

Texas Mental Health Law – Tips for What You Need to Know!

- Given 2019 amendments, a full assessment for mental illness or IDD is not required under Tex. Code Crim. Proc. art. 16.22. Instead, the LMHA, LIDDA, or another qualified MH or IDD expert is to “interview” the defendant and collect required information.
- Additional 2019 amendments to art. 16.22(c)(5) provide a roadmap for a criminal court to release a defendant with MI or IDD on bail and transfer the defendant by court order to the appropriate court for court-ordered outpatient mental health services under Chapter 574 of the Health & Safety Code. The judge may only do so “if the offense charged does not involve an act, attempt, or threat of serious bodily injury to another person.” If the judge enters such an order, the attorney for the state will file an application for court-ordered outpatient services. Successful implementation of these provisions will require coordination between the courts handling criminal matters and the court with probate jurisdiction.
- Particularly for misdemeanors, there are important benefits to diversion or dismissal rather than initiating lengthy competency proceedings; the competency system is not an ideal pathway into behavioral health treatment.
- It is a judge’s role to determine competency (absent a demand for a jury trial on the issue), and a judge should critically review an expert’s qualifications and report to ensure quality and appropriate findings.
- Although the number of programs across the state remains relatively low in number, the development of alternatives to inpatient competency restoration is a positive new development in Texas. These include an array of outpatient competency restoration and jail-based competency restoration programs.
- A judge has significant power as a convener. Successful local programs frequently feature a judge who has endeavored to bring together prosecutors, defense attorneys, probation, law enforcement, treatment providers, the LMHA and LIDDA, and – importantly – persons with lived experience, whether personally or with a family member or friend, to coordinate a community response to offenders with MI or IDD.
- Many procedural issues can be readily resolved – and money and time saved – by more transparent and cohesive lines of communication. Courts, LMHAs, and LIDDAs should identify liaisons for both regular and emergency communications.
- Free resources are available. E.g., see [JCMH Bench Book](#) and [Texas Criminal Procedure and the Offender with Mental Illness Guide - Shannon](#).