

2022 Death in Custody

- ▶ <https://www.kristv.com/news/6-investigates/dying-for-help-falfurrias-woman-dies-while-in-custody-of-kleberg-county-sheriffs-office>
- ▶ https://www.youtube.com/watch?v=f_xYW-IUHYo

Mental Health in Texas: *Updates to the 17.032 Process*

April 17, 2024

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Today's discussion

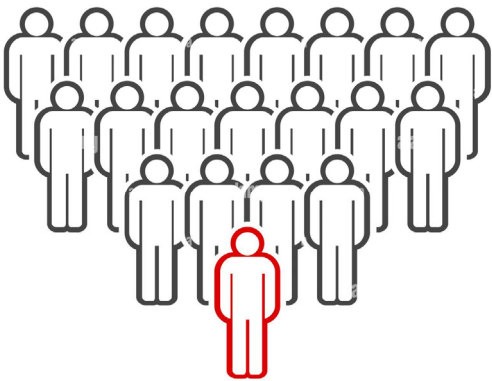
- Mental Health Legislative Changes
 - CCP 16.22 – *Early Identification*
 - CCP 17.032 – *Mental Health Bonds*
- Best Practices
- Q&A



1 in 5 adults experience a mental health disorder each year



1 in 6 youth aged 6-17 experience a mental health disorder each year



1 in 20 adults experience serious mental illness (SMI) each year

Quick Facts

50% of all lifetime
mental illness begins
by age 14

75% of all lifetime
mental illness begins
by age 24

Suicide is the 2nd
leading cause of death
among people **aged**
10-14

Think of a time when you or someone you know has gone the extra mile for a person with mental illness.

