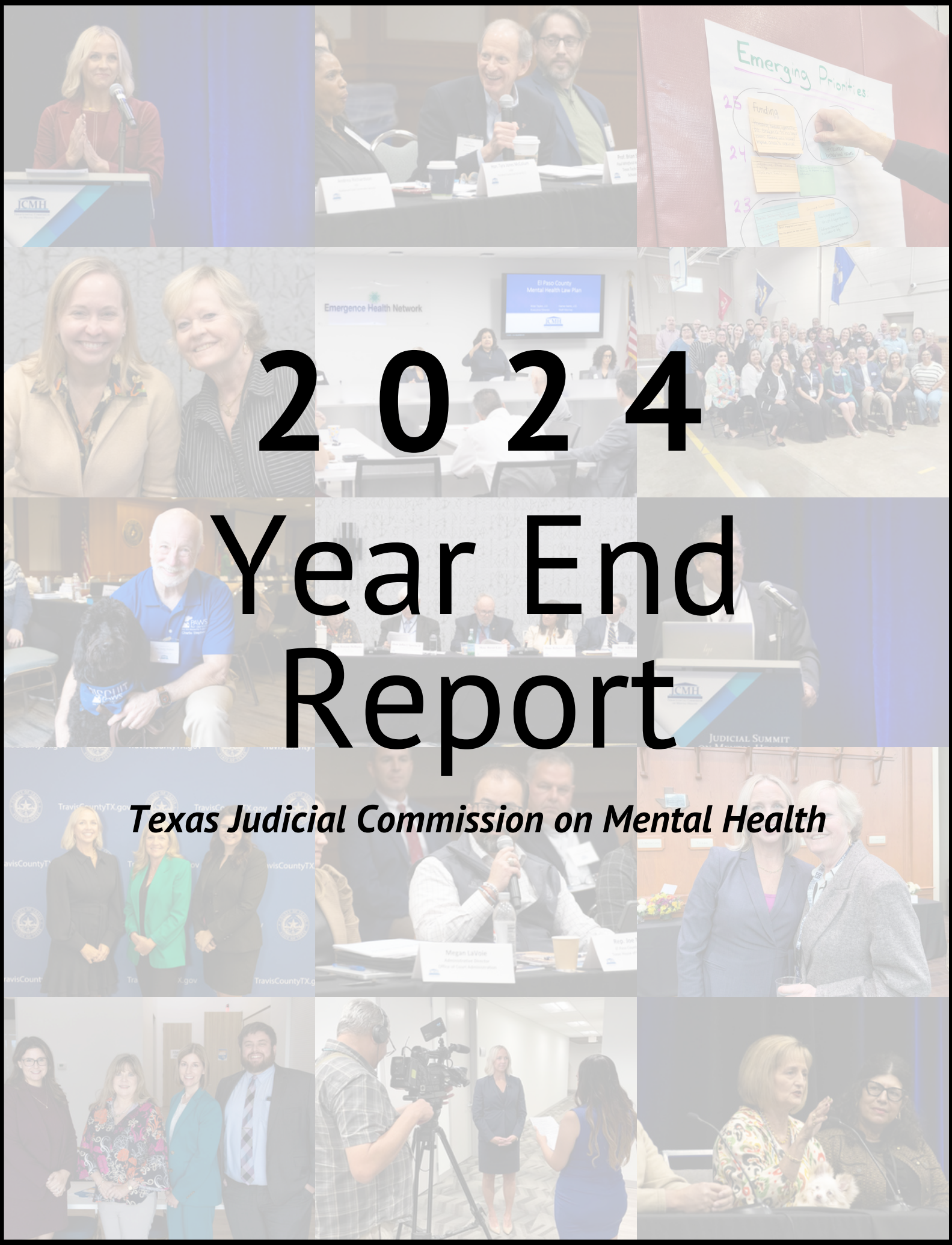


2024 Year End Report

Texas Judicial Commission on Mental Health

Table of Contents

JCMH Strategic Plan

Vision Statement

Every Texas judge and attorney has the knowledge, tools, and resources needed to apply a comprehensive and collaborative approach to diverting appropriate individuals with mental health needs, substance use disorders, and intellectual and developmental disabilities away from the criminal justice system, balancing community safety and well-being.

Mission Statement

The mission of the Judicial Commission on Mental Health is to engage and empower courts through collaboration, education, and leadership and thereby improve the lives of individuals with mental health needs, substance use disorders, and intellectual and developmental disabilities.

Overarching Principles

The JCMH will achieve success through collaboration, education, and leadership that promotes our mission with these overarching principles:

1. Judicial and attorney leadership, mentorship, and action are needed to improve court efficiency, performance, and accountability.
2. Diversion away from the justice system should be considered when appropriate for individual well-being and community safety.
3. Prevention has an important role in the justice system.
4. Social determinants of health such as race, gender, socioeconomic, and geographic factors are drivers of justice involvement.
5. Recovery is possible but not always linear.
6. Best and promising practices should be data-driven, evidence-based, outcome-focused, accessible, trainable, and reportable with fidelity.
7. Neuroscience and trauma-informed care inform practices at every intercept of the criminal justice system.
8. The lived experiences of individuals and peer programs are an integral part of recovery.
9. Stigma decreases empathy, understanding, and connection to treatment.
10. Data collection and data sharing are necessary to measure and improve outcomes.
11. Technology can help facilitate fairness and accessibility in the judiciary.
12. Secondary trauma is common among judges and attorneys who have frequent contact with traumatized individuals. Resiliency can be developed for workforce wellness.

The JCMH will accomplish its mission by convening experts, generating knowledge, and developing capacity in the areas of Collaboration, Education, and Leadership.

I. Strategies and Activities

A. Collaborate

1. Collaborate with stakeholders to collect and analyze data, practices, law, and policy to improve court function for people with mental health needs, substance use disorders, or

IDD.

2. Seek consensus on interpretation and implementation of mental health laws, explore different perspectives, and record findings.
3. Explore potential partnerships to promote early awareness and education about mental health, substance use disorders, or IDD in the court system.

B. Educate

1. Develop high-quality, multi-disciplinary education in coordination with state and national training experts and raise awareness of best practices and areas requiring improvement.
2. Create and provide tools and resources on key concepts and court procedures related to mental health, substance use, or IDD.
3. Strive to serve as both a statewide and national leader in mental health, substance use, and IDD law and practice.

C. Lead

1. Identify and prioritize the needs of the judiciary and judicial stakeholders to improve their ability to serve people with mental health needs, substance use disorders, or IDD.
2. Serve as a resource in the development of policy, legislation, and practice recommendations, including policy recommendations for consideration by the Texas Judicial Council.
3. Assist judges in leading local and regional initiatives to improve mental health, substance use disorders, and IDD service delivery and capacity.

II. Organizational Administration

A. Adhere to Governance Structure

1. Accomplish Commission work through committees with final approval by the Executive Committee.

B. Increase Financial Resources

1. Identify funding and resource options available to facilitate the Commission's efforts to serve the state.
2. Endeavor to increase resources and funding and maximize the effective and efficient use of available judicial system resources.
3. Oversee the administration of funds appropriated and granted to the Commission.

C. Enhance Human Resources

1. Ensure a highly qualified staff by recognizing achievement and promoting wellness and self-care.
2. Ensure expert Commissioners by considering new Commissioners every three years.

D. Execute Communications Strategies

1. Use social media to share the work of the Commission and partner agencies with followers through Twitter, Facebook, and LinkedIn.
2. Publish a monthly podcast about innovative programs at the intersection of mental health and justice in Texas.
3. Create a Biennial Report to the Courts to share accomplishments and initiatives of the JCMH in a visual format.
4. Target media outlets to share JCMH projects and resources with the public.
5. Contact our audience—judges, attorneys, law enforcement, and mental health providers—directly via email to provide information about opportunities to get involved with the JCMH.

III. Evaluation

A. Examine Quality and Relevance

1. Measure the Commission's success annually considering the overarching principles and strategies.

B. Track Visibility

1. Measure Commission visibility through communication strategies and other means such as website analytics or surveys.

C. Ensure Transparency

1. Provide progress reports to the Supreme Court of Texas and the Texas Court of Criminal every two years.
2. Share Commission work on the JCMH website, including information regarding grants.

2024 Year in Review

2024 Goals and Deliverables

I. Strategies and Activities

A. Collaborate

1. Collaborate with stakeholders to collect and analyze data, practices, law, and policy with the goal of improving court function for people with mental health needs, substance use disorders, or IDD.

a. Prepare legislative priorities for the upcoming 89th Regular Session.

i. In advance of the 89th Legislative Session, the Legislative Research Committee completed and submitted this final report and recommendations to the Texas Judicial Council.

ii. On September 27th, the Texas Judicial Council adopted all 16 of the JCMH recommendations.

2. Seek consensus on interpretation and implementation of mental health laws, explore different perspectives, and record findings.

a. Solicit feedback and input at regional and local forums, focus groups, and trainings.

i. Held general and subcommittee meetings:

1)	January 5, 2024	Mental Health Courts Collaborative
2)	January 18, 2024	Specialty Courts Meetup
3)	January 18, 2024	Data Committee Meeting
4)	January 25, 2024	Commission Meeting
5)	February 2, 2024	Mental Health Courts Collaborative
6)	February 5, 2024	Small Legislative Research Committee Workgroup
7)	February 6, 2024	Collaborative Council Meeting
8)	February 13, 2024	Legislative Research Committee
9)	February 15, 2024	Specialty Courts Meetup
10)	February 16, 2024	Texas AOT Coalition
11)	March 1, 2024	Mental Health Courts Collaborative
12)	March 4, 2024	Small Legislative Research Committee Workgroup
13)	March 7, 2024	Executive Chair Meeting
14)	March 14, 2024	Executive Committee Meeting
15)	March 18, 2024	Small Legislative Research Committee Workgroup
16)	March 21, 2024	Specialty Courts Meetup
17)	April 10, 2024	Legislative Research Committee
18)	April 12, 2024	Commission Meeting
19)	April 18, 2024	Data Committee
20)	April 19, 2024	Texas AOT Coalition

21) May 14, 2024 Collaborative Council Meeting
22) May 16, 2024 Specialty Courts Meetup
23) May 23, 2024 Executive Committee Meeting
24) June 21, 2024 Summit Committee Chair Meeting
25) July 3, 2024 Data Committee Chair Meeting
26) July 12, 2024 Summit Committee Meeting
27) July 18, 2024 Specialty Courts Meetup
28) August 15, 2024 Specialty Courts Meetup
29) August 16, 2024 Texas AOT Coalition
30) August 29, 2024 Executive Committee Meeting
31) September 10, 2024 Collaborative Council Meeting
32) September 19, 2024 Specialty Courts Meetup
33) September 24, 2024 Substance Use Disorder Committee Meeting
34) October 17, 2024 Specialty Courts Meetup
35) October 17, 2024 Data Committee Meeting
36) October 24, 2024 Executive Committee Meeting
37) November 20, 2024 Commission Meeting
38) November 21, 2024 2024 Judicial Summit on Mental Health
39) November 21, 2024 Substance Use Disorder Committee Meeting
40) December 9, 2024 Executive Chair Meeting
41) December 12, 2024 Executive Committee Meeting
42) December 19, 2024 Specialty Courts Meetup

3. Explore potential partnerships to promote early awareness and education about mental health, substance use disorders, and IDD in the court system.

a. Continue to collaborate with partner organizations to promote and enhance their work.

i. Texas Health and Human Services Commission (HHSC):

1. Held quarterly meetings with the Office of the Forensic Director to collaborate on SIM Mapping strategies.

2. Participated in a bi-weekly Task Force led by State Hospitals to update and rewrite the curriculum and study guide used in fitness restoration services for youth in State Hospitals or State Supported Living Centers.

3. Participated in the creation of the Children's Behavioral Health Strategic Plan led by the Office of the Mental Health Statewide Coordinator and the Statewide Behavioral Health Coordinating Council.

ii. Texas Municipal Courts Education Center (TMCEC) – Served as faculty for statewide Judicial Trainings on Mental Health Resources including Mental Health First Aid. Provided updated resource materials for their use.

iii. Hogg Foundation for Mental Health Policy – Completed participation in two-year audit of the Hogg Policy Fellowship Academy.

iv. Meadows Mental Health Policy Institute – Participating in the Youth Justice Continuum of Care, which will develop a statewide Continuum of Care model from September 2024 to December 2025, focused on diverting youth from the justice system and ensuring communities have access to evidence-based mental health services.

v. JCMH attorneys collaborated with and spoke at conferences for the Center for American and International Law, Justice Court Training Center, Texas Association of Pretrial Services, Juvenile Law Section of the State Bar of Texas, NAMI Texas, Texas Association of Counties, Governor's Committee on People with Disabilities, Texas Association of Specialty Courts, Texas Municipal Court Education Center, and the Williamson County Bar Association.

B. Educate

1. Develop high-quality, multi-disciplinary education in coordination with state and national training experts and raise awareness of best practices and areas requiring improvement.

a. Create, promote, and lead the Seventh Annual Judicial Summit on Mental Health.

i. The 2024 Judicial Summit on Mental Health took place on November 21-22, 2024, in Allen, Texas.

1) 1,183 registrants (407 in person and 776 livestream)

2) A representative from every Texas county and every Texas LMHA registered to attend.

3) Secured 9.75 continuing education credits with 4.5 ethics hours. An additional 4.5 hours are available by video after the Summit.

ii. Held multiple Summit Curriculum Committee meetings (full committee & committee chair/internal)

b. Provide specialized mental health law training to at least six counties or regions.

i. Provided individualized mental health trainings on civil commitment, early intervention, competency restoration, and Mental Health Courts to eight pilot counties for the County Mental Health Law Plan.

1) Medina County – May 8, 2024

2) Fort Bend County – June 11, 2024

3) Burleson County – June 26, 2024

4) El Paso County – July 24, 2024

5) Burnet County – August 5, 2024
6) Hays County – August 7, 2024
7) Duval County – September 10, 2024
8) Travis County – September 27, 2024

2. **Create and provide tools and resources on key concepts and court procedures related to mental health, substance use, or IDD.**
    a. **Create new resources for mental health laws, mental health procedures, and mental health courts.**
        i. Data Guide created by the Data Committee released November 21, 2024.
        ii. County Mental Health Law Plan and Checklist
    b. **Create at least four new videos for the video library on mental health law.**
        i. Online trainings created by JCMH staff for the County Mental Health Law Plan (CMHLP).
            1) January 26, 2024, CMHLP Training Session on Civil Commitment
            2) February 9, 2024, CMHLP Training Session on Early Intervention
            3) February 23, 2024, CMHLP Training Session on Specialty Courts
            4) March 8, 2024, CMHLP Training Session on Competency Restoration
        ii. JCMH Summer Webinar Series on Competency Restoration
            5) June 20, 2024, What You Need to Know About Competency Restoration
            6) July 25, 2024, Law & Process of Jail-Based Competency Restoration and Court-Ordered Medications
            7) August 15, 2024, Options for People who are Deemed Unrestorable
        iii. Recorded Sessions from JCMH Staff that are also archived in JCMH video library
            8) July 9, 2024, Center for American and International Law, Competency Restoration Seminar, Not Competent / Not Restorable, What's Next?
    c. **Expand Innovations Map to include resources for youth (Exceptional Item).**
        i. The County Mental Health Resources and Innovations Map was updated on April 19, 2024, to allow filtering by age group and also to specifically highlight community resources and innovations.
3. **Strive to serve as both a statewide and national leader in mental health, substance use, and IDD law and practice.**

a. Speak at no fewer than twelve partner events including national and statewide conferences.

i. February 22, 2024, TMCEC Prosecutors Seminar, Mental Health in Municipal Courts

ii. February 27, 2024, 37th Annual Juvenile Law Conference, Ethics in Complex Chapter 55 Cases

iii. February 28, 2024, NAMI State Advocacy Network, Mental Health Law Looking Toward the Next Legislative Sessions

iv. March 12, 2024, HHSC Jail In-Reach Presentation, Mental Health & Jails

v. March 26, 2024, Texas Association of Specialty Courts Conference, Ethics in Juvenile Court

vi. March 27, 2024, Texas Association of Specialty Courts Conference, Ethical Considerations for Specialty Courts

vii. March 29, 2024, Texas Association of Counties Spring Judicial Education Session; Mental Health in Juvenile Court

viii. April 4, 2024, Spring 2024 Mental Health Workshop; The History of Treatment Courts

ix. April 17, 2024, Texas Association of Pretrial Services Annual Conference; Mental Health in Texas: Updates to the 17.032 Process

x. April 19, 2024, National Rural Justice Collaborative, Rural Strategies in Mental Health Law

xi. June 14, 2024, Travis County Juvenile Probation Department; Mental Health for Juvenile Probation Officers

xii. June 20, 2024, Texas HHSC Office of the Forensic Director; Competency Restoration Resources

xiii. July 9, 2024, Center for American and International Law; Competency Restoration Seminar, Not Competency / Not Restorable, What is Next?

xiv. August 23, 2024, Pathways to Hope Conference, co-presenting with Judge Yolanda Huff

xv. August 27, 2024, Mental Health Law class at the University of Houston School of Law in Houston, Texas.

xvi. September 19, 2024, Williamson County Inns of Court; Complexities in Texas Competency Restoration Law.

xvii. October 10, 2024, The Texas Coalition for Healthy Minds & the Hogg Foundation for Mental Health inaugural Behavioral Health Policy Summit; Behavioral health policy issues in the upcoming Legislative Session.

xviii. October 26, 2024, American Academy of Psychiatry and the Law's 55th Annual Meeting in Vancouver, British Columbia; Collaborative Care in Forensic Psychiatry: A Proposal for the Innovative Collaboration Between Academic Psychiatry and the Local Justice System

xix. November 1, 2024, Williamson County Bar Association, Complexities in Texas Competency Restoration Law.

