



# MSU WAIVER PROCESS

The Maximum-Security Unit (MSU) waiver process is utilized for individuals awaiting admission to a State Hospital after having been found incompetent to stand trial (under the Texas Code of Criminal Procedure, Chapter 46B) or who were acquitted as Not Guilty by Reason of Insanity (under the Texas Code of Criminal Procedure, Chapter 46C).



## What is a Maximum-Security Unit waiver?

An MSU waiver allows an individual to be admitted to a non-maximum security state hospital bed, even if the alleged offense would typically require admission to an MSU. The waiver is granted through a Clinical Security Review (CSR).

## What does a Clinical Security Review entail?



The CSR is a clinically-informed screening process to assist in determining the least restrictive, yet clinically appropriate setting, for MSU-bound individuals. Many factors are considered in the review, including:

- The details of the offense
- The individual's current clinical presentation
- Medical complexities
- Intellectual or developmental disabilities
- Prior treatment history
- Risk of elopement or violence
- Community safety
- Bond status and compliance with conditions of bond

## How does an MSU waiver get approved?



A CSR is initiated automatically once HHSC receives the entire commitment packet from the court. An MSU waiver needs to be approved at three levels within HHSC:

- 1st level: Conducted by masters' level clinicians
- 2nd level: Recommended by the Chief of Forensic Medicine or designee
- 3rd level: Approved by the Associate Commissioner of State Hospitals or designee

Once approved, HHSC notifies the court, and the individual is moved to the appropriate non-maximum security waitlist.

## Statutory Authority

Legislation granting HHSC authority to designate the admitting facility for competency restoration services:

- **SB562/HB601:** This law passed during the 86th Regular Session of the Texas Legislature, which went into effect Sept. 1, 2019.
- **Statutory Change to 46B.073(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.