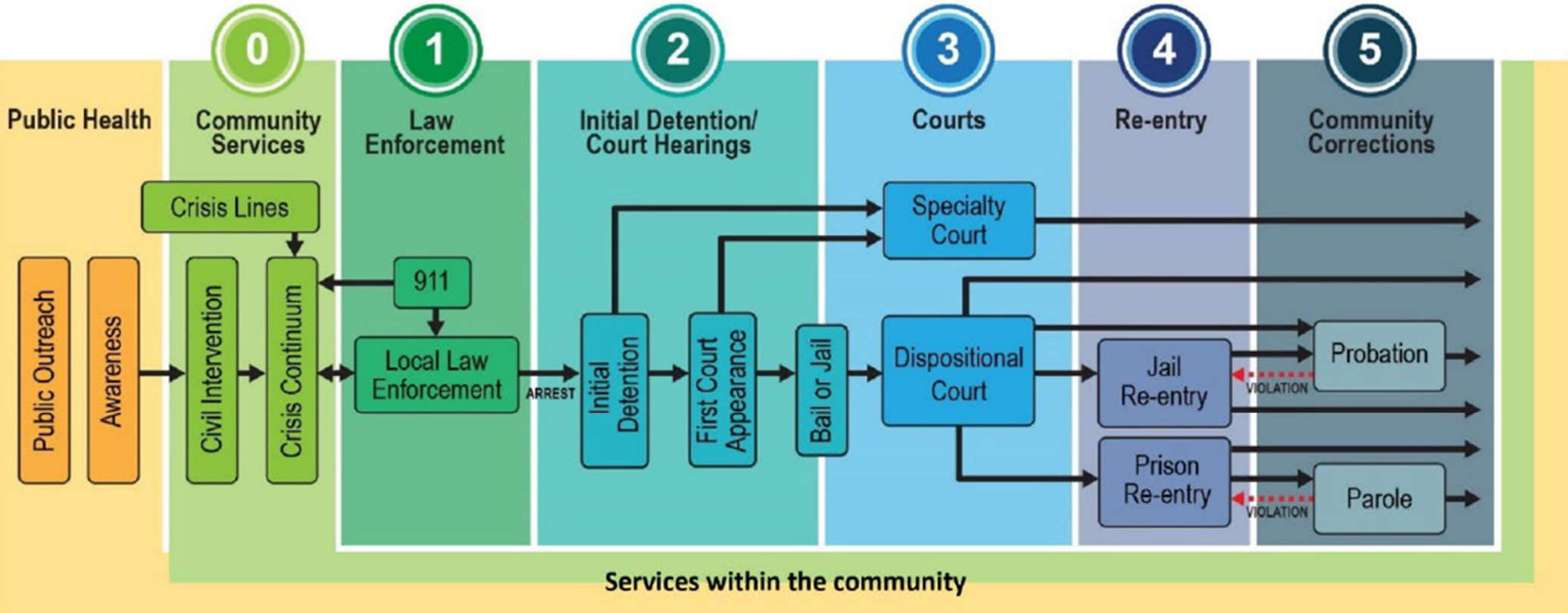


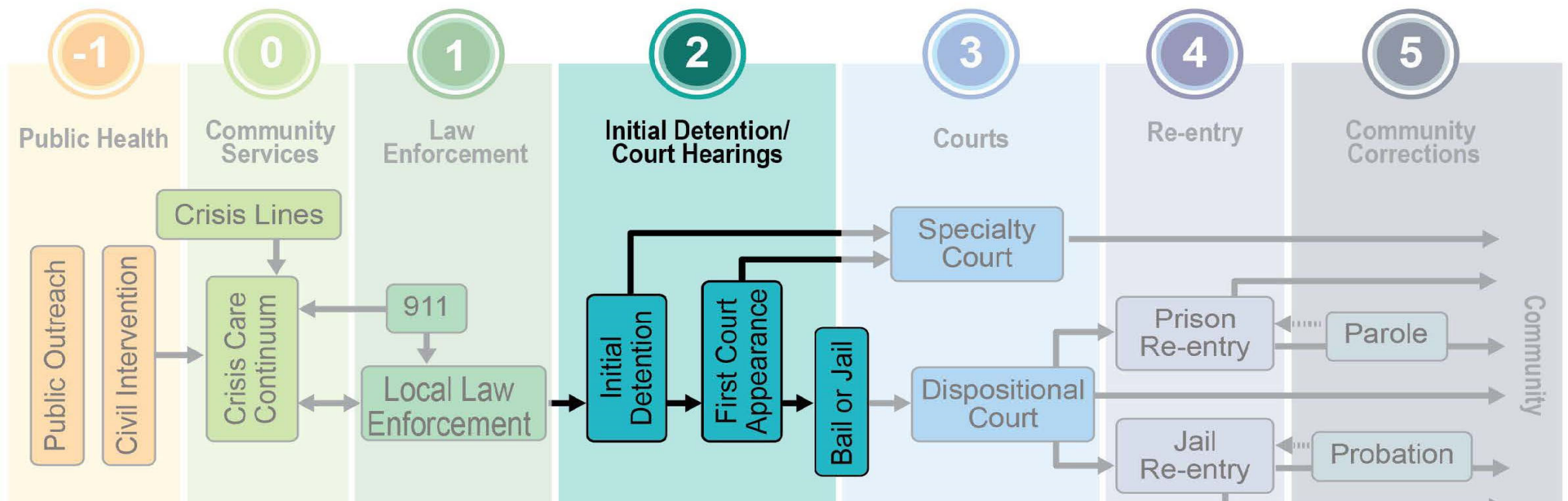
“

When spider webs unite,
they can tie up a lion.

Ethiopian Proverb

Sequential Intercept Model





② Intercept 2: Initial Detention and Court Hearings

Texas Code of Criminal Procedure

Art. 16.22

- ▶ Early Identification of Individuals with Mental Illness (MI) or Intellectual or Developmental Disabilities (IDD)
- ▶ Art. 16.22 details a procedure for identifying a person's possible Mental Illness or Intellectual Disability at the earliest stages of, and throughout, the criminal proceeding.



When was a 16.22 early identification procedure added into Texas law?