C. Lead

1. Identify and prioritize the needs of the judiciary and judicial stakeholders to improve courts' ability to serve people with mental health needs, substance use disorders, or IDD.

a. Use surveys, focus groups, and other research methods to identify the needs and priorities of the judiciary.

i. Created new JCMH Substance Use Disorder Committee – met online on September 24, 2024, and November 21, 2024 at the Summit.

ii. February 2024, Lubbock County SIM Mapping Workshop

iii. August 2024, Duval County SIM Mapping Workshop co-facilitated with Texas Justice Courts Training Center

b. Host Youth SIM Mappings (Exceptional Item).

i. November 2024, Cameron County

ii. October 2024, Smith County

iii. September 2024, Grayson County

iv. April through August 2024, Williamson County, co-facilitated with Meadows Mental Health Policy Institute

v. April 2024, Blanco and Llano Counties

2. Serve as a resource in the development of policy, legislation, and practice recommendations, including policy recommendations for consideration by the Texas Judicial Council.

a. Begin preparing in advance of next legislative session.

i. Legislative Research Committee Meetings

ii. In advance of the 89th Legislative Session, the Legislative Research Committee completed and submitted their final report and recommendations to the Texas Judicial Council.

iii. On September 27th, the Texas Judicial Council adopted all 16 of the JCMH recommendations.

b. Conduct County Mental Health Law Workshops in 8 counties.

i. Provided individualized mental health trainings on Civil Commitment, Early Intervention, Competency Restoration, and Mental Health Courts to eight pilot counties for the County Mental Health Law Plan.

1. Medina County – May 8, 2024
2. Fort Bend County – June 11, 2024
3. Burleson County – June 26, 2024
4. El Paso County – July 24, 2024
5. Burnet County – August 5, 2024
6. Hays County – August 7, 2024
7. Duval County – September 10, 2024
8. Travis County – September 27, 2024

3. Assist judges in leading local and regional initiatives to improve mental health, substance use disorders, and IDD service delivery and capacity.

a. Provide technical assistance and SIM mapping to counties.

i. As of December 1, 2024, completed 72 Technical Assistance requests, serving 340 people in 41 Texas counties and the states of Colorado, Kansas, Maryland, and Ohio.

ii. Facilitated or co-facilitated SIM Mapping workshops in eight counties: Blanco, Cameron, Duval, Grayson, Llano, Lubbock, Smith, and Williamson.

iii. Continued support of the three counties in the Court Liaison Program (previously the Community Coordinator Pilot Program), including working with a third-party evaluator.

b. Continue to improve the JCMH website and the Texas County Resources and Innovations Map.

i. An April 2024 update allows filtering resource list in each jurisdiction to show juvenile, adult, or all entries, and created new space to specifically highlight innovative practices and programs to foster collaboration and implementation statewide.

c. Leverage communications strategies to reach new counties.

i. All 254 counties had registrants at the Summit.

1. This results from direct contact to judges, lawyers, and LMHAs from counties that have never before registered for the Summit.

d. Launch County Mental Health Law Plan project with pilot counties.

i. Launched the County Mental Health Law Plan pilot project, which provided technical assistance to 8 counties in Texas.

ii. Provided four online classes and subsequent in-person visits with each of the 8 counties to work with stakeholders on the intricacies of their county's mental health law policies and procedures.

iii. Each county receives a full report that includes suggested next steps to advance their county's mental health law practices.

e. Launch Mental Health Courts Collaborative.

i. Conducted the first-of-its-kind online learning collaborative for judges who wanted to start a mental health court in spring 2024. The Collaborative consisted of 3 online discussion sessions and a one-on-one mentoring relationship with an experienced mental health court judge. Participating judges represented 26 counties: Bexar, Collin, El Paso, Hays, Lubbock, Tarrant, and a 20-county region of the Texas panhandle.

II. Organizational Administration

A. Increase Financial Resources

1. Identify funding and resource options available to facilitate the Commission's efforts to serve the state.
    a. Requested exceptional item funding from the legislature for 2025-2026.
2. Endeavor to increase resources and funding and maximize the effective and efficient use of available judicial system resources.
3. Oversee the administration of funds appropriated and granted to the Commission.

III. Evaluation

A. Examine Quality and Relevance

1. Measure the Commission's success annually considering the overarching principles and strategies.

B. Track Visibility

1. Measure Commission visibility through communication strategies and other means such as website analytics or surveys.

    a. Podcast

        i. Launched *Reimagining Justice: Exploring Texas Innovations in Mental Health* in March 2023.

        ii. Podcast goal: Introduce listeners to innovative thinkers and ideas at the intersection of mental health and criminal justice across the state and provide concrete steps to replicate innovations.

        iii. Overall plays across platforms in 2024: 891 (1,183 total since 2023)

iv. Released 12 episodes in 2024 (20 total since 2023).

b. Social media

i. Twitter

a) January 2024: 460 followers
b) December 2024: 499

ii. Facebook

a) January 2024: 431 followers
b) December 2024: 573

iii. LinkedIn

a) January 2024: 887 followers
b) December 2024: 1,412

iv. Instagram

a) January 2023: 133
b) December 2024: 168

c. Earned Media

i. An article about the County Mental Health Law Plan was published in the Fort Bend Independent.
ii. A story about County Mental Health Law Plan aired on KVIA in El Paso.
iii. An article thanking Judge Hervey, Chief Justice Hecht, and Presiding Judge Keller was published in the Texas Bar Journal.

2. Targeted Communication

a. JIR letters.

i. Two 2024 JIR letters, and one anticipated on Summit highlights.

b. Resource Letters

i. Sent 8 Resource Letters in 2024 to date to over 1800 subscribers.

2025 Goals

I. Strategies and Activities

A. Collaborate

1. Collaborate with stakeholders to collect and analyze data, practices, law, and policy with the goal of improving court function for people with mental health needs, substance use disorders, or IDD.
    a. Serve as a resource for the Legislature for all bills related to mental health law.
2. Seek consensus on interpretation and implementation of mental health laws, explore different perspectives, and record findings.
    a. Solicit feedback and input at regional and local forums, focus groups, and trainings.
3. Explore potential partnerships to promote early awareness and education about mental health, substance use disorders, or IDD in the court system.
    a. Continue to collaborate with partner organizations to promote and enhance their work.

B. Educate

1. Develop high-quality, multi-disciplinary education in coordination with state and national training experts and raise awareness of best practices and areas requiring improvement.
    a. Create, promote, and lead the Eighth Annual Judicial Summit on Mental Health.
    b. Provide specialized mental health law training to at least six counties or regions.
2. Create and provide tools and resources on key concepts and court procedures related to mental health, substance use, or IDD.
    a. Create new chapters or update existing chapters of the adult and juvenile bench books.
    b. Create new resources for legislative updates and other mental health laws, procedures, and courts.
    c. Create at least four new videos for the video library on mental health law.
    d. Continue to expand Innovations Map to include new innovations and resources.
3. Strive to serve as both a statewide and national leader in mental health, substance use, and IDD law and practice.
    a. Speak at no fewer than twelve partner events including national and statewide conferences.

C. Lead

1. Identify and prioritize the needs of the judiciary and judicial stakeholders to improve their ability to serve people with mental health needs, substance use disorders, or IDD.
    a. Use surveys, focus groups, and other research methods to identify the needs and priorities of the judiciary.
    b. Host Youth SIM Mappings (Exceptional Item).
2. Serve as a resource in the development of policy, legislation, and practice recommendations, including as a resource for the Legislature for all bills related to mental health law.
3. Assist judges in leading local and regional initiatives to improve mental health, substance use disorders, and IDD service delivery and capacity.
    a. Provide technical assistance and SIM mapping to counties.
    b. Continue to improve the JCMH website and the Innovations Map Website.
    c. Leverage the communications strategies to reach new counties.
    d. Continue the Mental Health Law Plan project with additional counties.
    e. Continue to support the Court Liaison Pilot Program through its fourth and final year; possibly expand the Court Liaison Program, depending on whether the JCMH exceptional item is appropriated.
    f. Expand the Mental Health Courts Collaborative to include all treatment courts such as DWI Courts and Drug Courts, and rebrand as the Treatment Courts Collaborative.

APPENDIX

Supreme Court of Texas Court Improvement Projects
Actuals: Judicial Commission on Mental Health FY2024
Budget: Judicial Commission on Mental Health FY2025
September 2023 - August 2025

	Judicial Commission on Mental Health	
	2024 Actual	2025 Budget
Revenue		
Court of Criminal Appeals - Grant	20,000.00	20,000.00
FY2024 Appropriation - 13011	1,250,000.00	1,350,000.00
FY2024 COLA Payment	34,468.72	70,740.00
FY2024 Excep Item (Innovation Map)	25,000.00	0.00
FY2024 Excep Item (Youth SIM)	75,000.00	0.00
Hogg Foundation - Grant	7,500.00	0.00
Total Revenue	**$ 1,411,968.72**	**$ 1,440,740.00**
Gross Profit	**$ 1,411,968.72**	**$ 1,440,740.00**
Expenditures		
001 Operating		
Administrative fee to SCOT	20,000.00	20,000.00
Books/Publications and Reference Materials	386.00	1,200.00
Communication Services	548.15	600.00
Continuing Education	7,395.00	6,000.00
Furntiture/Equipment/Software		
Computer Equipment - Expensed	554.99	2,000.00
Computer Software - Expensed	119.99	3,020.00
Furnishings, Equipment and Other - Expensed	0.00	6,000.00
Total Furntiture/Equipment/Software	**$ 674.98**	**$ 11,020.00**
Meeting Supplies/Services		
Cleaning Services	336.00	600.00
Data Processing Services		500.00
Meeting Notebook Printing	1,229.95	1,500.00
Meeting Room Rental	3,523.85	0.00
Total Meeting Supplies/Services	**$ 5,089.80**	**$ 2,600.00**
Membership dues	1,990.00	1,200.00
Office Supplies	1,488.62	3,000.00
Personnel - Judicial Commission on Mental Health		
Jurist in Residence	21,848.76	20,000.00
Payroll Expenses	689,726.44	711,598.00
Total Personnel - Judicial Commission on Mental Health	**$ 711,575.20**	**$ 731,598.00**
Printing	5,184.34	3,800.00
Shipping		2,500.00
Travel		
Commissioner Travel	6,695.54	10,000.00
Staff Travel	31,786.81	25,000.00
Total Travel	**$ 38,482.35**	**$ 35,000.00**
Total 001 Operating	**$ 792,814.44**	**$ 818,518.00**
Commission Projects		

County Mental Health Plan - Contractor		507.74		20,000.00
Innovation Map Data Research		7,300.00		15,000.00
JCMH Summit		270,000.00		280,000.00
Juvenile Justice Bench book (Law Box, meeting & printing)		12,394.00		15,000.00
Mental Health Bench book (Law Box, meeting & printing)		24,253.00		24,250.00
Mental Health Code Book - Printing		19,800.00		20,000.00
RoundTable				0.00
SIM Mapping		105,000.00		105,000.00
Training				
CLE Sponsor Fees		152.76		
Total Training	**$**	**152.76**	**$**	**0.00**
Total Commission Projects	**$**	**439,407.50**	**$**	**479,250.00**
Grants				
Community Diversion Coordinator Pilot		141,244.97		102,600.00
JCMH - OCA Technology Grant		18,854.00		18,854.00
NCSC - CDCPP Evaluation 2022-2025 (183,884)		150.00		
Total Grants	**$**	**160,248.97**	**$**	**121,454.00**
Scholarships				
JCMH Attorney and Stakeholder Scholarships				5,000.00
JCMH Judicial Education Scholarships		3,866.23		5,000.00
Total Scholarships	**$**	**3,866.23**		10,000.00
Total Expenditures	**$**	**1,396,337.14**	**$**	**1,429,222.00**
Net Operating Revenue	**$**	**15,631.58**	**$**	**11,518.00**

JCMH

Texas Judicial Commission on Mental Health

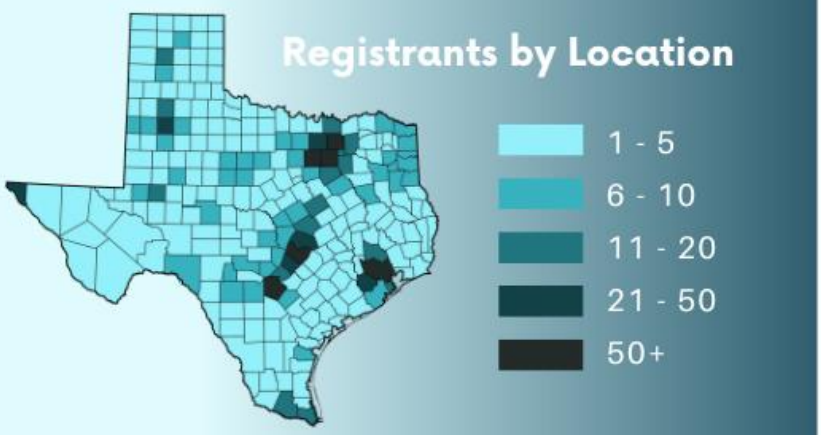
7TH ANNUAL

JUDICIAL SUMMIT ON MENTAL HEALTH

NOVEMBER 21-22, 2024

2024 SUMMIT STATISTICS

Total registrants:	1,183
In-Person:	407
Virtual:	776
Texas Counties:	254
States:	8



PARTICIPANT FEEDBACK

The following information is based on the Survey Responses of 154 Respondents

Overall, how would you rate the event?

- 90.26% Excellent or Very Good
- 7.79% Good
- 1.95% Fair

Was the length of each session too long, too short, or just right?

- 88.96% Just Right
- 10.39% Too short
- 0.65% Too Long

How relevant was the Summit to your work?

- 83.66% Very Relevant
- 14.38% Kind of Relevant
- 1.86% Minimally Relevant

POST-SUMMIT SURVEY RESPONSES

Attendees were asked to choose their top 3 sessions of the Summit, they chose:

- 53.90% Lessons from the Boys in the Bunkhouse: Promoting the Human Rights of Individuals with IDD
- 32.47% Diversion before Diversion
- 30.52% Dangerous Women: Confronting Stereotypes in the Criminal Legal and Mental Health Systems

If attendees chose a Breakout Session as a favorite, they preferred:

- 15.89% What Families Want You to Know to Improve Outcomes for Individuals with SMI
- 14.02% Behind the Curtain: Competency Restoration at Texas State Hospitals
- 14.02% Navigating MH & IDD in Juvenile Court

ATTENDEE COMMENTS

Top Takeaways:

- Collaboration is crucial to success
- There are others in similar positions throughout the state willing to help
- Mental health affects all aspects of the judicial system
- Involve families in cases of individuals with mental illness
- Resources are out there, we just have to know where to look

Most Liked Parts of the Summit:

- Networking opportunities
- Variety of topics and speakers
- Lived experience/personal stories
- Availability of an online option
- Cost (free)

Suggestions for Improvement:

- More breakout options for online attendees
- Longer sessions with time for Q&A/longer conference
- More in-depth topics or an "advanced" track
- More lived experience speakers/stories

Topics or Speakers attendees want to see added to the Summit Program:

- Juvenile sessions (brain development, juvenile probation, youth diversion)
- Jail mental health, JBCR
- More lived experience
- Science and research-based topics as opposed to social factors
- NGRI

Additional Feedback:

- "This collaborative effort between civil and criminal courts, providers, and other stakeholders is an important model. Bravo."
- "The staff of JCMH is so warm and welcoming and always makes me feel like we are all part of a team in our endeavor to make the MH, IDD, and SUD issues better and gives us great resources and information that we can then implement in our own communities."
- "Thank you for sponsoring this wonderful free event for so many years. It is a great resource!"
- "Another great conference/Summit; every year the topics/breakout sessions are improving."

