

Report to the Judicial Commission on Mental Health

May 15, 2018

Texas Judicial Council Mental Health Committee

- Created in June 2016 as committee of the Texas Judicial Council to gather stakeholder input and address best practices in administration of justice for those suffering from or affected by mental illness
- Legislative recommendations in October 2016; adopted by the Council
- Recommendations incorporated into multiple bills passed during the 85th Legislature, signed into law in 2017, with focus on (1) screening procedures under CCP Art. 16.22; PR bonds under CCP Art. 17.032; competency restoration under CCP Art. 46B
- Recommended creation of permanent Judicial Commission on Mental Health
- Committee reconstituted in 2017; encompasses guardianship, IDD

Looking to the 86th Legislative Session

- Address feedback on prior legislation; refinements to language; funding
 - Meaning of “assessment” under Article 16.22
 - Authority for TCOOMMI form under Health and Safety Code Section 614.0032(b)
 - Clarify OCA reporting requirements under Article 16.22
- New legislative proposals
 - Transfer of mental health-related information under CCP Article 42.09, section 8
 - Amend Government Code Section 54.003(b) to include part-time and full-time magistrates and associate judges appointed under Chapters 54 and 54A of the Government Code
- Study procedures for court-ordered involuntary mental health treatment under Chapter 574 of the Texas Health and Safety Code

Feedback Based on 2017 Legislation

- Article 16.22 contains multiple references to the performance of an “assessment” if there is reasonable cause to believe that a defendant has a mental illness or is a person with an intellectual disability
- The phrases “collect” or “collection of information” or “information collected” also are used in Article 16.22(a)(1)(A), (a)(1)(B), (a)(2), and (a)(3)
- There is uncertainty about the credentials necessary to perform the “assessment;” whether this assessment focuses on competency to stand trial; and payment responsibility
- A single uniform term such as “screening” should be used in place of “assessment” or “collection of information” to convey that a full-blown examination and mental health or IDD diagnosis by a clinician is not required

Feedback Based on 2017 Legislation

- Under Article 16.22(a)(1)(B), the magistrate shall receive “a written assessment of the information collected under Paragraph (A) on the form approved by the Texas Correctional Office on Offenders with Medical or Mental Impairments under Section 614.00032(b), Health and Safety Code”
- Section 614.0032(b) refers to a form for use in connection with a competency examination under Article 46B
- A new subsection should be added to Section 614.0032(b) authorizing TCOOMMI to “approve and make generally available in electronic format a standard form for use by experts in reporting mental health reporting results under Article 16.22, Code of Criminal Procedure”
- Add confidentiality provision, similar to Section 58.007 of the Family Code

Feedback Based on 2017 Legislation

- To avoid duplicative reporting, amend article 16.22(e) as follows: “(e) The ~~magistrate~~ [clerk of the trial court] shall submit to the Office of Court Administration of the Texas Judicial System on a monthly basis the number of written assessments provided to the court under Subsection (a)(1)(B)”

New Proposals

- Under Code of Criminal Procedure Article 42.09 section 8, a county transferring a defendant to TDCJ must deliver twelve categories of information to TDCJ including court records, a PSI if one was prepared, and criminal history
- This provision should be amended to include any mental health records or mental health screening reports among the items to be provided to TDCJ so that there is awareness of an incoming prisoner's mental condition and an ability to anticipate how that condition may need to be addressed

New Proposals

- During the course of multiple seminar presentations since mid-2017, there has been significant enthusiasm among courts, court personnel, and other stakeholders for training opportunities focused on these new procedures
- This enthusiasm dovetails with a 2016 recommendation made by the Texas Judicial Council's Criminal Justice Committee to amend Government Code Section 54.003(b) to include part-time and full-time magistrates and associate judges appointed under Chapters 54 and 54A of the Government Code.
- The Criminal Justice Committee also recommended that the Court of Criminal Appeals amend its Rules of Judicial Education to require continuing legal education for part-time and full-time magistrates and associate judges under Chapters 54 and 54A of the Government Code

Continuing Study

- Examine effectiveness of Health and Safety Code Chapter 574 governing court-ordered involuntary mental health treatment