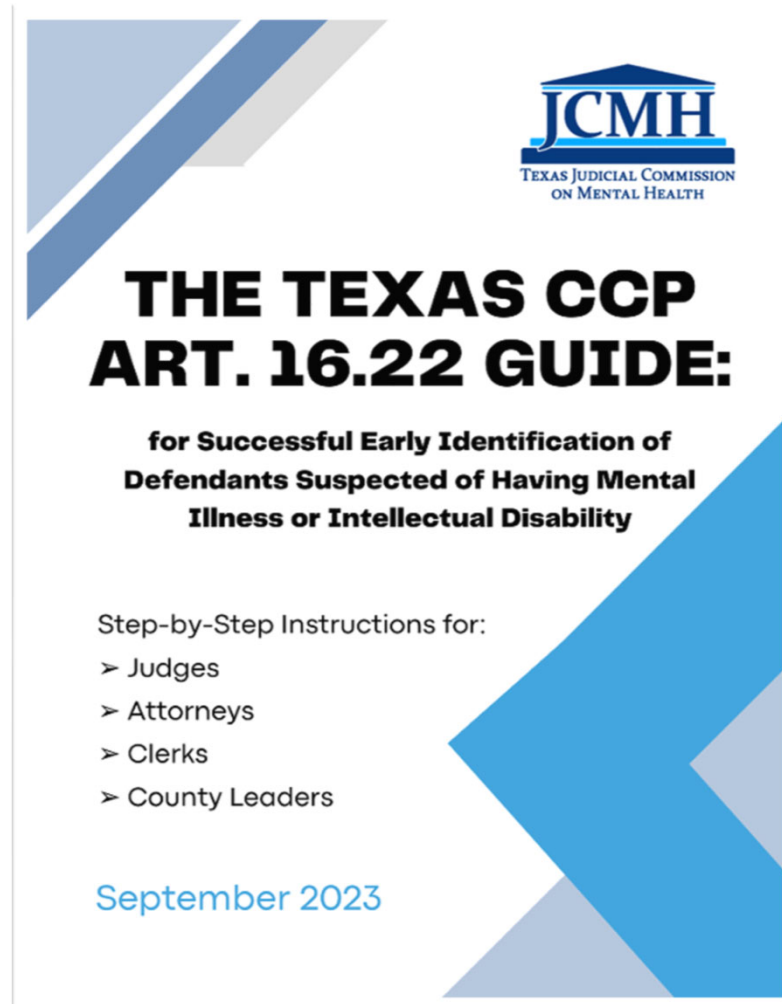
- 73rd Legislature (1993)
- Effective Sept 1, 1994

What is it that we are trying to identify?

Why is *early* identification important?

How does your county work
to *early identify* someone
with Mental Illness or IDD?

16.22 Guide



Step-by-Step Instructions for:

- > Judges
- > Attorneys
- > Clerks
- > County Leaders

September 2023



Video Library

- Community Diversion Coordinator
- Mapping Workshop
- Peer Networking
- Forms
- [Video Library](#)
- Expert Consultation
- Mental Health Courts
- External Resources
- Training & Education
- County Mental Health Law Plan



County Mental Health Law Plan

Specialty Courts



The County Mental Health Law Plan (CMHLP) seeks to offer pilot program counties JCMH technical assistance, tools, and resources including a checklist and template to support their work in creating such a County Mental Health Law Plan over a six-month period. The goals of the pilot are to determine if creating such a plan encourages discussions that add collaboration, efficiency, cost-savings, and accountability to county mental health law systems.

Arrival at Jail



Defendant arrested on any offense.

This is new as of 2023!

Arrival at Jail

Law Enforcement: Drop off defendant; tell jailers anything that may be a sign or symptom of MI or IDD

Jailers: Tell the Judge within 12 hours of discovering credible information that this person may have MI or IDD.

How do they know?

- a. Initial Identification Information can come from ANY source of credible information.*

Identification of Individual Suspected of Mental Illness



Initial Identification Information can come from ANY source of credible information.

Observations of:

- ▶ Law Enforcement
- ▶ Jail Staff*
- ▶ Magistrate Judge

Later in the process, observations of:

- ▶ Pretrial services
- ▶ Attorneys

Other Sources:

- ▶ Texas Commission on Jail Standards (TCJS) Jail Screening Form –mandatory for all jail intake
- ▶ TLETS CCQ (Texas Law Enforcement Telecommunications System, Continuity of Care Query)
- ▶ Witnesses / Witness Statements / Probable Cause Affidavit
- ▶ Staff familiar with the individual from the Local Mental Health Authority (LMHA), Local Intellectual or Developmental Disability Authority (LIDDA), or other care providers
- ▶ Defendant's family members or friends
- ▶ Medication brought into the jail with or for the defendant