Judicial Summit on Mental Health

Executive Summary & Top Learning Points

The Judicial Commission on Mental Health brought together 1,183 people committed to improving the justice system for people with mental health concerns during the 7th Annual Judicial Summit on Mental Health in Allen, Texas, from November 21-22, 2024. Participants included stakeholders from diverse professions—from judges and attorneys to mental health clinicians and law enforcement officers. For the first time, the Summit boasted registrants who work in all 254 counties in Texas and representatives from each Local Mental and Behavioral Health Authority. The event featured a presentation by keynote speaker Robert Canino, a Regional Attorney with the Dallas District Office of the Equal Employment Opportunity Commission. Mr. Canino civilly prosecuted a case against Henry's Turkey Service, a turkey processing plant in Iowa that brought intellectually and developmentally disabled men from Texas to work for illegally low wages, all while subjecting them to physical and emotional abuse. This story, along with those from other presenters who spoke about their lived mental health experiences, gave the audience a new perspective on their work, highlighting an opportunity to lead with empathy. The Summit also explored real-life examples of how to utilize risk assessment and de-escalation tactics, the present-day needs of services for youth, and how collaboration is key to improving the system for everyone involved. The expansion of breakout sessions at this year's Summit provided participants with 21 different topics to explore. All resources from the Summit are available on the JCMH website, with recordings of each session forthcoming. Below are fifteen of the key learning points from the Summit:

1. **Collaboration is Still Key.** The theme of collaboration emerged throughout the 2024 Judicial Summit on Mental Health. Robert Canino, the civil rights attorney mentioned above, stated, "It takes a team of experts all pointed in the same direction to make it work. We have to share information and think of it as not my job, but our job. Collaborating within the community and with the client's family is immensely important." Jerri Clark gave a poignant account of her family's experience in the mental health and criminal justice systems, stating "There is a knowledge gap that has blamed families instead of engaging with them to improve outcomes. ... Talking to and listening to families like mine is in everyone's best interest." And finally, the JCMH County Mental Health Law Plan promotes collaboration by brining together the civil and criminal sides of a county to help each other.

2. **Mind the Gap—Jargon can be a Barrier Between Professions.** In *Clinical and Legal Collaboration in Mental Health Litigation: The Civil Commitment Process,* Daniela Chisolm and Dr. Roberto Kutcher-Diaz highlighted this concept. Dr. Kutcher-Diaz remarked: "To more effectively collaborate, we need to break things down in a way that everyone can understand." Chisolm gave examples of how "the differences between medical language and legal language can be a barrier" and how to work together to eliminate those barriers.

3. **Include and Amplify the Voices of People with Lived Experience.** This theme was represented by many speakers throughout the summit, including Lesli Fitzpatrick who publicly shared her story for the first time. Marci Simmons stated: “A solution is found in age-appropriate, person-centered care that treat individuals as experts in their experiences, valuing their voices in guiding care.” Robert Canino reminded us that “when victims are quiet, find an expert who can amplify their voice.” Jerri Clark added: “the biggest things families wanted providers to know are that we are allies, and we want to problem solve with the system to make lives better for our loved ones.” Jennifer Toon shared that “finding a therapist with lived experience was fundamental to my healing.”

4. **Eliminate Stigma and Meet People Where They Are.** Dr. Courtney Harvey noted that during the development of the Children’s Mental Health Strategic Plan that “focus groups revealed there is still a lot of stigma for youth around receiving care.” Marci Simmons reminded the audience that “None of us in this room are the worst decisions we've made," and that “when you use those [stigmatizing] labels you reduce those people to those labels. Say it enough and people will feel that way." Anna Grey recommended from the audience: “Don’t interact with the diagnosis, interact with the individual.” Dr. Blake Harris pointed out that it is “very important when we’re working with adolescents and veterans, [to] incorporate things that are culturally competent and relative to the population you are working with but also the individual.”

5. **Embody and Systemize Self-Care Throughout an Organization.** Jessica Chevrier stated in her presentation: “Burnout isn't an individual phenomenon. We can't address burnout just with self-care but have to do it systematically." She noted that “we are struggling to maintain workforce in the areas of mental health and the justice system, but we continue to lose hundreds of years of experience by failing to address burnout institutionally.” Her advice to employers is to lead by example: If you want people to take care of themselves you have to do it, too.

6. **Provide a Holistic Approach and Wraparound Services that Address Underlying Trauma and Promote Appropriate Diversion.** Judge Rocky Jones and Vicki Rice discussed diversion techniques and considerations for the beginning of a case before formal diversion programs are considered. They encouraged participants to review Pretrial Guidelines, use assessments to determine requirements for success, determine the ultimate goal for the defendant, and develop your court’s non-negotiables. They also advised courts to be relatable to build trust. Rice warned audience members to “make no mistake, the system is traumatic; the system itself is causing trauma. You have to be open, you have to be trusting; our clients don't trust us, ... I call it an armor they put on.” To that end, Judge Jones encouraged participants by saying, “each and every individual here can divert an individual and get them off the path ...The Pre-Trial Officer and Judge are the ones that may have to show the defendant a clear path.”

7. **Lead with Empathy. Walk a Mile in Someone Else's Shoes.** JCMH Commissioners and Collaborative Council members participated in a re-entry simulation. They reflected on how profoundly the experience changed their perspective on their own work, with Judge Karen Diaz stating: "I felt the prejudice, I felt helpless, and it felt like there was nowhere I could turn. I had to go destress afterward because of how this simulation made me feel." Judge Selena Solis noted: "after the experience, I'm going to have a better understanding of the struggles and encourage them to persevere." Judge Diaz added: "I am going to try to make sure that those people who have to walk that mile have the resources and people who can help walk them through these programs and the individuals have the information they need to be successful when they come out."

8. **Beyond being Trauma-Informed, We Must be Grief-Informed.** Dr. Julie Kaplow and Yolanda Lewis presented a session on the importance of nurturing resilience and adaptability to address symptoms of grief and trauma before negative behaviors lead children to become involved in the criminal justice system. Lewis challenged the audience to "think about child brain health and how it affects childhood prosperity." Dr. Kaplow informed us that "bereavement is the strongest predictor of poor school outcomes above and beyond any other form of trauma." Lewis added that "in 2023, 68% of youth admitted to TJJD noted having an incarcerated household member," which is a type of ambiguous loss.

9. **Follow the Science and Adjust Accordingly. For example, Learn about Adultification and Medicated Assisted Treatment.** Angell Carroll, Marci Simmons and Jennifer Toon presented information on Adultification, which is a type of bias which skews the perception of certain children, leading to others, including professionals, viewing them as more adult. Carroll cited studies showing that prosecutors drop 7/10 cases against white girls but only 3/10 cases against black girls, and that black girls are viewed as less innocent and nurturing as early as age five. Another summit session, *Evidence-Based Treatment for Substance Use Disorders* by Erin Rodriguez highlighted that "universal screening policies help improve equitable access to treatment." Erin also stated that, "there is no research that indicates that it is helpful for a client to have to stop the use of medication [for addiction treatment] before they leave your program. We cannot change those brain synapses simply by having them in court."

10. **If We Don't Track the Data, We Erase People and Their Experiences.** Angel Carroll emphasized that "When you are not counting, you erase girls. You erase their experiences. That's why data is so important."

11. **Self-Assess with the County Mental Health Law Plan.** For example, many counties have found jail-based competency restoration is resolving some of their long waitlists for competency restoration services. Anything we can do to strengthen JBCR will knock the waiting list numbers down tremendously. Use the CMHLP Checklist to see if your county is ready for JBCR.

12. **Focus on the Youth.** Dr. Courtney Harvey told the audience that “the acuity of the needs of the children is higher than ten years ago. There is a need for more crisis services, outpatient services, residential care, and inpatient care for children in Texas. Parents want more access to counseling services for their children, but workforce is an issue.” This message to focus on prevention aligns with a statement from Judge Rocky Jones in her presentation: "If we do this right in the beginning, then maybe, just maybe, we won't have as many people in the criminal justice system.”

13. **Families are Allies and Want to Help Problem Solve with the System.** Jerri Clark shared her family’s heartbreaking and frustrating lived experience and what she wished professionals knew: “Talking to and listening to families like mine is in everyone's best interest. There is a knowledge gap that has blamed families instead of engaging with them to improve outcomes. We have to pay attention to how are systems are rigged against those who need them the most.”

14. **Use Risk Assessments to Direct your Resources and Most Intensive Services to High-Risk Individuals and Minimize Services to Lower Risk Individuals.** Dr. Blake Harris stated: “the risk principle says you need to direct your resources and your most intensive services to high-risk individuals, and you want to minimize services to lower risk individuals.” Erin Rodriguez made a similar point: “Over 50% of providers in the US are not equipped to treat high-risk, high-need individuals. So that means we can do hours and hours of treatment but if the treatment provider is not utilizing these services and aren’t equipped to handle it, we are not going to see the outcomes are hoping for.” Dr. Harris recommended that “when you are providing support to someone, you need to engage in ongoing sustainable support in a person's natural community. Look at their natural environment, not the one they should live in, but the one they actually live in.”

15. **There are Steps You can Take to De-escalate a Stressful Situation**. Law enforcement officers walked the audience through de-escalation techniques, with Eric Fox highlighting: “We can all exhibit tactical transparency—tell the individual what is going to happen, so they have an idea of what to expect. Shawn Edwards offered: “Do what you can to keep a calming environment--say good morning; try to take away some stress; offer solutions and reasonable options.” Melvin Bowser noted that “the mistake I see the most when people are trying to de-escalate someone is going straight to problem solving when that person isn’t in the right frame of mind due to their heightened state of emotion. It's like trying to logic with your drunk friend, they have to sober up first.”

Conclusion

Judge John Specia, Jr. wrapped up the summit by thanking the participants: "By being here, you are a leader." Judge Specia adjourned the gathering with congratulations to the JCMH: “It was monumental that the Supreme Court and the Court of Criminal Appeals came together to create the JCMH; It’s been a unique experiment that has worked out extraordinarily well."

THE SUPREME COURT OF TEXAS

THE TEXAS COURT OF CRIMINAL APPEALS

Legislative Recommendations and Report

August 2024

Judicial Commission on Mental Health
Recommendations and Report

TABLE OF CONTENTS

I. Introduction

The Texas Judicial Commission on Mental Health (JCMH) was created in 2018 by the Supreme Court of Texas and the Texas Court of Criminal Appeals to examine the justice system and its intersection with people who have mental health and substance use disorders, and intellectual and developmental disabilities. The goal is to improve these encounters and the resulting outcomes for all court participants. As an important part of its work, the JCMH's Legislative Research Committee studies and recommends improvements to laws and rules relating to mental health and intellectual and developmental disabilities. The committee's membership represents Texas state courts, law enforcement, physicians, mental health providers, and judges who are experts in their fields.[1] This committee is led by JCMH Vice-Chair, the Honorable Bill Boyce, and the drafting committee was led by Professor Brian Shannon at the Texas Tech School of Law.

Proposals include amendments to emergency detention, civil commitment, early identification and referral to treatment, specialty courts, and competency restoration laws.

The JCMH offers these proposals to the Texas Judicial Council in preparation for the 89th Legislative Session. The Supreme Court of Texas and the Texas Court of Criminal Appeals are grateful for the work of the many who contributed to this effort.

[1] *See* Order of the Supreme Court of Texas and the Texas Court of Criminal Appeals Establishing the Legislative Research Committee of the Judicial Commission on Mental Health (Sup. Ct. Misc. Docket No. 19-9095) (Ct. of Crim. Appeals Misc. Docket No. 19-010) (2019).

II. Legislative Research Committee

Hon. Jane Bland
The Supreme Court of Texas
Chair, JCMH
Executive Committee
Austin

Hon. Barbara Hervey
Texas Court of Criminal Appeals
Chair, JCMH
Executive Committee
San Antonio

Hon. Rebeca A. Huddle
The Supreme Court of Texas
Deputy Liaison
Executive Committee
Houston

Hon. Jesse McClure, III
Texas Court of Criminal Appeals
Deputy Liaison, JCMH
Executive Committee
Houston

Hon. Bill Boyce
JCMH Vice-Chair
Executive Committee
Legislative Research Committee Chair
Houston

Megan LaVoie, J.D.
Executive Committee
Austin

Hon. Brent Carr
JCMH Jurist in Residence
Executive Committee
Fort Worth

Hon. John J. Specia
JCMH Jurist in Residence
Executive Committee
San Antonio

Prof. Brian Shannon
Lubbock
Drafting Committee Chair

Kelsey Bernstein
Austin

Hon. Renee Rodriguez - Betancourt
Edinburg

Dr. Virginia Brown
Austin

Sonja Burns
Austin

Hon. Nelda Cacciotti
Fort Worth

Angel Carroll
Austin

Daniela Chisolm, J.D.
El Paso

Hon. Danny Dominguez
Laredo

Hon. Camile DuBose
Uvalde

Sgt. Shawn Edwards
Caldwell

Hon. Drue Farmer
Lubbock

Alyse Ferguson, J.D.
McKinney

Lesli Fitzpatrick, J.D.
Austin

Sara Gonzalez
Austin

Dr. Robert Greenberg
Temple

Hon. Matthew Hand
Amarillo

Greg Hansch
Austin

Blake Harris, Ph.D.
Austin

Courtney Harvey, Ph.D.
Austin

Hon. Guy Herman
Austin

Trina Ita, M.A., L.P.C.
Austin

Hon. Dave Jahn
Denton

Nelson Jarrin, J.D.
Round Rock

Lee Johnson, M.P.A.
Austin

Louise Joy, J.D.
Austin

Dr. Andrew Keller
Dallas

Hon. Evelyn Keyes
Houston

Beth Lawson, M.B.A.
Lubbock

Chief Mike Lee
Houston

Katrina LeVert, J.D.
Houston

Hon. Pamela Liston
Dallas

Chris Lopez, J.D.
Ingram

Matthew Lovitt
Austin

Hon. Stacey Mathews
Georgetown

Beth Mitchell, J.D.
Austin

Hon. Joe Moody
El Paso

Magdalena Morales-Aina
El Paso

Hon. Roxanne Nelson
Burnet

Denise Oncken, J.D., M.B.A.
Houston

Hon. Larry Phillips
Sherman

Janis Reinken, J.D.
Austin

Melissa Shearer, J.D.
Austin

Jennie Simpson, Ph.D.
Austin

Lt. Scott Soland
Richmond

Chief Stan Standridge
San Marcos

Hon. Charles Stephens
New Braunfels

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Hon. Deborah Wigington
New Braunfels

Hon. Angela Williams
Leander

Steve Wohleb, J.D.
Austin

Hon. J.R. Woolley
Waller

Eric Woomer
Austin

III. JCMH Staff

Kristi Taylor, J.D.
Executive Director

Kama Harris, J.D.
Staff Attorney, LRC Lead

Molly Davis, J.D.
Staff Attorney

Rose McBride
Communications Manager

Patrick Passmore
Grants Manager

Andy Perkins, J.D.
Staff Attorney

Willette Sedwick
Accountant

IV. Legislative Recommendations

Emergency Detention

Emergency Detention is a 48-hour hold for a preliminary examination for individuals with mental illness based on evidence of a substantial risk of serious harm to themselves or others or severe emotional distress and deterioration. Emergency detention may be initiated by peace officers, guardians, or a warrant from a judge. If a written order for protective custody is obtained, the detention is extended for consideration of involuntary civil commitment. Emergency detention can be an important diversionary tool, but it is used inconsistently in some areas of the state.

A. Emergency detention form updates

This proposal improves the form required by Health and Safety Code § 573.002(d) for peace officers carrying out emergency detentions without a warrant. The current form lacks prompts to elicit necessary information. The proposed modifications add areas for officers to explain the bases for affirmative declarations of evidence of mental illness, substantial risk of harm, and the need for temporary restraint.

Proposed changes to the statutory form are shown in Appendix A.

B. Clarification of peace officer's duties upon presentment to a facility for examination

Currently, when a peace officer presents an individual at a facility for an emergency detention authorized by warrant, the peace officer may then return to their community duties. However, an apparent oversight from a past legislative session requires peace officers presenting an individual without a warrant to remain at the facility, often for hours. Clarification for a peace officer's duties relating to Emergency Detention by a Judge's Warrant was enacted in 2023 as part of S.B. 2479 (Sec. 3), but that legislation did not include a parallel provision for when a peace officer initiated the emergency detention under Health and Safety Code § 573.002. To make the two provisions consistent, this proposal adds subsection (f) to § 573.002 to state that a peace officer has no duty to remain at a facility or an emergency room once the officer presents a person for emergency mental health services under an Apprehension by a Peace Officer Without a Warrant and completes the required documentation. This language largely parallels the 2023 addition of § 573.012(d-1).

Proposed statutory changes are shown in Appendix B.

Civil Commitment

Civil commitment, also known as court-ordered mental health services in the Texas Health and Safety Code, can be a lifesaving tool for people with untreated serious mental illness who meet the statutory criteria. The civil commitment process can connect people to mental health treatment rather than criminal justice involvement.

C. Clarification of court-ordered mental health services venue law

Some counties have rejected an application for court-ordered mental health services because of

unclear language in the existing statute regarding jurisdiction. This proposal amends Health and Safety Code § 574.001(b) to clarify the appropriate venue for filing an Application for Court-ordered Mental Health Services and Order of Protective Custody.

