

Improved Access to Forensic Services

Relating to amending various provisions of the Code of Criminal Procedure to improve access to forensic services



TEXAS
Health and Human
Services

Sen. Judith Zaffirini • Senate Bill 562

Problem

- Demand for inpatient psychiatric care, including competency restoration and treatment for people found not guilty by reason of insanity, exceeds funded capacity at the state hospitals and other state-funded facilities. This is especially true for maximum security services.
- Current statutes prescribe treatment in a maximum security unit (MSU) for people found not guilty by reason of insanity and those deemed incompetent to stand trial for charges listed in Article 17.032(a) of the Code of Criminal Procedure. This means legal criteria rather than clinical necessity determines which facility a person is admitted to. Neither the judge nor a mental health professional has discretion on where a person gets treatment. This significantly impacts the waitlists, as the longest wait times are for people statutorily required to be admitted to an MSU.

Solution

- This initiative aims to untangle the legal responsibility of the judiciary with the mental health responsibility of the clinicians to ensure a person is receiving treatment in the most appropriate setting.
- It would allow trained clinicians to determine where an individual who commits a serious crime gets treatment.
- It also proposes changes to the bond release conditions. If a judge determines a person is suitable for release on bond, a state hospital would not be the appropriate treatment setting for the person.

What happens if we don't change the statute?

People who commit serious crimes will get treatment based on their crime instead of their clinical need.

Questions, comments or concerns?

Contact Maggie Irwin • Maggie.Irwin@hsc.state.tx.us

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Q&A

How will you determine where people go?

Currently, the crime a person is charged with committing determines where they get competency restoration services. Certain violent offense charges require a person to be first committed to a maximum security unit for restoration. Neither the circumstances around the charges, nor the clinical issues related to a person's mental state, are considered. Under this proposed statute change, a team of experts will look at relevant information such as circumstances of the incident, clinical presentation, any history of violence or previous mental health treatment, input from the family, and any other available information to determine the best location for restoring the person to competence.

Though the statute change would not require any specific crime to automatically go to the MSU, HHSC anticipates people charged with certain crimes (such as murder or sexual assault) would still be admitted to maximum security automatically.

What offenses automatically require maximum security admission?

Currently, a defendant is committed to a maximum security facility if they are charged with a violent offense, such as murder; capital murder; kidnapping; aggravated kidnapping; indecency with a child; sexual assault; aggravated sexual assault; injury to a child, or a person who is elderly or disabled; aggravated robbery; continuous sexual abuse of young child or children; or continuous trafficking of people. Additionally, if there is an allegation of the use or exhibition of a deadly weapon, a person will be committed to a maximum security facility (Code of Criminal Procedure, Article 46B.104).

What is the most commonly charged offense for patients with a maximum security commitment?

Aggravated assault.

How many people will be diverted from an MSU under these changes?

Currently, 350 people on the maximum security waitlist have an offense charge other than murder or sexual assault. These cases would be reviewed by a team of experts to determine which facility is most appropriate to serve them based on other clinical factors. Until each case is reviewed, it is not clear how many would actually be diverted.

How long will it take to clear the waitlist with these changes?

Currently there are two waitlists: one for the designated maximum security beds, and one for the non-maximum security beds. Only 300 out of the approximately 2,270 state hospital beds in operation are maximum security. The statutory change would not necessarily clear the waitlist, but it would potentially reduce the time people wait for competency restoration, because there would be more non-maximum security beds available.

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