TCJS Screening Form



Screening Form for Suicide and Medical/Mental/Developmental Impairments		
County:	Date and Time:	Name of Screening Officer:
Inmate's Name:	Gender:	DOB: <input type="checkbox"/> If female, pregnant? Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown <input type="checkbox"/>
Serious injury/hospitalization in last 90 days? Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, describe:		
Currently taking any prescription medications? Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, what:		
Any disability/chronic illness (diabetes, hypertension, etc.) Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, describe:		
Does inmate appear to be under the influence of alcohol or drugs? Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, describe:		
Do you have a history of drug/alcohol abuse? If yes, note substance and when last used		
* Do you think you will have withdrawal symptoms from stopping the use of medications or other substances (including alcohol or drugs) while you are in jail? If yes, describe		
* Have you ever had a traumatic brain injury, concussion, or loss of consciousness? Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, describe:		
* If yes, Notify Medical or Supervisor Immediately		
Place inmate on suicide watch if Yes to 1a-1d or at any time jailer/supervisor believe it is warranted		
	YES	NO
IF YES TO 1a, 1b, 1c, or 1d BELOW, NOTIFY SUPERVISOR, MAGISTRATE, AND MENTAL HEALTH IMMEDIATELY		
Is the inmate unable to answer questions? If yes, note why, notify supervisor and place on suicide watch until form completed.		
1a. Does the arresting/transporting officer believe or has the officer received information that inmate may be at risk of suicide?		
1b. Are you thinking of killing or injuring yourself today? If so, how?		
1c. Have you ever attempted suicide? If so, when and how?		
1d. Are you feeling hopeless or have nothing to look forward to?		
IF YES TO 2-12 BELOW, NOTIFY SUPERVISOR AND MAGISTRATE. Notify Mental Health when warranted		
2. Do you hear any noises or voices other people don't seem to hear?		
3. Do you currently believe that someone can control your mind or that other people can know your thoughts or read your mind?		
4. Prior to arrest, did you feel down, depressed, or have little interest or pleasure in doing things?		
5. Do you have nightmares, flashbacks or repeated thoughts or feelings related to PTSD or something terrible from your past?		
6. Are you worried someone might hurt or kill you? If female, ask if they fear someone close to them.		
7. Are you extremely worried you will lose your job, position, spouse, significant other, custody of your children due to arrest?		
8. Have you ever received services for emotional or mental health problems?		
9. Have you been in a hospital for emotional/mental health in the last year?		
10. If yes to 8 or 9, do you know your diagnosis? If no, put "Does not know" in comments.		
11. In school, were you ever told by teachers that you had difficulty learning?		
12. Have you lost / gained a lot of weight in the last few weeks without trying (at least 5lbs.)?		
IF YES TO 13-16 BELOW, NOTIFY SUPERVISOR, MAGISTRATE, AND MENTAL HEALTH IMMEDIATELY		
13. Does inmate show signs of depression (sadness, irritability, emotional flatness)?		
14. Does inmate display any unusual behavior, or act or talk strange (cannot focus attention, hearing or seeing things that are not there)?		
15. Is the inmate incoherent, disoriented or showing signs of mental illness?		
16. Inmate has visible signs of recent self-harm (cuts or ligature marks)?		
Additional Comments (Note CCQ Match here):		
Magistrate Notification Date and Time: Electronic or Written (Circle)	Mental Health Notification Date and Time:	Medical Notification Date and Time:
Supervisor Signature, Date and Time:		

TCJS Screening Form



	Yes	No	Requires Comments
IF YES TO 1a, 1b, 1c, or 1d BELOW, NOTIFY SUPERVISOR, MAGISTRATE, AND MENTAL HEALTH IMMEDIATELY			
Is the inmate unable to answer questions? If yes, note why, notify supervisor and place on suicide watch until form completed.			
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Additional Comments (Note CCQ Match here):			


The Interview

Lived Experience Story



Stop Minding your own Business



The background of the entire slide is a photograph of the Golden Gate Bridge in San Francisco, California. The bridge's iconic orange-red towers and suspension cables are visible against a clear blue sky. The bridge spans across a body of water, with hills and buildings visible in the distance.

Stop Minding Your Own Business

Are you
okay?



Are you
thinking about
hurting
yourself?



Do you
have a
plan?