This proposal deletes unclear language regarding where the person "is found," and revises it to where the person "is located at the time the application is filed" or "was apprehended under chapter 573." This adjustment clarifies that venue is proper in either the county where the person was apprehended by a peace officer or the county where the person is located when the application is filed.

Proposed statutory changes are shown in Appendix C.

D. Civil commitment – deterioration language

This proposal amends provisions of Health and Safety Code §§ 573-574 to improve access to mental health care when a person has anosognosia, a neurological condition that causes people to be unaware of their psychiatric condition and can be diagnosed in connection with psychotic disorders, including schizophrenia and bipolar disorder. Family members of a loved one with severe mental illness and anosognosia are often left without help until the individual threatens harm. For instances when an individual is seriously mentally ill, exhibiting signs of deterioration, and lacking the capacity to acknowledge these serious risks, earlier intervention for treatment is one solution.[2] A national judicial task force explains: "If there are no other pathways to treatment, these persons are more likely to experience homelessness, poverty, serious health consequences, and involvement in the criminal justice system."[3]

This proposal adds a lack of capacity standard for inpatient court-ordered mental health treatment. It applies when it is shown that persons with mental illness lack the capacity to recognize their symptoms of a serious mental illness and are thereby unable to make a rational and informed treatment decision or appreciate the risks or benefits of treatment, and, in the absence of treatment, are likely to experience a relapse or deterioration resulting in risks of serious harms to self or others. The proposal also clarifies that evidence of severe emotional distress and deterioration "may include an inability of the person to recognize symptoms or appreciate the risks and benefits of treatment."

The workgroup also developed model legislation on emergency interventions, civil commitment, and other areas. This JCMH proposal is drawn from the work of the model group and legislation in other states, notably Michigan and Arizona.

Proposed statutory changes are shown in Appendix D.

Early Identification and Referral to Treatment

To address overrepresentation of people with mental illness in the criminal justice system, diversion programs connect people to the appropriate community-based treatment and support services outside of the criminal justice system.

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[2] *See* Brian D. Shannon, *Model Legal Processes for Court Ordered Mental Health Treatment – A Modern Approach*, 18 FIU L. REV. 113 (2023).

[3] NATIONAL JUDICIAL TASK FORCE TO EXAMINE STATE COURTS' RESPONSE TO MENTAL ILLNESS, STATE COURTS LEADING CHANGE: REPORT AND RECOMMENDATIONS 30 (2022), https://www.ncsc.org/__data/assets/pdf_file/0031/84469/MHTF_State_Courts_Leading_Change.pdf.

E. Expand law enforcement diversion capabilities and require agencies to report their expansion plan to the Texas Commission on Law Enforcement

Code of Criminal Procedure article 16.23 currently requires law enforcement to make a good faith effort to divert a person suffering a mental health crisis to a treatment center in the agency's jurisdiction.

This proposal amends article 16.23 to allow law enforcement to develop and implement a more flexible diversion plan tailored to the county's available or nearby resources, including a regional diversion center. This amendment would permit diversion to a mental health treatment program such as a Mobile Crisis Outreach Team, where the current statute requires a "treatment center"—often interpreted as requiring a brick-and-mortar location. This change also eliminates the requirement that such a place or program be located within the jurisdiction of the law enforcement agency, because many rural jurisdictions do not have such a facility or program.

This amendment would also require law enforcement agencies to report their article 16.23 plan to the Texas Commission on Law Enforcement, thereby facilitating collaboration within counties to provide guidance for diversion to their law enforcement agencies.

Proposed statutory changes are shown in Appendix E.

Specialty Courts

Specialty Courts are also known as problem-solving or treatment courts, and work by combining a collaborative approach including intensive community-based treatment services and regular contact with a court, with the goals of reducing recidivism, preventing incarceration, and promoting recovery amongst its participants.

Texas Specialty Courts offer several programs, which include:[4]

- Adult Drug Courts
- Juvenile Drug Courts
- Veterans Treatment Courts
- Mental Health Courts
- Family Drug Courts
- Commercially Sexually Exploited Persons Courts
- Public Safety Employees Treatment Courts

Specialty courts are considered the most successful justice intervention for people with substance use and mental health disorders. For three decades, treatment courts have proven that a combination of treatment and compassion can lead people with substance use and/or mental health disorders into lives of stability, health, and recovery.[5]

[4] *Specialty Courts in Texas*, TEXAS JUDICIAL BRANCH, https://www.txcourts.gov/about-texas-courts/specialty-courts/#:~:text=Specialty%20Courts%20in%20Texas,in%20civil%20or%20family%20cases (last visited July 12, 2024).
[5] *About Treatment Courts*, ALL RISE, https://allrise.org/about/treatment-courts/ (last visited July 12, 2024).

F. Clarify that Assisted Outpatient Treatment courts are recognized as a type of specialty court

This proposal would expand the definition of a "mental health court program" in Government Code § 125.001 to include civil courts operating an Assisted Outpatient Treatment program if they otherwise meet the statutory criteria. The definition currently includes only criminal mental health courts, so the suggested language would allow both criminal and civil courts to be recognized as mental health court programs where appropriate.

One goal of the proposal is to create collaboration between criminal and civil mental health court programs. Many participants in Assisted Outpatient Treatment Courts are low-level offenders or individuals at high risk for offending in the future if they do not receive treatment for their serious mental illness. It would be beneficial for the civil and criminal courts to work together more seamlessly to avoid further justice involvement where possible. Texas is home to one of the nation's pioneering Assisted Outpatient Treatment programs (established in Bexar County in 2005), as well as several newer programs established since 2016 in counties such as Harris, Travis, Tarrant, Smith, Johnson, and El Paso.

Another goal of the amendment would be to open funding opportunities to civil Assisted Outpatient Treatment court programs. To qualify for funding from the Office of the Governor, a court must meet the definition of a specialty court program. Allowing civil courts to apply for that funding would support momentum in Texas to create more Assisted Outpatient Treatment courts, which provide earlier intervention in the lives of the individuals before they commit serious crimes.

Proposed statutory changes are shown in Appendix F.

G. Allow county courts to have jurisdiction over certain felony cases in specialty court programs

County court-at-law judges who oversee a specialty court program would like to have the authority to admit individuals charged with felony offenses into their specialty court. Although this has been a routine practice for specialty court dockets, it generally has been addressed by local administrative orders. This proposal would codify this type of authorization for specialty court programs. This amendment would not expand authority outside of specialty courts. For example, it would not allow county courts-at-law to have regular felony dockets but rather would only allow more flexibility with the specialty court dockets.

This proposal would modify Government Code Chapter 121 to ensure that specialty court programs presided over by a County Court-at-Law Judge could have jurisdiction to preside over both misdemeanor and felony cases when those defendants are admitted to a specialty court program overseen by the County Court-at-Law Judge.

Proposed statutory changes are shown in Appendix G.

Competency Restoration

Under the Sixth Amendment of the U.S. Constitution, criminal defendants have the right to understand the nature and consequences of the proceedings against them and to assist in their own defense. When there is reason to question a defendant's competency to exercise these rights—typically due to mental illness or intellectual disability—the court will order a competency evaluation.[6]

After an evaluation, if the court finds the defendant incompetent to stand trial, the state must restore competency before proceeding with the case. If the incompetency finding is due to mental illness, the defendant is typically committed to a state psychiatric hospital for restoration efforts. In recent years, there has been a dramatic increase in the number of nonviolent defendants found to require competency restoration.[7] This has led to increasing numbers of state psychiatric beds being occupied to serve this population, leaving fewer available for those in psychiatric crisis who are not justice-involved.[8]

Alternative approaches to inpatient competency restoration have been authorized, including jail-based competency restoration and outpatient competency restoration, but availability in those programs remains limited. The legislature has also provided funding for additional inpatient facilities, but there is still a significant need to pursue alternative options to inpatient competency restoration for nonviolent offenders.

H. Amend Texas Code of Criminal Procedure to limit inpatient competency restoration for nonviolent misdemeanors to extraordinary circumstances

This proposal would amend Code of Criminal Procedure Chapter 46B to limit the use of inpatient competency restoration services for people charged with nonviolent misdemeanors[9] to extraordinary circumstances. This amendment also sets out the procedures for what to do when a defendant is deemed unlikely to be restored to competency.

The current wait for inpatient competency restoration services from the time of arrest can exceed the maximum sentence for misdemeanor offenses. In these cases, when the defendant must wait for competency restoration services for a length of time greater than their maximum sentence, or when the period of attempted restoration reaches the maximum sentence for the charged offense, articles 46B.0095 and 46B.010 mandate the dismissal of the misdemeanor charge. That is, many people charged with misdemeanors who are incompetent "time out" and must be released before ever receiving competency restoration services. The current process results in defendants waiting in jails for lengthy periods, never receiving a bed at the state hospital, receiving minimal or no mental health

[6] TREATMENT ADVOCACY CENTER, DISMISS UPON CIVIL COMMITMENT WITH AOT: ONE ALTERNATIVE TO THE COMPETENCY RESTORATION CRISIS 1 (2024), https://www.treatmentadvocacycenter.org/wp-content/uploads/2024/03/Dismiss-Upon-Civil-Commitment-with-AOT-Handbook.pdf.
[7] *Id*. citing TREATMENT ADVOCACY CENTER, DORIS FULLER, ET. AL, GOING, GOING, GONE: TRENDS AND CONSEQUENCES OF ELIMINATING STATE HOSPITAL BEDS (2016) https://www.treatmentadvocacycenter.org/wp-content/uploads/2023/11/Going-Going-Gone.pdf.
[8] *Id*.
[9] The proposed non-violent offenses are Class B misdemeanors and Class A misdemeanor offenses that did not result in bodily injury to another person. The limitation also requires that the defendant has not been convicted in the preceding two years of an offense that resulted in bodily injury to another person.

treatment while in custody, and returning to the community without treatment or services, and ultimately receiving the dismissal of the charge that put them in custody in the first place.

This recommendation proposes that when a defendant found to be incompetent to stand trial is charged with a Class B misdemeanor or a nonviolent Class A misdemeanor and has not been convicted in the previous two years of an offense that resulted in bodily injury to another person, then the default procedure would be to order outpatient competency restoration services. If there is no outpatient competency restoration program available, either because the community does not offer the program or the defendant cannot be placed in a program within 14 days of the Judge's order, then the matter would be set for a referral to civil commitment under Code of Criminal Procedure 46B subchapter F—*Civil Commitment Charges Dismissed*. Note that some other states have attempted to the solve this problem (e.g., New York and Michigan) by creating laws that prohibit orders for inpatient competency restoration for *any* misdemeanor charges.

The proposed limitation on inpatient competency restoration for people charged with non-violent misdemeanors will reduce the waitlist for persons charged with offenses that result in placement in a non-maximum security unit (non-MSU), which, by numbers, is the largest category of persons found incompetent to stand trial.[10] The proposed change would reduce wait times for this non-MSU forensic population as well as provide additional capacity for persons who are non-justice involved civil admissions who vie for the very same non-MSU inpatient beds. This added capacity is also crucial for admission of persons under Chapter 46B, Subchapter F (civil commitment: charges dismissed).

Within this bill are other clarifying provisions, including a functional definition of what it means for someone to be restorable in the "foreseeable future." The definition asks appointed medical experts whether this person is capable of being restored to competency within the statutory period allowed under subchapter D—60 days for misdemeanors and 120 days for felonies along with a possible 60-day extension.

The other provisions clarify procedures when the defendant is not restorable or not restored within the statutory time limits.

Proposed statutory text can be found in Appendix H.

I. Expand jail-based competency restoration to allow inclusion of some defendants who are charged with violent or alleged deadly weapon offenses

This proposal would allow some people charged with violent or deadly weapon offenses to receive competency restoration services from a local jail-based competency restoration program instead of being ordered to an inpatient maximum-security unit operated by the state.

Article 46B.073 currently requires that defendants who are found to be incompetent to stand trial and who are charged with a violent offense under article 17.032 or involving an affirmative finding of a deadly weapon under article 42A.054(c) or (d), must be ordered to competency restoration services at a facility designated by the state commission, i.e., a maximum-security state inpatient facility.

[10] *Joint Committee on Access and Forensic Services, April 30, 2024, Meeting*, TEXAS HEALTH AND HUMAN SERVICES https://www.hhs.texas.gov/about/communications-events/meetings-events/2024/04/30/joint-committee-access-forensic-services-jcafs-agenda) (last visited July 15, 2024) (*see* JCAFS Dashboard Review for specific state hospital waitlist data).

Some of the offenses included in this manifestly dangerous category are misdemeanor-level family violence assault cases. On its face, the statute does not permit the court to order incompetent defendants in such cases to jail-based competency restoration.

Although there has been an interpretation of the law to allow individuals charged with one of these violent offenses into a jail-based program on a case-by-case basis, the plain language of the statute states otherwise. This proposal would specifically provide courts with the option to order jail-based competency restoration for these defendants.

Jails with competency restoration programs provide considerable security within the jail for their efforts. This proposal could therefore reduce the state hospital waitlist, jail days at the local level, and expenses on both the state and local levels.

Proposed statutory changes are shown in Appendix I.

J. Create procedures to address a defendant's deteriorating mental condition after competency restoration services

Currently, Texas Code of Criminal Procedure 46B.084 does not address individuals who deteriorate between competency restoration and the resumption of adjudicative proceedings. This proposal would amend article 46B.084 to clarify a process for identifying and evaluating recently restored defendants whose mental health has deteriorated while in custody awaiting disposition of their case and provides similar guidance on issues pertaining to defendants under civil commitment orders who have charges pending.

Proposed statutory language can be found in Appendix J.

K. Allow Outpatient Civil Commitment for defendants with Intellectual and Developmental Disabilities after unsuccessful 46B competency restoration

This proposal would amend Code of Criminal Procedure article 46B.1055 to permit people with intellectual and developmental disabilities and pending nonviolent criminal charges who have not successfully had competency restored under 46B to participate in court-ordered community-based living plans. This allows the criminal court to maintain oversight and helps to decrease the forensic waitlist by freeing a bed at a state facility.

When someone is found incompetent to stand trial, they typically undergo competency restoration services. When initial restoration efforts are unsuccessful, the next step is typically to attempt civil commitment procedures under Subchapter E or F of Chapter 46B. Under Subchapter F, charges are dismissed, and the case is transferred to a probate court for civil commitment proceedings. Under Subchapter E, charges remain pending, and the criminal court can commit the defendant to inpatient or outpatient mental health services, or only to a residential care facility if the defendant has intellectual and developmental disabilities. Proceeding under Subchapter E with charges pending allows the prosecutor to maintain the charges against the defendant and the criminal court to maintain oversight of the defendant.

However, the law currently excludes individuals with intellectual and developmental disabilities from outpatient civil commitment while charges are pending, meaning they can never be stepped down to

a court-ordered, outpatient, community-based living plan. This discrepancy creates a conflict if the residential care facility reports the defendant no longer meets criteria for placement in a residential care facility. The court must then decide whether to overrule the recommendation of the facility and continue to occupy a state facility bed to maintain court oversight and keep the person in a residential care facility indefinitely, or to release the person back into the community without criminal court oversight.

This proposal creates the opportunity for judges to order a stepdown plan for a person with intellectual and developmental disabilities charged with a nonviolent offense from a residential care facility into court-ordered community-based services after an unsuccessful attempt at 46B competency restoration, allowing the criminal court to maintain oversight. Additionally, this procedure would decrease the forensic competency restoration waitlist by freeing a bed at a state facility.

Proposed statutory changes are shown in Appendix K.

L. Permit Class C misdemeanor dismissal when the defendant lacks capacity

This proposal would amend Code of Criminal Procedure Chapter 45A to create a process for a court to consider dismissing a Class C misdemeanor when the judge has probable cause to believe that the charged individual lacks the capacity to understand the criminal proceedings or to assist in the defendant's defense and is unfit to proceed.

Individuals who may be incompetent but who are charged with only class C misdemeanors are not permitted to be court-ordered to competency restoration services of any type because Chapter 46B is inapplicable. However, as a matter of constitutional law, the State is not allowed to proceed with the prosecution of a case against an individual who is not competent. This situation leaves courts with a subset of stagnant criminal cases on their dockets.

The proposed addition would permit the state, the defendant, a person standing in a parental relation to the defendant, or the Court to move to dismiss the Class C misdemeanor charge because the defendant lacks the capacity to understand the criminal proceedings or to assist in the defendant's own defense and is unfit to proceed.

Proposed statutory language can be found in Appendix L.

Court-Ordered Medication

Consistent use of psychiatric medications is an essential part of treating mental illness. But, as former U.S. Surgeon General C. Everett Koop observed, "Drugs don't work in patients who don't take them."[11] Under Health and Safety Code § 574.106 and Code of Criminal Procedure article 46B.086, patients who are under civil commitment for inpatient mental health services and defendants undergoing or awaiting transfer for competency restoration services while in jail may be involuntarily administered medication by court order. Appropriate medication can be an effective tool to assist with the mental stability of certain defendants awaiting transfer for competency restoration services. Stabilizing defendants while at the county jail may decrease the time spent in a state facility, in competency restoration, or even avoid the need for competency restoration services at all.