Interview of the Defendant

- ▶ What does that look like?
- ▶ An interview may be conducted in person **in the jail, by telephone, or through a telemedicine medical service or telehealth service.**

LMHA Conducts Interview

TCOOMMI 16.22 Report Form

**COLLECTION OF INFORMATION FORM FOR
MENTAL ILLNESS AND INTELLECTUAL DISABILITY**
AUTHORITY: Texas Code of Criminal Procedure art. 16.22; Texas Health and Safety Code § 614.0032
Approved by the Texas Correctional Office on Offenders with Medical or Mental Impairments (TCOOMMI)

SECTION I: DEFENDANT INFORMATION
Defendant Name (Last, First): _____ Offense: _____
Date of Birth: _____ CARE Identification # (If available): _____ SID or CID # (If available): _____
Last Four Digits of Social Security Number: _____
Current County or Municipality of Incarceration: _____ Date of Magistrate Order: _____

SECTION II: PREVIOUS HISTORY
Has the defendant been determined to have a mental illness or to be a person with an intellectual disability within the last year?
 Yes No Unknown
Date of Previous Written Report of Collected Information (if applicable): _____
Previous Mental Health and/or Intellectual Disability Information (if available): _____

SECTION III: CURRENT INFORMATION
Most Recent Diagnosis(es) and Date(s) (if available): _____

At time of the collection of information or as indicated on the jail screening form for suicide and medical/mental/developmental impairments, is the defendant acutely decompensated, suicidal, or homicidal according to self-report?
 Yes- Circle Above No Not Applicable- Reason _____
Other relevant information pertaining to mental health and intellectual disability history and/or previous treatment or service recommendations:

Observations and Findings Based on Information Collected:
 Defendant is a person who has a mental illness. Defendant is a person who has an intellectual disability.
 There is clinical evidence to support the belief that the defendant may be incompetent to stand trial and should undergo a complete competency examination under Subchapter B, Chapter 46B, Code of Criminal Procedure.
 Any appropriate or recommended treatment or service:

 None of the above.

Procedures Used to Gather Information:

SECTION IV: INFORMATION OF PROFESSIONAL SUBMITTING FORM
Name, Credentials & Organization of Person Submitting Form: _____ Date of Submission: _____
This form and the contents herein may only be shared in accordance with Texas Health and Safety Code § 614.017 and Texas Code of Criminal Procedure article 16.22(f). This form and its contents are otherwise confidential and not subject to disclosure under Chapter 552 of the Government Code.



What to look for on a 16.22 Report

Observations and Findings Based on Information Collected:

- Defendant is a person who has a mental illness. Defendant is a person who has an intellectual disability.
- There is clinical evidence to support the belief that the defendant may be incompetent to stand trial and should undergo a complete competency examination under Subchapter B, Chapter 46B, Code of Criminal Procedure.
- Any appropriate or recommended treatment or service:

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Magistrate sends the report to:

- ▶ **Defense Counsel** – *Diversion alternatives, treatment ideas, Trial Preparations, discovery requests, plea negotiations*
- ▶ **State's Attorney** – *bond or probation conditions, plea offers, mens rea, discovery*
- ▶ **Trial Court** – *diversion, bond or probation conditions, treatment alternatives, timeline of case*
- ▶ **Sheriff** (or holder of medical records of Defendant) – *medical attention in the jail or later in prison, competency, special holding units, diversion, medical issues*
- ▶ **Personal Bond Office / Director of Pretrial Services** – *personalized treatment, caseload, and conditions*

Using the 16.22 Report Pre-Trial

- ▶ Personalized pretrial or bond conditions
- ▶ Personalized treatment plans
- ▶ Case Workers (through the LMHA)
- ▶ Insight into the human behind the report

Communication is Essential

- ▶ Communication between the Courts and LMHA about the defendant *for purposes of the continuity of care and services for the defendant.*



Information Sharing Tex. Health & Safety Code § 614.017

- ▶ State law requires that agencies share information for purposes of continuity of care and services for “special needs offenders”
- ▶ This includes individuals:
 - for whom criminal charges are pending or
 - who, after conviction or adjudication, is in custody or under any form of criminal justice supervision.
- ▶ Specifically, an agency must:
 - accept information relating to a special needs offender or a juvenile with a mental impairment that is sent to the agency *to serve the purposes of continuity of care and services* regardless of whether other state law makes that information confidential; and
 - disclose information relating to a special needs offender or a juvenile with a mental impairment, including information about the offender's or juvenile's identity, needs, treatment, social, criminal, and vocational history, supervision status and compliance with conditions of supervision, and medical and mental health history, *if the disclosure serves the purposes of continuity of care and services.*

Information Sharing

Tex. Health & Safety Code § 614.017



An “agency” includes any of the following entities and individuals, a person with an agency relationship with one of the following entities or individuals, and a person who contracts with one or more of the following entities or individuals:

- A. the Texas Department of Criminal Justice and the Correctional Managed Health Care Committee;
- B. the Board of Pardons and Paroles;
- C. the Department of State Health Services;
- D. the Texas Juvenile Justice Department;
- E. the Department of Assistive and Rehabilitative Services;
- F. the Texas Education Agency;
- G. the Commission on Jail Standards;
- H. the Department of Aging and Disability Services;
- I. the Texas School for the Blind and Visually Impaired;
- J. **community supervision and corrections departments** and local juvenile probation departments;
- K. **personal bond pretrial release offices** established under Article 17.42, Code of Criminal Procedure;
- L. **local jails** regulated by the Commission on Jail Standards;
- M. a municipal or county health department;
- N. a hospital district;
- O. a **judge** of this state with jurisdiction over juvenile or criminal cases;
- P. an **attorney** who is appointed or retained to represent a special needs offender or a juvenile with a mental impairment;
- Q. the Health and Human Services Commission;
- R. the Department of Information Resources;
- S. the bureau of identification and records of the Department of Public Safety, for the sole purpose of providing real-time, contemporaneous identification of individuals in the Department of State Health Services client data base; and
- T. the Department of Family and Protective Services.

Options for the Trial Court

- ▶ Continue Criminal Proceedings
- ▶ Competency Proceedings
- ▶ Specialty Courts
- ▶ Consider the report during punishment
- ▶ Dismiss and Transfer Procedure

- ▶ Use as part of MH personal bonds

Mental Health Personal Bonds

What are they?

Why are they Important?

How can they be used?

2023 Changes

When are they required?

Who can start this process?

Mental Health Personal Bonds

- ▶ What are they?
 - CCP art. 17.032 - *Release on Personal Bond of Certain Defendants with Mental Illness or Intellectual Disability*

What people think it is




Chance

**GET OUT OF
JAIL FREE**

THIS CARD MAY BE KEPT UNTIL NEEDED OR SOLD

What it really is



*Mental Health
Personal
Bond*

**GET OUT OF
JAIL FREE**

WITH PERSONALIZED CONDITIONS THAT MANDATE TREATMENT FOR MENTAL ILLNESS OR SERVICES FOR IDD + OTHER CONDITIONS, AS DEEMED NECESSARY BY THE COURT, WHICH ENSURE YOUR RETURN TO COURT AND THE SAFETY OF THE COMMUNITY & VICTIM.

Mental Health Bonds

- ▶ Why are they important?



Mental Health Bonds

- ▶ How can they be used?
 - Release directly into inpatient services from the jail
 - Release into the community to get services
 - Other circumstances as they arise

Personal Bonds

S.B. 2479

**Amended
CCP
Art. 17.03**

- 1) Harmonizes Mental Health Personal Bonds with Prior Amendments (2021's SB 6)

Was:

- Conflicting list of what was considered a “violent offense” for purposes of personal bonds.

History of Personal Bond Statutes

- ▶ CCP 17.032 had a list of violent offenses for which mental health personal bonds were not allowed.
- ▶ CCP 17.03 was dramatically changed by SB 6 in 2021.
- ▶ One of these changes was adding more violent offenses for which personal bonds were not allowed.
- ▶ While S.B. 6 did not repeal CCP 17.032, the list of “violent offenses” for which an individual is not eligible for personal bond differed between 17.03 and 17.032.
- ▶ This created a conflict in the law.

Personal Bonds

S.B. 2479

Amended CCP Art. 17.03

1) Harmonizes Mental Health Personal Bonds with Prior Amendments (2021's SB 6)

Now:

- 17.03 carves out 17.032 as an exception

Except as provided by Articles [15.21](#), [17.032](#), [17.033](#), and [17.151](#), a defendant may not be released on personal bond if the defendant:
(1) is charged with an offense involving violence;