M. Expand who can apply and testify for court-ordered medications

Under Health & Safety Code § 574.104, a treating physician must file the application for court-ordered medications, and Criminal Code of Procedure Article 46B.086(d) requires two different physicians to testify at a medication hearing under that statute.

In Texas, all but eight of our 254 counties are considered Mental Health Professional Shortage Areas, with two of those eight considered to be partial shortage areas.[12] Most communities in Texas, therefore, do not have access to psychiatrists or physicians with mental health expertise for these statutory requirements. Rural jurisdictions, in particular, have significant difficulty finding physicians who are able and willing to participate in medication hearings. Additionally, due to this shortage, physicians authorized by statute to write the applications and testify are typically not the primary medical professionals providing services to the patient.

This proposal creates a definition of Primary Care Provider for court-ordered medications in the Health and Safety Code to include physicians, advance practice registered nurses (APRNs), and physician's assistants (PAs) who are providing health care services to persons receiving court-ordered inpatient mental health services.

This allows the medical professional who is actually providing services to make an application to the court for court-ordered medications, rather than only a supervising physician who may not have regular direct contact with the patient. This proposal would also make similar changes to Code of Criminal Procedure article 46B.086 and extend deadlines for certain medication orders for persons who are recommitted as unrestored to competency under Chapter 46B.

Proposed statutory changes are shown in Appendix M.

[11] Christopher W. Ponder, *Drugs Don't Work in Patients Who Don't Take Them,* TEXAS DISTRICT & COUNTY ATTORNEYS ASSOCIATION (Sept. 2017), https://www.tdcaa.com/journal/drugs-dont-work-in-patients-who-dont-take-them/.

[12] *Health Professional Shortage Areas: Mental Health, by County, April 2024 – Texas*, RURAL HEALTH INFORMATION HUB, https://www.ruralhealthinfo.org/charts/7?state=TX (last visited July 15, 2024).

V. Appendices of Proposed Statutory Text

Appendix A

Amend Health and Safety Code 573.002(d) as follows:

(d) The peace officer shall provide the notification of detention on the following form:

Notification--Emergency Detention

NO. _____ DATE: _____ TIME:_____

THE STATE OF TEXAS

FOR THE BEST INTEREST AND PROTECTION OF:_____ *(name of person to be detained)*

DOB:_____ Race:_____ Gender:_____ Phone Number:_____

Address: _____

NOTIFICATION OF EMERGENCY DETENTION

Now comes _____, a peace officer with (name of agency) _____, of the State of Texas, and states as follows:

I have reason to believe and do believe that (name of person to be detained) _____

☐ Evidences mental illness~~.~~; and

☐ ~~2. I have reason to believe and do believe that the above-named person evidences~~ Is a substantial risk of serious harm to ~~him~~self~~/herself~~ or others based upon ~~the following:~~

_____
_____
_____
_____
_____
_____ the person's behavior or evidence of severe emotional distress and deterioration in the person's mental condition is to the extent that the person cannot remain at liberty; and

☐ ~~3.~~ ~~I have reason to believe and do believe that the above~~ Is an imminent risk of serious harm ~~is imminent~~ unless ~~the above-named person is~~ immediately restrained.

1. ~~4.~~ My beliefs are based upon the following recent behavior, severe emotional distress and deterioration, overt acts, attempts, statements, or threats observed by me or reliably reported to me (may use attachments for additional information):

_____

_____

_____

2. The names, addresses, phone numbers, and relationship to the above-named person of those ~~persons~~ who reported or observed recent behavior, acts, attempts, statements, or threats ~~of the above-named person are~~ (if applicable):_____

_____

_____

ADULT 65 YEARS AND OLDER: ☐ **YES** ☐ **NO** ***If yes, age:*** _____

MINOR CHILD ☐ **YES** ☐ **NO** (Person Younger than 18) ***If yes, age:*** _____

Minor Child *(if yes)*: My belief that the minor child is at risk of imminent serious harm unless immediately removed from the parents' custody is based on the following facts showing the parents/guardians are presently unable to protect the child from imminent serious harm:

Check one:

☐ I provided notice to the parents/guardians of the minor child of my intention to file this Notification.

☐ I was not able to provide notice to the parents/guardians of the minor child of intent to file this Notification because:

_____

_____

Parent/Guardian Contact Information: _____

USE OF RESTRAINT

Was the person physically restrained in any way? ☐ **YES** ☐ **NO**

If Yes, reason for physical restraint:

☐ Officer Safety

☐ Detained Individual's Safety

☐ Other: _____

CALL ORIGINATED AT:

☐ Public Area ☐ Residence ☐ School/University ☐ Group Home

☐ Hospital ☐ Other _____

OBSERVATIONS/HISTORY

If YES to any question below, then provide clarifying information.

	YES	NO	UNK	Notes
Harm to self or stating an intention to do so?				
Prior Attempt to take his/her life?				
Harming others or stating an intention to do so?				
Previously seriously injured/ harmed others?				
Prior psychiatric hospital treatment?				
Any reported diagnosis?				
Any prescriptions for psychiatric medications?				
Currently taking these psychiatric medications?				
Difficulty sleeping?				
Substance Use Disorder issues?				

FIREARMS/WEAPOINS

If YES to any question below, then provide clarifying information.

	YES	NO	UNK	Notes
Possession of firearms(at) time of contact?				
If yes, was firearm seized and written receipt provided per CCP 18.191?				

TRANSPORTED TO:

☐ Hospital/Emergency Room ☐ Mental Health Facility ☐ Other _____

For the above reasons, I present this notification to seek temporary admission to the (name of facility) _____ inpatient mental health facility or hospital facility for the detention of (name of person to be detained) _____ on an emergency basis.

~~6. Was the person restrained in any way? Yes ☐ No ☐~~

PEACE OFFICER'S SIGNATURE _____

Print name: _____ Telephone:_____ Badge #:_____

Address: _____ Zip Code:_____

EMERGENCY MEDICAL SERVICES (EMS) PERSONNEL SIGNATURE *(if transported by)*

_____

Print name: _____ Telephone:_____ Badge #:_____

Address: _____ Zip Code:_____

A mental health facility or hospital emergency department may not require a peace officer or EMS personnel to execute any form other than this form as a predicate to accepting for temporary admission a person detained by a peace officer under Section 573.001, Health and Safety Code~~, and transported by the officer under that section or by emergency medical services personnel of an emergency medical services provider at the request of the officer made in accordance with a memorandum of understanding executed under Section 573.005, Health and Safety Code~~.

CASE NO. _____

DATE: _____ **TIME:** _____

THE STATE OF TEXAS
FOR THE BEST INTEREST AND PROTECTION OF: _____ *(name of person to be detained)*

DOB:_____ Race:_____ Gender:_____ Phone Number:_____

Address:_____

NOTIFICATION OF EMERGENCY DETENTION

Now comes _____, a peace officer with (name of agency) _____, of the State of Texas, and states as follows:

I have reason to believe and do believe that *(name of person to be detained)* _____ evidences mental illness based upon: (all three required)

- ☐ Evidences mental Illness; and
- ☐ Is a substantial risk of serious harm to self or others based on the person's behavior or evidence of severe emotional distress and deterioration in the person's mental condition is to the extent that the person cannot remain at liberty; and
- ☐ Is an imminent risk of serious harm unless immediately restrained.

1. My beliefs are based upon the following recent behavior, severe emotional distress and deterioration, overt acts, attempts, statements, or threats observed by me or reliably reported to me (may use attachments for additional information):

_____
_____
_____
_____
_____

2. The names, addresses, phone numbers, and relationship to the above-named person of those who reported or observed recent behavior, acts, attempts, statements, or threats (if applicable):

_____
_____
_____
_____
_____

ADULT 65 YEARS AND OLDER ☐ **YES** ☐ **NO** *If yes, age:* _____

MINOR CHILD ☐ **YES** ☐ **NO** (person younger than 18) *If yes, age:* _____

Minor Child *(if yes)*: My belief that the minor child is at risk of imminent serious harm unless immediately removed from the parents' custody is based on the above facts showing the parents/guardians are presently unable to protect the child from imminent serious harm. Check one:

- ☐ I provided notice to the parents/guardians of the minor child of my intention to file this Notification.
- ☐ I was not able to provide notice to the parent/guardian of the minor child of intent to file this Notification because: _____
  _____

Parent/Guardian Contact Information:_____

USE OF RESTRAINT
Was the person physically restrained in any way? ☐ **YES** ☐ **NO**

If Yes, reason for physical restraint: ☐ Officer Safety ☐ Individual's Safety

☐ Other:_____

CALL ORIGINATED AT:

☐ Public Area ☐ Residence ☐ School/University ☐ Group Home

☐ Hospital ☐ Other_____

OBSERVATIONS/HISTORY

If YES to any question below, provide clarifying information.

	YES	NO	UNK	NOTES
Harm to self or stating an intention to do so?				
Prior Attempt to take his/her life?				
Harming others or stating an intention to do so?				
Previously seriously injured/ harmed others?				
Prior psychiatric hospital treatment?				
Any reported diagnosis?				
Any prescriptions for psychiatric medications?				
Currently taking these psychiatric medications?				
Difficulty sleeping?				
Substance Use Disorder issues?				

FIREARMS/WEAPONS

If YES to any question below, provide clarifying information.

	YES	NO	UNK	NOTES
Possession of firearm(s) at time of contact?				
If yes, was firearm seized and written receipt provided per CCP 18.191?				

TRANSPORTED TO:

☐ Hospital/Emergency Room ☐ Mental Health Facility ☐ Other_____

For the above reasons, I present this notification to seek temporary admission to the *(name of facility)* _____ inpatient mental health facility or hospital facility for the detention of *(name of person to be detained)* _____ on an emergency basis.

Peace Officer Signature _____

Print Name:_____ Telephone: _____ Badge # _____

Address: _____ Zip Code: _____

Emergency Medical Services (EMS) Personnel Signature *(if transported by)* _____

Print Name:_____ Telephone: _____ Badge # _____

Address: _____ Zip Code: _____

A mental health facility or hospital emergency department may not require a peace officer or EMS personnel to execute any form other than this form as a predicate for accepting for temporary admission a person detained under Section 573.001, Texas Health and Safety Code.

Appendix B

Amend Health and Safety Code 573.002 by adding new subsection 573.002(f), as follows:

(f) A peace officer who has transported an apprehended person to a facility in accordance with Section 573.001, or emergency medical services personnel of an emergency medical services provider who have transported a person to a facility at the request of a peace officer made in accordance with a memorandum of understanding executed under Section 573.005:

(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 notification of detention required by this Section and completed by the peace officer has been provided to the facility.

Appendix C

Section 1. Amend Section 574.001(b) Health & Safety Code, is amended to read as follows:

(b) Except as provided by Subsection (f), the application must be filed with the county clerk in the county in which the proposed patient:

(1) resides;

(2) is located at the time the application is filed ~~is found~~; ~~or~~

(3) was apprehended under Chapter 573; or

(4) is receiving mental health services by court order or under Subchapter A, Chapter 573.

Appendix D

Section 1. Amend Section 573.001(b)(2), Health & Safety Code, as follows:

(b) A substantial risk of serious harm to the person or others under Subsection (a)(1)(B) may be demonstrated by:

(1) the person's behavior; or

(2) evidence of severe emotional distress and deterioration in the person's mental condition which may include an inability of the person to recognize symptoms or appreciate the risks and benefits of treatment to the extent that the person cannot remain at liberty.

Section 2. Amend Section 573.003(b)(2), Health & Safety Code, as follows:

(b) A substantial risk of serious harm to the ward or others under Subsection (a)(2) may be demonstrated by:

(1) the ward's behavior; or

(2) evidence of severe emotional distress and deterioration in the ward's mental condition which may include an inability of the person to recognize symptoms or appreciate the risks and benefits of treatment to the extent that the ward cannot remain at liberty.

Section 3. Amend Section 573.012(c)(2), Health & Safety Code, as follows:

(c) A substantial risk of serious harm to the person or others under Subsection (b)(2) may be demonstrated by:

(1) the person's behavior; or

(2) evidence of severe emotional distress and deterioration in the person's mental condition which may include an inability of the person to recognize symptoms or appreciate the risks and benefits of treatment to the extent that the person cannot remain at liberty.

Section 4. Amend Section 573.022(a)(3), Health & Safety Code, as follows:

(3) includes:

(A) a description of the nature of the person's mental illness;

(B) a specific description of the risk of harm the person evidences that may be demonstrated either by the person's behavior or by evidence of severe emotional distress and deterioration in the person's mental condition which may include an inability of the person to recognize symptoms or appreciate the risks and benefits of treatment to the extent that the person cannot remain at liberty; and

(C) the specific detailed information from which the physician formed the opinion in Subdivision (2).

Section 5. Amend Section 574.011(a)(7)(B) and (d), Health & Safety Code, as follows:

Sec. 574.011. CERTIFICATE OF MEDICAL EXAMINATION FOR MENTAL ILLNESS. (a) A certificate of medical examination for mental illness must be sworn to, dated, and signed by the examining physician. The certificate must include:

****

(7) the examining physician's opinion that:

(A) the examined person is a person with mental illness; and

(B) as a result of that illness the examined person:

(i) is likely to cause serious harm to the person or to others;

(ii) ~~or~~ is:

(a) ~~(i)~~ suffering severe and abnormal mental, emotional, or physical distress;

(b) ~~(ii)~~ experiencing substantial mental or physical deterioration of the proposed patient's ability to function independently, which is exhibited by the proposed patient's inability, except for reasons of indigence, to provide for the proposed patient's basic needs, including food, clothing, health, or safety; and

(c) ~~(iii)~~ not able to make a rational and informed decision as to whether to submit to treatment; ~~.~~ or

(iii) lacks the capacity to recognize that the person is experiencing symptoms of a serious mental illness and therefore is unable to:

(a) make a rational and informed decision regarding voluntary treatment; or

(b) appreciate the risks or benefits of treatment or understand, use, weigh, or retain information relevant to making informed treatment decisions; and

(c) in the absence of treatment is likely to experience a relapse or deterioration of condition that would meet the criteria in subsections (i) or (ii).

(d) If the certificate is offered in support of a motion for a protective custody order, the certificate must also include the examining physician's opinion that the examined person presents a substantial risk of serious harm to himself or others if not immediately restrained. The harm may be demonstrated by the examined person’s behavior or by evidence of severe emotional distress and deterioration in the examined person’s mental condition which may include an inability of the person to recognize symptoms or appreciate the risks and benefits of treatment to the extent that the examined person cannot remain at liberty.

Section 6. Amend Section 574.022(b), Health & Safety Code, as follows:

(b) The determination that the proposed patient presents a substantial risk of serious harm may be demonstrated by the proposed patient's behavior or by evidence of severe emotional distress and deterioration in the proposed patient's mental condition which may include an inability of the person to recognize symptoms or appreciate the risks and benefits of treatment to the extent that the proposed patient cannot remain at liberty.

Section 7. Amend Section 574.034(a)(2), Health & Safety Code, as follows:

Sec. 574.034. ORDER FOR TEMPORARY INPATIENT MENTAL HEALTH SERVICES. (a) The judge may order a proposed patient to receive court-ordered temporary inpatient mental health services only if the judge or jury finds, from clear and convincing evidence, that:

(1) the proposed patient is a person with mental illness; and

(2) as a result of that mental illness the proposed patient:

(A) is likely to cause serious harm to the proposed patient;

(B) is likely to cause serious harm to others; ~~or~~

(C) is:

(i) suffering severe and abnormal mental, emotional, or physical distress;

(ii) experiencing substantial mental or physical deterioration of the proposed patient's ability to function independently, which is exhibited by the proposed patient's inability, except for reasons of indigence, to provide for the proposed patient's basic needs, including food, clothing, health, or safety; and

(iii) unable to make a rational and informed decision as to whether or not to submit to treatment~~.~~; or

(D) lacks the capacity to recognize that the person is experiencing symptoms of a serious mental illness and therefore is unable to:

(i) make a rational and informed decision regarding voluntary inpatient treatment; or

(ii) appreciate the risks or benefits of treatment or understand, use, weigh, or retain information relevant to making informed treatment decisions; and

(iii) in the absence of court-ordered temporary mental health services is likely to experience a relapse or deterioration of condition that would meet the criteria in subsections (A), (B), or (C).

Section 8. Amend Section 574.035(a)(2), Health & Safety Code, as follows:

Sec. 574.035. ORDER FOR EXTENDED INPATIENT MENTAL HEALTH SERVICES. (a) The judge may order a proposed patient to receive court-ordered extended inpatient mental health services only if the jury, or the judge if the right to a jury is waived, finds, from clear and convincing evidence, that:

(1) the proposed patient is a person with mental illness;

(2) as a result of that mental illness the proposed patient:

(A) is likely to cause serious harm to the proposed patient;

(B) is likely to cause serious harm to others; ~~or~~

(C) is:

(i) suffering severe and abnormal mental, emotional, or physical distress;

(ii) experiencing substantial mental or physical deterioration of the proposed patient's ability to function independently, which is exhibited by the proposed patient's inability, except for reasons of indigence, to provide for the proposed patient's basic needs, including food, clothing, health, or safety; and

(iii) unable to make a rational and informed decision as to whether or not to submit to treatment; or

(D) lacks the capacity to recognize that the person is experiencing symptoms of a serious mental illness and therefore is unable to:

(i) make a rational and informed decision regarding voluntary inpatient treatment; or

(ii) appreciate the risks or benefits of treatment or understand, use, weigh, or retain information relevant to making informed treatment decisions; and

(iii) in the absence of court-ordered extended mental health services is likely to experience a relapse or deterioration of condition that would meet the criteria in subsections (A), (B), or (C);

Section 9. Amend Section 574.064(a-1), Health & Safety Code, as follows:

(a-1) A physician shall evaluate the patient as soon as possible within 24 hours after the time detention begins to determine whether the patient, due to mental illness, presents a substantial risk of serious harm to the patient or others so that the patient cannot be at liberty pending the probable cause hearing under Subsection (b). The determination that the patient presents a substantial risk of serious harm to the patient or others may be demonstrated by:

(1) the patient's behavior; or

(2) evidence of severe emotional distress and deterioration in the patient's mental condition which may include an inability of the person to recognize symptoms or appreciate the risks and benefits of treatment to the extent that the patient cannot live safely in the community.

Appendix E

Article 16.23, Code of Criminal Procedure, is amended to read as follows:

Art. 16.23. DIVERSION OF PERSONS SUFFERING MENTAL HEALTH CRISIS OR SUBSTANCE ABUSE ISSUE. (a) Each law enforcement agency shall make a good faith effort to divert a person suffering a mental health crisis or suffering from the effects of substance abuse to a place or program where the person can receive treatment or services for the person's condition. [~~proper treatment center in the agency's jurisdiction if:~~]

(b) Under this article, diversion is appropriate if:

(1) [~~there is an available and appropriate treatment center in the agency's jurisdiction to which the agency may divert the person;~~

[~~(2)~~] it is reasonable to divert the person;

(2)[~~(3)~~] the offense that the person is accused of is a misdemeanor, other than a misdemeanor involving violence; and

(3)[~~(4)~~] the mental health crisis or substance abuse issue is suspected to be the reason the person committed the alleged offense.

(c)[~~(b)~~] Subsection (a) does not apply to a person who is accused of an offense under Section 49.04, 49.045, 49.05, 49.06, 49.065, 49.07, or 49.08, Penal Code.

(d) Each law enforcement agency shall report to its governing body a diversion plan meeting the requirements of this article on an annual basis with a first report occurring no later than January 1, 2026. Such report shall be provided to and recorded by the Texas Commission on Law Enforcement.

Appendix F

Section 1. The heading to Section 125.001, Texas Government Code, is amended to read as follows:

Sec. 125.001. MENTAL HEALTH COURT PROGRAMS [~~DEFINED; PROCEDURES FOR CERTAIN DEFENDANTS~~].

Section 2. Section 125.001, Texas Government Code, is amended to read as follows:

(a) In this chapter, "mental health court program" means either a program under the supervision and direction of a court with criminal jurisdiction or an assisted outpatient treatment (AOT) court program for persons subject to court-ordered outpatient mental health services if authorized under the provisions of Chapter 574 of the Health and Safety Code and under the supervision and direction of a court with probate jurisdiction, and that has the following essential characteristics:

(1) the integration of mental illness treatment services and intellectual disability services in the processing of cases in the judicial system;

(2) the use of a nonadversarial approach involving prosecutors and defense attorneys or attorneys representing persons in court-ordered outpatient civil commitment proceedings to promote public safety and to protect the due process rights of program participants;

(3) early identification and prompt placement of eligible participants in a [~~the~~] program;

(4) access to mental illness treatment services and intellectual disability services;

(5) ongoing judicial interaction with program participants;

(6) diversion or potential diversion of a defendant[~~s~~] in a pending criminal case who has [~~potentially have~~] a mental illness or an intellectual disability to needed services as an alternative to subjecting the person [~~those defendants~~] to the criminal justice system;

(7) monitoring and evaluation of program goals and effectiveness;

(8) continuing interdisciplinary education to promote effective program planning, implementation, and operations; and

(9) development of partnerships with public agencies and community organizations, including local intellectual and developmental disability authorities.

(b) If a defendant with a pending criminal case successfully completes a mental health court program, after notice to the attorney representing the state in the pending criminal case and a hearing in the mental health court at which that court determines that a dismissal is in the best interest of justice, the mental health court shall provide to the court in which the criminal case is pending information about the dismissal and shall include all of the information required about the defendant for a petition for expunction under Article 55A.253, Code of Criminal Procedure. The court in which the criminal case is pending shall dismiss the case against the defendant and:

(1) if that trial court is a district court, the court may, with the consent of the attorney representing the state, enter an order of expunction on behalf of the defendant under Article 55A.203(b), Code of Criminal Procedure; or

(2) if that trial court is not a district court, the court may, with the consent of the attorney representing the state, forward the appropriate

dismissal and expunction information to enable a district court with jurisdiction to enter an order of expunction on behalf of the defendant under Article 55A.203(b), Code of Criminal Procedure.

Section 3. The heading to Section 125.002, Texas Government Code, is amended to read as follows:

Sec. 125.002. AUTHORITY TO ESTABLISH PROGRAMS.

Section 4. Section 125.002, Texas Government Code, is amended to read as follows:

The commissioners court of a county may establish [~~a~~] mental health court programs for persons who:

(a) (1) have been arrested for or charged with a misdemeanor or felony; and

(2) are suspected by a law enforcement agency or a court of having a mental illness or an intellectual disability; or

(b) have mental illness, have demonstrated an inability to participate in outpatient mental health treatment services effectively and voluntarily, and meet the criteria for court-ordered outpatient mental health services under the provisions of Chapter 574 of the Health and Safety Code.

Section 5. Section 125.005, Texas Government Code, is amended to read as follows:

Sec. 125.005. PROGRAM IN CERTAIN COUNTIES MANDATORY.

(a) The commissioners court of a county with a population of more than 200,000 shall:

(1) establish a mental health court program under the supervision and direction of a court with criminal jurisdiction under Section 125.002; and

(2) direct the judge, magistrate, or coordinator to comply with Section 121.002(c)(1).

(b) A county required under this section to establish a mental health court program shall apply for federal and state funds available to pay the costs of the program. The criminal justice division of the governor's office may assist a county in applying for federal funds as required by this subsection.

(c) Notwithstanding Subsection (a), a county is required to establish a mental health court program under this section only if:

(1) the county receives federal or state funding specifically for that purpose in an amount sufficient to pay the fund costs of the mental health court program; and

(2) the judge, magistrate, or coordinator receives the verification described by Section 121.002(c)(2).

(d) A county that is required under this section to establish a mental health court program and fails to establish or to maintain that program is ineligible to receive grant funding from this state or any state agency.

Appendix G

Section 1. Chapter 121 is amended by adding Section 121.005, as follows:

Sec. 121.005. JURISDICTION AND AUTHORITY OF JUDGE OR MAGISTRATE IN A SPECIALTY COURT PROGRAM. (a) The judge or magistrate of a specialty court program for a case properly transferred to the program may:

(1) enter orders, judgments, and decrees for the case;

(2) sign orders of detention, order community service, or impose other reasonable and necessary sanctions;

(3) enter orders for dismissal and expunction for a defendant who successfully completes the program; or

(4) return the case to the originating trial court for final disposition on a defendant's successful completion of or removal from the program.

(b) A visiting judge assigned to preside over a specialty court program has the same authority as the judge or magistrate appointed to preside over the program.

Appendix H

Section 1. Article 46B.025(b), Code of Criminal Procedure, is amended to read as follows:

(b) If in the opinion of an expert appointed under Article 46B.021 the defendant is incompetent to proceed, the expert shall state in the report:

(1) the symptoms, exact nature, severity, and expected duration of the deficits resulting from the defendant's mental illness or intellectual disability, if any, and the impact of the identified condition on the factors listed in Article 46B.024;

(2) an estimate of the period needed to restore the defendant's competency;

(3) [~~, including~~] whether the defendant is likely to be restored to competency in the initial restoration period authorized under Subchapter D, including any possible extension under Article 46B.080 [~~foreseeable future~~]; and

(4) [~~(3)~~] prospective treatment options, if any, appropriate for the defendant.

Section 2. Article 46B.055, Code of Criminal Procedure, is amended to read as follows:

Art. 46B.055. PROCEDURE AFTER FINDING OF INCOMPETENCY. If the defendant is found incompetent to stand trial, the court shall:

(1) proceed under Subchapter D if the court has determined that the defendant is likely to be restored to competency in the restoration period authorized under that subchapter, including any possible extension under Article 46B.080; or

(2) for a defendant unlikely to be restored to competency as described by Subdivision (1):

(A) proceed under Subchapter E or F; or

(B) release the defendant on bail as permitted under Chapter 17.

Section 3. Article 46B.071(a), Code of Criminal Procedure, is amended to read as follows:

(a) On [~~Except as provided by Subsection (b), on~~] a determination under Article 46B.055(1) that a defendant is incompetent to stand trial and is likely to be restored to competency in the period authorized under this subchapter including any possible extension under Article 46B.080, the court shall:

(1) if the defendant is charged with an offense punishable as a Class B misdemeanor, or is charged with an offense punishable as a Class A misdemeanor that did not result in bodily injury to another person and the defendant has not been convicted in the preceding two years of an offense that resulted in bodily injury to another person:

(A) release the defendant on bail under Article 46B.0711; or

(B) if an outpatient competency restoration program is unavailable or the defendant cannot be placed in an outpatient competency restoration program before the 14th day after the date of the court's order:

(i) on the motion of the attorney representing the

state, dismiss the charge and proceed under Subchapter F; or

(ii) on the motion of the attorney representing the defendant and notice to the attorney representing the state:

(a) set the matter to be heard not later than the 10th day after the date of filing of the motion; and

(b) dismiss the charge and proceed under Subchapter F on a finding that an outpatient competency restoration program is unavailable or that the defendant cannot be placed in an outpatient competency restoration program before the 14th day after the date of the court's order; or

[~~(B) commit the defendant to:~~

[~~(i) a jail-based competency restoration program under Article 46B.073(e); or~~

[~~(ii) a mental health facility or residential care facility under Article 46B.073(f); or~~]

(2) if the defendant is charged with an offense punishable as a Class A misdemeanor that resulted in bodily injury to another person or any higher category of offense or if the defendant is charged with an offense punishable as a Class A misdemeanor that did not result in bodily injury to another person and the defendant has been convicted in the preceding two years of an offense that resulted in bodily injury to another person:

(A) release the defendant on bail under Article 46B.072; or

(B) commit the defendant to a facility or a jail-based competency restoration program under Article 46B.073(c) or (d).

Section 4. The heading to Article 46B.0711, Code of Criminal Procedure, is amended to read as follows:

Art. 46B.0711. RELEASE ON BAIL: CERTAIN OFFENSES NOT INVOLVING BODILY INJURY [~~FOR CLASS B MISDEMEANOR~~].

Section 5. Article 46B.0711(b), Code of Criminal Procedure, is amended to read as follows:

(b) Subject to conditions reasonably related to ensuring public safety and the effectiveness of the defendant's treatment, if the court determines that a defendant charged with an offense punishable as a Class B misdemeanor, or charged under the circumstances described by Article 46B.071(a)(1) with an offense punishable as a Class A misdemeanor, and found incompetent to stand trial is not a danger to others and may be safely treated on an outpatient basis with the specific objective of attaining competency to stand trial, and an appropriate outpatient competency restoration program is available for the defendant, the court shall:

(1) release the defendant on bail or continue the defendant's release on bail; and

(2) order the defendant to participate in an outpatient competency restoration program for a period not to exceed 60 days.

Section 6. The heading to Article 46B.072, Code of Criminal Procedure, is amended to read as follows:

Art. 46B.072. RELEASE ON BAIL: FELONIES; CERTAIN OFFENSES INVOLVING

BODILY INJURY [~~FOR FELONY OR CLASS A MISDEMEANOR~~].

Section 7. Article 46B.072(a-1), Code of Criminal Procedure, is amended to read as follows:

(a-1) Subject to conditions reasonably related to ensuring public safety and the effectiveness of the defendant's treatment, [~~if~~] the court may release on bail, or continue the release on bail of, [~~determines that~~] a defendant charged with an offense punishable as a felony, or charged under the circumstances described by Article 46B.071(a)(2) with an offense punishable as [~~or~~] a Class A misdemeanor and found incompetent to stand trial if the court determines the defendant is not a danger to others and may be safely treated on an outpatient basis with the specific objective of attaining competency to stand trial, and an appropriate outpatient competency restoration program is available for the defendant[~~, the court:~~

[~~(1) may release on bail a defendant found incompetent to stand trial with respect to an offense punishable as a felony or may continue the defendant's release on bail; and~~

[~~(2) shall release on bail a defendant found incompetent to stand trial with respect to an offense punishable as a Class A misdemeanor or shall continue the defendant's release on bail~~].

Section 8. Articles 46B.073(a), (b), and (d), Code of Criminal Procedure, are amended to read as follows:

(a) This article applies only to a defendant not released on bail who is subject to an initial restoration period based on Article 46B.071(a)(2)(B) [~~46B.071~~].

(b) For purposes of further examination and competency restoration services with the specific objective of the defendant attaining competency to stand trial, the court shall commit a defendant described by Subsection (a) to a mental health facility, residential care facility, or jail-based competency restoration program for the applicable period as follows:

(1) a period of not more than 60 days, if the defendant is charged with an offense punishable as a Class A misdemeanor; or

(2) a period of not more than 120 days, if the defendant is charged with an offense punishable as a felony.

(d) If the defendant is not charged with an offense described by Subsection (c) and the indictment does not allege an affirmative finding under Article 42A.054(c) or (d), the court shall enter an order committing the defendant to a mental health facility or residential care facility determined to be appropriate by the commission [~~local mental health authority or local intellectual and developmental disability authority~~] or to a jail-based competency restoration program. The court may enter an order committing the defendant [~~A defendant may be committed~~] to a jail-based competency restoration program only if the program provider has informed the court that [~~determines~~] the defendant will begin to receive competency restoration services not later than the third business day after the date of the order [~~within 72 hours of arriving at the program~~].

Section 9. Article 46B.077(a), Code of Criminal Procedure, is amended to read as follows:

(a) The facility or jail-based competency restoration program to which the defendant is committed or the outpatient competency restoration

program to which the defendant is released on bail shall:

(1) develop an individual program of treatment;

(2) assess and evaluate whether the defendant is likely to be restored to competency in the period authorized under this subchapter, including any possible extension under Article 46B.080 [~~foreseeable future~~]; and

(3) report to the court and to the local mental health authority or to the local intellectual and developmental disability authority on the defendant's progress toward achieving competency.

Section 10. Articles 46B.079(b) and (b-1), Code of Criminal Procedure, are amended to read as follows:

(b) The head of the facility or jail-based competency restoration program provider shall promptly notify the court when the head of the facility or program provider believes that:

(1) the defendant is clinically ready and can be safely transferred to a competency restoration program for education services but has not yet attained competency to stand trial;

(2) the defendant has attained competency to stand trial; or

(3) the defendant is not likely to attain competency in the period authorized under this subchapter, including any possible extension under Article 46B.080 [~~foreseeable future~~].

(b-1) The outpatient competency restoration program provider shall promptly notify the court when the program provider believes that:

(1) the defendant has attained competency to stand trial; or

(2) the defendant is not likely to attain competency in the period authorized under this subchapter, including any possible extension under Article 46B.080 [~~foreseeable future~~].

Section 11. Article 46B.091(i), Code of Criminal Procedure, is amended to read as follows:

(i) If at any time during a defendant's commitment to a program implemented under this article the psychiatrist or psychologist for the provider determines that the defendant's competency to stand trial is unlikely to be restored to competency in the period authorized under this subchapter, including any possible extension under Article 46B.080 [~~foreseeable future~~]:

(1) the psychiatrist or psychologist for the provider shall promptly issue and send to the court a report demonstrating that fact; and

(2) the court shall:

(A) proceed under Subchapter E or F and order the transfer of the defendant, without unnecessary delay, to the first available facility that is appropriate for that defendant, as provided under Subchapter E or F, as applicable; or

(B) release the defendant on bail as permitted under Chapter 17.

Section 12. Article 46B.101, Code of Criminal Procedure, is amended to read as follows:

Art. 46B.101. APPLICABILITY. This subchapter applies to a defendant against whom a court is required to proceed according to Article 46B.084(e) or 46B.0855 or according to the court's appropriate determination under

Article 46B.055(2) [~~46B.071~~].