- Use 17.032 list for MH Personal Bonds

SB 6 (2021) Changes

- Conflict between “violent offenses” in personal bonds

17.03(b-d)(2) Violent Offenses effective 12.2.21	17.032(a) Violent Offenses
Sec. 19.02 (murder)	Sec. 19.02 (murder)
Sec. 19.03 (capital murder)	Sec. 19.03 (capital murder)
Sec. 20.03 (kidnapping)	Sec. 20.03 (kidnapping)
Sec. 20.04 (aggravated kidnapping)	Sec. 20.04 (aggravated kidnapping)
Sec. 20A.02 (trafficking of persons)	
Sec. 20A.03 (continuous trafficking of persons)	Sec. 20A.03 (continuous trafficking of persons)
Sec. 21.02 (continuous sexual abuse a young child or disabled person)	Sec. 21.02 (continuous sexual abuse a young child or disabled person)
Sec. 21.11 (indecenty with a child)	Sec. 21.11 (indecenty with a child)
Sec. 22.01(a)(1) (assault – punishable as 2 nd degree felony under subsection (b-2))	
Sec. 22.01(a)(1) (assault – punishable as felony & involves family violence, defined by Tex. Fam. Code Sec. 71.004.)	Sec. 22.01(a)(1) (assault – punishable as felony & involves family violence, defined by Tex. Fam. Code Sec. 71.004.)
Sec. 22.011 (sexual assault)	Sec. 22.011 (sexual assault)
Sec. 22.02 (aggravated assault)	Sec. 22.02 (aggravated assault)
Sec. 22.021 (aggravated sexual assault)	Sec. 22.021 (aggravated sexual assault)
Sec. 22.04 (injury to a child, elderly individual, or disabled individual)	Sec. 22.04 (injury to a child, elderly individual, or disabled individual)
Sec. 25.072 (repeated violation of certain court orders or conditions of bond in family violence, child abuse or neglect, sexual assault or abuse, indecent assault, stalking, or trafficking)	
Sec. 25.11 (continuous family violence)	
Sec. 29.03 (aggravated robbery)	Sec. 29.03 (aggravated robbery)
Sec. 38.14 (taking or attempting to take a weapon from a peace officer, federal special investigator, correctional facility employee or official, parole officer, probation and corrections officer, or commissioned security officer)	
Sec. 43.04 (aggravated promotion of prostitution). If the defendant is not alleged to have engaged in conduct constituting an offense under Sec. 43.02(a).	
Sec. 43.05 (compelling prostitution)	
Sec. 43.25 (sexual performance by a child)	

Back to Ms. Garcia



17.03(b-d)(2) Violent Offenses effective 12.2.21	17.032(a) Violent Offenses
Sec. 19.02 (murder)	Sec. 19.02 (murder)
Sec. 19.03 (capital murder)	Sec. 19.03 (capital murder)
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Sec. 22.01(a)(1) (assault – punishable as 2 nd degree felony under subsection (b-2))	
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Sec. 22.021 (aggravated sexual assault)	Sec. 22.021 (aggravated sexual assault)
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This can include assault of a person the actor knows is a peace officer or judge while that person is lawfully discharging an official duty (e.g., executing emergency detention or taking person to ER).

Assault on a Hospital employee is 3F.

Mental Health Bonds

- ▶ Who can start the process?
 - Sua sponte by the judge
 - Defense attorney
 - Prosecutor
- ▶ YOU can talk to all these people!

Mental Health Bonds

- ▶ When is it required? [CCP 17.032\(b\)](#)
 1. A magistrate SHALL, **unless good cause shown**, release a defendant on a personal bond if...
 - D is not charged with, or previously convicted of, a violent offense;
 - D's 16.22 report:
 - shows that the D has a mental illness or is a person with IDD;
 - recommends MH treatment or IDD services; and
 - Those services are availableAND
 2. Magistrate finds that release on personal bond would reasonably assure appearance in court and safety of community and victim

Mental Health Bonds

- ▶ Conditions of Release? [CCP 17.032\(c\)](#)
 - Magistrate MUST, **unless good cause shown**, require treatment or services as a condition of release if...
 - MI or IDD is chronic in nature, or
 - Ability to function independently will deteriorate without services.
 - Magistrate MAY also require reasonably necessary conditions to ensure appearance in court and safety of community and victim

Best Practices

- ▶ Specialized Bond Conditions for MH Bonds
 - Be *realistic* on what is achievable for success
 - Nothing about us without us
 - Voice (Procedural Justice): What would help you make sure you get to court, what would help you stay out of trial?
- ▶ Specialized Caseloads for Pretrial Services
- ▶ Alerts when 16.22 reports come in or when high utilizers get booked into the jail again
- ▶ Open communication with the attorneys and judges
- ▶ Status meetings (Starfish meetings)

Questions?



Thank you!!

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