Section 13. Article 46B.151(a), Code of Criminal Procedure, is amended to read as follows:

(a) If a court is required by Article 46B.084(f) or 46B.0855 or by its appropriate determination under Article 46B.055(2) [~~46B.071~~] to proceed under this subchapter, or if the court is permitted by Article 46B.004(e) to proceed under this subchapter, the court shall determine whether there is evidence to support a finding that the defendant is either a person with mental illness or a person with an intellectual disability.

Section 14. The following provisions are repealed:

(1) Article 46B.071(b), Code of Criminal Procedure;
(2) Articles 46B.073(e) and (f), Code of Criminal Procedure; and
(3) Sections 574.035(d) and 574.0355(b), Health and Safety Code.

Appendix I

Section 1. Articles 46B.073(c), (d), Code of Criminal Procedure, are amended to read as follows:

(c) If the defendant is charged with an offense listed in Article 17.032(a) or if the indictment alleges an affirmative finding under Article 42A.054(c) or (d), the court shall enter an order committing the defendant for competency restoration services to a facility designated by the commission or to a jail-based competency restoration program.

(d) If the defendant is not charged with an offense described by Subsection (c) and the indictment does not allege an affirmative finding under Article 42A.054(c) or (d), the court shall enter an order committing the defendant to a mental health facility or residential care facility designated by the commission [~~determined to be appropriate by the local mental health authority or local intellectual and developmental disability authority~~] or to a jail-based competency restoration program. [~~A defendant may be committed to a jail-based competency restoration program only if the program provider determines the defendant will begin to receive competency restoration services within 72 hours of arriving at the program~~].

Section 2. Articles 46B.091(d), (g), (j), and (j-1), Code of Criminal Procedure, are amended to read as follows:

(d) A jail-based competency restoration program provider must:

(1) provide jail-based competency restoration services through the use of a multidisciplinary treatment team that are[~~:(A)~~]directed toward the specific objective of restoring the defendant's competency to stand trial; [~~and~~

~~(B) similar to other competency restoration programs;~~

(2) employ or contract for the services of at least one psychiatrist to oversee the defendant's medication management;

(3) provide jail-based competency restoration services through licensed or qualified mental health professionals;

(4) provide weekly competency restoration hours commensurate to the hours provided as part of a competency restoration program at an inpatient mental health facility;

(5) operate the program in the jail in a designated space that is separate from the space used for the general population of the jail;

(6) ensure coordination with the jail's behavioral health provider regarding the defendant's treatment plan [~~of general health care~~];

(7) provide mental health treatment and substance use disorder treatment to defendants, as necessary, for competency restoration; and

(8) ensure the provision of [~~supply~~] clinically appropriate psychoactive medications for purposes of administering court-ordered medication to defendants as applicable and in accordance with Article 46B.086 of this code or Section 574.106, Health and Safety Code.

(g) A psychiatrist or psychologist for the provider who has the qualifications described by Article 46B.022 shall evaluate the defendant's competency and report to the court as required by Article 46B.079. The psychiatrist or psychologist performing the evaluation is not required to be appointed by the court as a disinterested expert pursuant to Article 46B.021.

(j) Based on a review of the defendant's progress toward achieving

competency, if the provider [~~If the psychiatrist or psychologist for the provider determines that a defendant committed to a program implemented under this article~~] believes that a defendant has not been restored to competency by the end of the 60th day after the date the defendant began to receive services in the program, the jail-based competency restoration program shall continue to provide competency restoration services to the defendant for the period authorized [~~by this subchapter~~] by Article 46B.073(b), including any extension ordered under Article 46B.080, unless the jail-based competency restoration program is notified that space at [~~a facility~~] an inpatient mental health facility or residential treatment facility appropriate for the defendant is available or the provider believes that the defendant is clinically ready and can be safely transferred to an outpatient competency restoration program, and, as applicable:

(1) for a defendant charged with a felony, not less than 45 days are remaining in the initial restoration period; or

(2) for a defendant charged with a felony or a misdemeanor, an extension has been ordered under Article 46B.080 and not less than 45 days are remaining under the extension order.

(j-1) After receipt of a notice under Subsection (j) that space at an inpatient mental health facility or residential treatment facility appropriate for the defendant is available, the defendant shall be transferred without unnecessary delay to the appropriate mental health facility or [~~,~~]residential care facility[~~, or outpatient competency restoration program~~] for the remainder of the period permitted by [~~this subchapter~~] Article 46B.073(b), including any extension that may be ordered under Article 46B.080 if an extension has not previously been ordered under that article. If the provider believes that the defendant is clinically ready and can be safely transferred to an outpatient competency restoration program, the provider must promptly notify the court for the court to consider whether to order the transfer of the defendant to an outpatient competency restoration program and making the determinations required by subsection (m) of this Article. If the defendant is not transferred, and if the psychiatrist or psychologist for the provider determines that the defendant has not been restored to competency by the end of the period authorized by this subchapter, the defendant shall be returned to the court for further proceedings. For a defendant charged with a felony or a misdemeanor, the court may:

(1) proceed under Subchapter E or F;

(2) release the defendant on bail as permitted under Chapter 17; or

(3) dismiss the charges in accordance with Article 46B.010.

Section 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2025.

Appendix J

Section 1. Articles 46B.084(a-1) and (b), Code of Criminal Procedure, are amended to read as follows:

(a-1)(1) Following the defendant's return to the court, the court shall make a determination with regard to the defendant's competency to stand trial. The court may make the determination based only on the most recent report that is filed under Article 46B.079(c) and based on notice under that article, other than notice under Subsection (b)(1) of that article, and on other medical information or personal history information relating to the defendant. A party may object in writing or in open court to the findings of the most recent report not later than the 15th day after the date on which the court received the applicable notice under Article 46B.079. If no party objects to the findings of the most recent report within that period, the [~~The~~] court shall make the determination not later than the 20th day after the date on which the court received the applicable notice under Article 46B.079, or not later than the fifth day after the date of the defendant's return to court, whichever occurs first [~~, regardless of whether a party objects to the report as described by this subsection and the issue is set for hearing under Subsection (b)~~].

(2) Notwithstanding Subdivision (1), in a county with a population of less than 1.2 million or in a county with a population of four million or more, if no party objects to the findings of the most recent report within the period specified by that subdivision, the court shall make the determination described by that subdivision not later than the 20th day after the date on which the court received notification under Article 46B.079 [~~, regardless of whether a party objects to the report as described by that subdivision and the issue is set for a hearing under Subsection (b)~~].

(b) If a party objects as provided by [~~under~~] Subsection (a-1) and raises a suggestion that the defendant may no longer be competent to stand trial, the court shall determine, by informal inquiry not later than the fifth day after the date of the objection, whether there exists any evidence from a credible source that the defendant may no longer be competent. If, after an informal inquiry, the court determines that evidence from a credible source exists to support a finding of incompetency, the court shall order a further examination under Subchapter B to determine whether the defendant is incompetent to stand trial. Following receipt of the expert's report under that subchapter, the issue shall be set for a hearing not later than the 10th day after the date the report is received by the court. The hearing is before the court, except that on motion by the defendant, the defense counsel, the prosecuting attorney, or the court, the hearing shall be held before a jury.

Section 2. Subchapter D, Chapter 46B, Code of Criminal Procedure, is amended by adding Article 46B.0855 to read as follows:

Art. 46B.0855. RAISING ISSUE OF INCOMPETENCY WHEN CRIMINAL PROCEEDINGS ARE NOT TIMELY RESUMED. If the court has found the defendant competent to stand trial under Article 46B.084, but the criminal proceedings against the defendant were not resumed within the period specified by Subsection (d) of that article, the court shall, on motion of either party suggesting that the defendant may no longer be competent to stand trial, follow the procedures provided under Subchapters A and B,

except any subsequent court orders for treatment must be issued under Subchapter E or F. If, following the end of the period specified by Article 46B.084(d), the court suspects that the defendant may no longer be competent to stand trial, the court may make that suggestion under this article on its own motion.

Section 3. Article 46B.104, Code of Criminal Procedure, is amended to read as follows:

Art. 46B.104. CIVIL COMMITMENT PLACEMENT: FINDING OF VIOLENCE. (a) A defendant committed to a facility as a result of proceedings initiated under this chapter shall be committed to the facility designated by the commission if:

(1) the defendant is charged with an offense listed in Article 17.032(a); or

(2) the indictment charging the offense alleges an affirmative finding under Article 42A.054(c) or (d).

(b) The court shall send a copy of the order of commitment to the applicable facility.

(c) For a defendant whose initial commitment is under this subchapter as provided by Article 46B.055(2), the court shall:

(1) provide to the facility copies of the following items made available to the court during the incompetency trial:

(A) reports of each expert;

(B) psychiatric, psychological, or social work reports that relate to the current mental condition of the defendant;

(C) documents provided by the attorney representing the state or the defendant's attorney that relate to the defendant's current or past mental condition;

(D) copies of the indictment or information and any supporting documents used to establish probable cause in the case;

(E) the defendant's criminal history record information; and

(F) the addresses of the attorney representing the state and the defendant's attorney; and

(2) direct the court reporter to promptly prepare and provide to the facility transcripts of all medical testimony received by the jury or court.

Section 4. Article 46B.109(b), Code of Criminal Procedure, is amended to read as follows:

(b) The head of the facility or outpatient treatment provider shall provide with the request a written statement that in their opinion the defendant is competent to stand trial and shall file with the court as provided by Article 46B.025 a report stating the reason why the facility or provider believes the defendant has been restored to competency. The head of the facility or outpatient treatment provider must include with the report a list of the types and dosages of medications prescribed for the defendant while the defendant was receiving services in the facility or through the outpatient treatment program. The court shall provide copies of the written statement and report to the attorney representing the state and the defendant's attorney. Either party may object to the findings in the written statement or report as provided by Article 46B.1115.

Section 5. Subchapter E, Chapter 46B, Code of Criminal Procedure, is amended by adding

Article 46B.1115 to read as follows:

Art. 46B.1115. PROCEEDINGS TO DETERMINE RESTORATION OF COMPETENCY. The periods for objecting to the written statement and report filed under Article 46B.109(b) and for conducting a hearing on the defendant's competency under this subchapter are the same as those specified under Article 46B.084.

Section 6. Article 46B.114, Code of Criminal Procedure, is amended to read as follows:

Art. 46B.114. TRANSPORTATION OF DEFENDANT TO COURT. (a) If the hearing is not conducted at the facility to which the defendant has been committed under this chapter or conducted by means of an electronic broadcast system as described by this subchapter, an order setting a hearing to determine whether the defendant has been restored to competency shall direct that [~~, as soon as practicable but not earlier than 72 hours before the date the hearing is scheduled,~~] the defendant be placed in the custody of the sheriff of the county in which the committing court is located or the sheriff's designee for prompt transportation to the court. [~~The sheriff or the sheriff's designee may not take custody of the defendant under this article until 72 hours before the date the hearing is scheduled.~~]

(b) If before the 15th day after the date on which the court received notification under Article 46B.109 that a defendant committed to a facility or ordered to participate in an outpatient treatment program has not been transported to the court that issued the order under this subchapter, the head of the facility or outpatient treatment provider shall cause the defendant to be promptly transported to the court and placed in the custody of the sheriff of the county in which the court is located. The county in which the court is located shall reimburse the commission or outpatient treatment provider, as appropriate, for the mileage and per diem expenses of the personnel required to transport the defendant, calculated in accordance with rates provided in the General Appropriations Act for state employees.

Appendix K

Section 1. Article 46B.1055(c)(2), Code of Criminal Procedure, is amended as follows:

Art. 46B.1055. MODIFICATION OF ORDER FOLLOWING INPATIENT CIVIL COMMITMENT PLACEMENT. (a) This article applies to a defendant who has been transferred under Article 46B.105 from a maximum security unit to any facility other than a maximum security unit.

(b) The defendant, the head of the mental health facility to which the defendant is committed, or the attorney representing the state may request that the court modify an order for inpatient mental health treatment ~~or residential care~~ to order the defendant to participate in an outpatient treatment program.

(c) The defendant, the head of the residential care facility to which the defendant is committed, or the attorney representing the state may request that the court modify a commitment to a residential care facility.

~~(c)~~ (d) If the head of the facility to which the defendant is committed makes a request under Subsection (b), not later than the 14th day after the date of the request the court shall hold a hearing to determine whether the court should modify the order for inpatient mental health treatment ~~or residential care~~ in accordance with Subtitle C, Title 7, Health and Safety Code.

(e) If the head of the residential care facility to which the defendant is committed makes a request under Subsection (c), not later than the 14th day after the date of the request the court shall hold a hearing to determine whether the court should modify the order for commitment to a residential care facility in accordance with art. 46B.1075.

~~(d)~~ (f) If the defendant or the attorney representing the state makes a request under Subsection (b), not later than the 14th day after the date of the request the court shall grant the request, deny the request, or hold a hearing on the request to determine whether the court should modify the order for inpatient treatment or residential care. A court is not required to hold a hearing under this subsection unless the request and any supporting materials provided to the court provide a basis for believing modification of the order may be appropriate.

~~(e)~~ (g) On receipt of a request to modify an order under Subsection (b), the court shall require the local mental health authority or local behavioral health authority to submit to the court, before any hearing is held under this article, a statement regarding whether treatment and supervision for the defendant can be safely and effectively provided on an outpatient basis and whether appropriate outpatient mental health services are available to the defendant.

~~(f)~~ (h) If the head of the facility to which the defendant is committed believes that the defendant is a person with mental illness who meets the criteria for court-ordered outpatient mental health services under Subtitle C, Title 7, Health and Safety Code, the head of

the facility shall submit to the court before the hearing a certificate of medical examination for mental illness stating that the defendant meets the criteria for court-ordered outpatient mental health services.

~~(g)~~ (i) If a request under Subsection (b) is made by a defendant before the 91st day after the date the court makes a determination on a previous request under that subsection, the court is not required to act on the request until the earlier of:

(1) the expiration of the current order for inpatient mental health treatment ~~or residential care~~; or

(2) the 91st day after the date of the court's previous determination.

~~(h)~~ (j) Proceedings for commitment of the defendant to a court-ordered outpatient treatment program are governed by Subtitle C, Title 7, Health and Safety Code, to the extent that Subtitle C applies and does not conflict with this chapter, except that the criminal court shall conduct the proceedings regardless of whether the criminal court is also the county court.

(i) The court shall rule on a request made under Subsection (b) as soon as practicable after a hearing on the request, but not later than the 14th day after the date of the request.

~~(j)~~ (k) An outpatient treatment program may not refuse to accept a placement ordered under this article on the grounds that criminal charges against the defendant are pending.

Section 2. Article 46B.103(c)(2), Code of Criminal Procedure, is amended as follows:

Art. 46B.103. CIVIL COMMITMENT HEARING: INTELLECTUAL DISABILITY.

(c) If the court enters an order committing the defendant to a residential care facility, the defendant shall be:

(1) treated and released in accordance with Subtitle D, Title 7, Health and Safety Code, except as otherwise provided by this chapter; and

(2) released in conformity with Article ~~46B.107~~46B.1075.

Section 3. Article 46B.107, Code of Criminal Procedure, is amended to read as follows:

Art. 46B.107. RELEASE OF DEFENDANT AFTER CIVIL COMMITMENT: MENTAL ILLNESS. (a) The release of a defendant committed under this chapter from the commission, an outpatient treatment program, or another facility is subject to disapproval by the committing court if the court or the attorney representing the state has notified the head of the facility or outpatient treatment provider, as applicable, to which the defendant has been committed that a criminal charge remains pending against the defendant.

(b) If the head of the facility or outpatient treatment provider to which a defendant has been committed under this chapter determines that the defendant should be released from the facility, the head of the facility or outpatient treatment provider shall notify the committing court

and the sheriff of the county from which the defendant was committed in writing of the release not later than the 14th day before the date on which the facility or outpatient treatment provider intends to release the defendant.

(c) The head of the facility or outpatient treatment provider shall provide with the notice a written statement that states an opinion as to whether the defendant to be released has attained competency to stand trial.

(d) The court shall, on receiving notice from the head of a facility or outpatient treatment provider of intent to release the defendant under Subsection (b), hold a hearing to determine whether release is appropriate under the applicable criteria in Subtitle C ~~or D~~, Title 7, Health and Safety Code. The court may, on motion of the attorney representing the state or on its own motion, hold a hearing to determine whether release is appropriate under the applicable criteria in Subtitle C~~ or D~~, Title 7, Health and Safety Code, regardless of whether the court receives notice that the head of a facility or outpatient treatment provider provides notice of intent to release the defendant under Subsection (b). The court may conduct the hearing:

(1) at the facility; or

(2) by means of an electronic broadcast system as provided by Article 46B.013.

(e) If the court determines that release is not appropriate, the court shall enter an order directing the head of the facility or the outpatient treatment provider to not release the defendant.

(f) If an order is entered under Subsection (e), any subsequent proceeding to release the defendant is subject to this article.

Section 4. Article 46B.1075, Code of Criminal Procedure, is added to read as follows:

Art. 46B.1075. RELEASE OF DEFENDANT AFTER CIVIL COMMITMENT TO A RESIDENTIAL CARE FACILITY: INTELLECTUAL DISABILITY. (a) This article applies to a defendant who has been committed under Article 46B.103.

(b) The release of a defendant committed under this chapter from a residential care facility is subject to disapproval by the committing court if the court or the attorney representing the state has notified the head of the residential care facility that a criminal charge remains pending against the defendant.

(c) If the head of the residential care facility determines that the defendant should be released from the facility, he or she shall notify the committing court and the sheriff of the county from which the defendant was committed in writing of the release not later than the 14th day before the date on which the residential care facility intends to release the defendant. The written statement shall include an opinion as to whether the defendant has attained competency to stand trial and must be accompanied by an interdisciplinary team recommendation as described in Section 593.013, Health and Safety Code.

(d) The defendant, the head of the residential care facility to which the defendant is committed, or the attorney representing the state may request that the court approve the release of the defendant or approve release of the defendant and require the defendant's participation in a community-based living plan as defined in 26 Texas Administrative Code §904.107.

(e) If the head of the residential care facility to which the defendant is committed makes a request under Subsection (d), not later than the 14th day after the date of the request the court shall hold a hearing in accordance with the due process protections contained within Chapter 593, Subchapter C, Health and Safety Code to determine whether the court should deny the request, grant the request to release the defendant from the residential care facility, or grant the request to release the defendant from the residential care facility and require the defendant's participation in a community-based living plan.

(f) The court may conduct the hearing:

(1) at the facility; or

(2) by means of an electronic broadcast system as provided by Article 46B.013.

(g) On receipt of a request to release the defendant under Subsection (d), the court shall require the residential care facility to submit:

(1) a report indicating that:

(a) the defendant's placement at the residential care facility is no longer appropriate to the defendant's individual needs;

(b) the defendant can be adequately and appropriately habilitated in another setting; and

(c) appropriate community-based services are available to the defendant; and

(2) a community living discharge plan that will serve as the basis of the community-based living plan.

(h) If, after a hearing, the preponderance of evidence shows that the requirements of Subsection (g)(1) have been met, the court shall enter an order that grants the release of the defendant from the resident care facility. The court may also require the defendant to participate in a community-based living plan identified by the residential care facility. If the court requires the defendant to participate in a community-based living plan, the court shall designate the local intellectual and developmental disability authority responsible for supervising the court-ordered community living plan.

(i) The community living discharge plan referenced in (g)(2) must be incorporated into the court order. The community-based living plan may be amended by residential care facility or the local intellectual

and developmental disability authority to address the defendant's on-going needs without court approval.

(j) The court shall rule on a request made under Subsection (d) as soon as practicable after a hearing on the request, but not later than the 14th day after the date of the request. If a hearing is not held during this time frame, the request to release the defendant is automatically granted.

(k) An order authorizing the release of the defendant and requiring the defendant to participate in a community-based living plan must provide for a period not to exceed 12 months, and the court may not order the defendant to participate in any subsequent community-based living plan in connection with the same offense.

(l) If a request under Subsection (d) is made by a defendant before the 91st day after the date the court makes a determination on a previous request under that subsection, the court is not required to act on the request until the 91st day after the date of the court's previous determination.

(m) Proceedings for granting the release of the defendant and requiring the defendant's participation in a community-based living plan are governed by Subtitle D, Title 7, Health and Safety Code, to the extent that Subtitle D applies and does not conflict with this chapter, except that the criminal court shall conduct the proceedings regardless of whether the criminal court is also the county court.

(n) A defendant is entitled to an appeal from an order denying the defendant's release or requiring the defendant's participation in a community living plan, and appeals from the criminal court proceedings are to the court of appeals as in the proceedings for court-ordered residential care under Subtitle D, Title 7, Health and Safety Code.

(o) The person responsible for coordinating the services shall inform the court if the defendant must return to the residential care facility at any time during the period referenced in subsection (k) above.

Section 5.

This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2025.

Appendix L

Chapter 45A, Code of Criminal Procedure, is amended by adding Article 45A.xxx to read as follows:

Art. 45A.xxx. DISMISSAL BASED ON DEFENDANT'S LACK OF CAPACITY. (a) On motion by the state, the defendant, or a person standing in parental relation to the defendant, or on the court's own motion, a justice or judge shall determine whether probable cause exists to believe that a defendant, including a defendant who is a child as defined by Article 45.058(h) and a defendant with a mental illness or developmental disability, lacks the capacity to understand the proceedings in criminal court or to assist in the defendant's own defense and is unfit to proceed.

(b) If the justice or judge determines that probable cause exists for a finding under Subsection (a), after providing notice to the state, the justice or judge may dismiss the complaint.

(c) A dismissal of a complaint under Subsection (b) may be appealed as provided by Article 45A.202.

Appendix M

Section 1. Section 574.101, Health and Safety Code, is amended by adding subsection (3) and amending subsection (4) to read as follows:

(3) "Primary Care Provider" means a health care professional who provides mental health care services to a defined population of patients subject to court-ordered inpatient mental health services. The term includes a physician licensed by the Texas Medical Board, an advanced practice registered nurse licensed by the Texas Board of Nursing, and a physician assistant licensed by the Texas Physician Assistant Board.

(4) [~~(3)~~] "Psychoactive medication" means a medication prescribed for the treatment of symptoms of psychosis or other severe mental or emotional disorders and that is used to exercise an effect on the central nervous system to influence and modify behavior, cognition, or affective state when treating the symptoms of mental illness. "Psychoactive medication" includes the following categories when used as described in this subdivision:

(A) antipsychotics or neuroleptics;

(B) antidepressants;

(C) agents for control of mania or depression;

(D) antianxiety agents;

(E) sedatives, hypnotics, or other sleep-promoting drugs; and

(F) psychomotor stimulants.

Section 2. The heading to Section 574.104 is amended to read as follows:

PRIMARY CARE PROVIDER'S [~~PHYSICIAN'S~~] APPLICATION FOR ORDER TO AUTHORIZE PSYCHOACTIVE MEDICATION; DATE OF HEARING.

Section 3. Section 574.104, Health and Safety Code, is amended to read as follows:

(a) A primary care provider [~~physician~~] who is treating a patient may, on behalf of the state, file an application in a probate court or a court with probate jurisdiction for an order to authorize the administration of a psychoactive medication regardless of the patient's refusal if:

(1) the primary care provider [~~physician~~] believes that the patient lacks the capacity to make a decision regarding the administration of the psychoactive medication;

(2) the primary care provider [~~physician~~] determines that the medication is the proper course of treatment for the patient;

(3) the patient is under an order for inpatient mental health services under this chapter or other law or an application for court-ordered mental health services under Section 574.034 or 574.035 has been filed for the patient; and

(4) the patient, verbally or by other indication, refuses to take the medication voluntarily.

(b) An application filed under this section must state:

(1) that the primary care provider [~~physician~~] believes that the patient lacks the capacity to make a decision regarding administration of the psychoactive

medication and the reasons for that belief;

(2) each medication the primary care provider [~~physician~~] wants the court to compel the patient to take;

(3) whether an application for court-ordered mental health services under Section 574.034 or 574.035 has been filed;

(4) whether a court order for inpatient mental health services for the patient has been issued and, if so, under what authority it was issued;

(5) the primary care provider's [~~physician's~~] diagnosis of the patient; and

(6) the proposed method for administering the medication and, if the method is not customary, an explanation justifying the departure from the customary methods.

(c) An application filed under this section is separate from an application for court-ordered mental health services.

(d) The hearing on the application may be held on the date of a hearing on an application for court-ordered mental health services under Section 574.034 or 574.035 but shall be held not later than 30 days after the filing of the application for the order to authorize psychoactive medication. If the hearing is not held on the same day as the application for court-ordered mental health services under Section 574.034 or 574.035 and the patient is transferred to a mental health facility in another county, the court may transfer the application for an order to authorize psychoactive medication to the county where the patient has been transferred.

(e) Subject to the requirement in Subsection (d) that the hearing shall be held not later than 30 days after the filing of the application, the court may grant one continuance on a party's motion and for good cause shown. The court may grant more than one continuance only with the agreement of the parties.

Section 4. Subsection 574.106(a) and (a-1), Health and Safety Code, are amended to read as follows:

(a) The court may issue an order authorizing the administration of one or more classes of psychoactive medication to a patient who:

(1) is under a court order to receive inpatient mental health services; or

(2) is in custody awaiting trial in a criminal proceeding and was ordered to receive inpatient mental health services [~~in the six months preceding a hearing under this section~~].

(a-1) The court may issue an order under this section only if the court finds by clear and convincing evidence after the hearing:

(1) that the patient lacks the capacity to make a decision regarding the administration of the proposed medication and treatment with the proposed medication is in the best interest of the patient; or

(2) if the patient ~~w~~as ordered to receive inpatient mental health services by a criminal court with jurisdiction over the patient, that treatment with the

proposed medication is in the best interest of the patient and either:

(A) the patient presents a danger to the patient or others in the inpatient mental health facility in which the patient is being treated as a result of a mental illness [~~disorder or mental defect~~] as determined under Section 574.1065; or

(B) the patient:

(i) has remained confined in a correctional facility, as defined by Section 1.07, Penal Code, for a period exceeding 72 hours while awaiting transfer for competency restoration treatment; and

(ii) presents a danger to the patient or others in the correctional facility as a result of a mental illness [~~disorder or mental defect~~] as determined under Section 574.1065.

Section 5. Section 574.1065, Health and Safety Code, is amended to read as follows:

In making a finding under Section 574.106(a-1)(2) that, as a result of a mental illness [~~disorder or mental defect~~], the patient presents a danger to the patient or others in the [~~inpatient mental health~~] facility in which the patient is being treated or in the correctional facility, as applicable, the court shall consider:

(1) an assessment of the patient's present mental condition;

(2) whether the patient has inflicted, attempted to inflict, or made a serious threat of inflicting substantial physical harm to the patient's self or to another while in the facility; and

(3) whether the patient, in the six months preceding the date the patient was placed in the facility, has inflicted, attempted to inflict, or made a serious threat of inflicting substantial physical harm to another that resulted in the patient being placed in the facility.

Section 6. Section 574.107, Health and Safety Code, is amended to read as follows:

(a) The costs for a hearing under this subchapter for a patient committed under this chapter shall be paid in accordance with Sections 571.017 and 571.018.

(b) The county in which the applicable criminal charges are pending or were adjudicated shall pay as provided by Subsection (a) the costs of a hearing that is held under Section 574.106 to evaluate the court-ordered administration of psychoactive medication to a person under the jurisdiction of a criminal court [~~:~~

~~(1) a patient ordered to receive mental health] services as described by Section 574.106(a)(1) after having been determined to be incompetent to stand trial or having been acquitted of an offense by reason of insanity; or~~

~~(2) a patient who:~~

~~(A) is awaiting trial after having been determined to be competent to stand trial; and~~

~~(B) was ordered to receive mental health services as described by Section 574.106(a)(2)~~].

Section 7. Section 574.110, Health and Safety Code, is amended to read as follows:

(a) [~~Except as provided by Subsection (b), a~~] An order issued under Section 574.106 for a patient that is committed under this chapter expires on the expiration or termination date of the order for temporary or extended mental health services in effect when the order for psychoactive medication is issued.

(b) An order issued under Section 574.106 for a patient subject to a court order for inpatient mental health services or jail-based competency restoration program under Chapter 46B, Code of Criminal procedure, who is returned to court or is returned to a correctional facility, as defined by Section 1.07, Penal Code, as recommended competent under Article 46B.079(b)(2) or 46B.109, Code of Criminal Procedure to await trial in a criminal proceeding continues to be in effect until the earlier of the following dates, as applicable:

(1) the 180th day after the date the defendant was returned to the court or correctional facility;

(2) the date the defendant is acquitted, is convicted, or enters a plea of guilty; or

(3) the date on which charges in the case are dismissed.

(c) An order issued under Section 574.106 for a patient subject to a court order for inpatient mental health services or jail-based competency restoration program under Chapter 46B, Code of Criminal procedure, who is recommitted as unrestored to competency is extended 30 days beyond the expiration of the prior order of the criminal court, during which time a new order for psychoactive medication may be sought from a court with probate jurisdiction. Each subsequently issued order for psychoactive medication for a person described by this subsection is extended 30 days beyond the expiration of the commitment by the criminal court, during which time a new order for psychoactive medication may be sought from a court with probate jurisdiction.

(d) An order issued under Section 574.106 for a patient subject to a court order for inpatient mental health services under chapter 46C, Code of Criminal Procedure, who is recommitted is extended 30 days beyond the expiration of the prior order of the criminal court, during which time a new order for psychoactive medication may be sought from a court with probate jurisdiction. Each subsequently issued order for psychoactive medication for a person described by this subsection is extended 30 days beyond the expiration of the commitment by the criminal court, during which time a new order for psychoactive medication may be sought from a court with probate jurisdiction.

Section 8. Article 46B.086, Code of Criminal Procedure, is amended to read as follows:

Art. 46B.086. COURT-ORDERED MEDICATIONS. (a) This article applies only to a defendant:

(1) who is determined under this chapter to be incompetent to stand trial;

(2) who either:

(A) remains confined in a correctional facility, as defined by Section 1.07, Penal Code, for a period exceeding 72 hours while awaiting transfer to an inpatient mental health facility, a

residential care facility, or an outpatient competency restoration program;

(B) is committed to an inpatient mental health facility, a residential care facility, or a jail-based competency restoration program for the purpose of competency restoration;

(C) is confined in a correctional facility while awaiting further criminal proceedings following competency restoration; or

(D) is subject to Article 46B.072, if the court has made the determinations required by Subsection (a-1) of that article;

(3) for whom a correctional facility or jail-based competency restoration program that employs or contracts with a primary care provider as defined in Section 574.101, Health and Safety Code [~~licensed psychiatrist~~], an inpatient mental health facility, a residential care facility, or an outpatient competency restoration program provider has prepared a continuity of care plan that requires the defendant to take psychoactive medications; and

(4) who, after a hearing held under Section 574.106 or 592.156, Health and Safety Code, if applicable, has been found to not meet the criteria prescribed by Sections 574.106(a) and (a-1) or 592.156(a) and (b), Health and Safety Code, for court-ordered administration of psychoactive medications.

(b) If a defendant described by Subsection (a) refuses to take psychoactive medications as required by the defendant's continuity of care plan, the director of the facility or the program provider, as applicable, shall notify the court in which the criminal proceedings are pending of that fact not later than the end of the next business day following the refusal. The court shall promptly notify the attorney representing the state and the attorney representing the defendant of the defendant's refusal. The attorney representing the state may file a written motion to compel medication. The motion to compel medication must be filed not later than the 15th day after the date a judge issues an order stating that the defendant does not meet the criteria for court-ordered administration of psychoactive medications under Section 574.106 or 592.156, Health and Safety Code, except that, for a defendant in an outpatient competency restoration program, the motion may be filed at any time.

(c) The court, after notice and after a hearing held not later than the 10th day after the motion to compel medication is filed, may authorize the director of the facility or the program provider, as applicable, to have the medication administered to the defendant, by reasonable force if necessary. A hearing under this subsection may be conducted using an electronic broadcast system as provided by Article 46B.013.

(d) The court may issue an order under this article only if the order is supported by the testimony of [~~two~~] a primary care provider as defined in Section 574.101, Health and Safety Code [~~physicians~~], [~~one of whom~~] who is the primary care provider [~~physician~~] at or with the applicable facility or program who is prescribing the medication as a

component of the defendant's continuity of care plan [~~and another who is not otherwise involved in proceedings against the defendant~~]. The court may require [~~either or both~~] the primary care provider [~~physicians~~] to examine the defendant and report on the examination to the court.

(e) The court may issue an order under this article if the court finds by clear and convincing evidence that:

(1) the prescribed medication is medically appropriate, is in the best medical interest of the defendant, and does not present side effects that cause harm to the defendant that is greater than the medical benefit to the defendant;

(2) the state has a clear and compelling interest in the defendant obtaining and maintaining competency to stand trial;

(3) no other less invasive means of obtaining and maintaining the defendant's competency exists; and

(4) the prescribed medication will not unduly prejudice the defendant's rights or use of defensive theories at trial.

(f) A statement made by a defendant to a primary care provider [~~physician~~] during an examination under Subsection (d) may not be admitted against the defendant in any criminal proceeding, other than at:

(1) a hearing on the defendant's incompetency; or

(2) any proceeding at which the defendant first introduces into evidence the contents of the statement.

(g) For a defendant described by Subsection (a)(2)(A), an order issued under this article:

(1) authorizes the initiation of any appropriate mental health treatment for the defendant awaiting transfer; and

(2) does not constitute authorization to retain the defendant in a correctional facility for competency restoration treatment.

Section 9. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2025.