

## **BILL ANALYSIS**

C.S.H.B. 2023  
By: Naishtat  
Public Health  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties assert the need for improved statewide coordination and oversight of forensic and competency restoration services provided to individuals who are determined to be incompetent to stand trial, committed to court-ordered mental services, or found not guilty by reason of insanity. Services can include community-based outpatient competency restoration, jail-based restoration, or inpatient restoration at a state mental health hospital. There is concern that forensic services, which are currently administered by the Department of State Health Services (DSHS), are not adequately coordinated and are not equally utilized in all judicial districts. The interested parties contend that the size and complexity of the forensic population served by DSHS has grown to the extent that a local approach no longer meets the need for efficient statewide and cross-agency coordination between the public mental health and justice systems. As a result, a growing number of individuals in state hospitals are involved in the criminal justice system and more inmates in Texas prisons and jails are living with one or more mental health conditions and substance use disorders. C.S.H.B. 2023 seeks to streamline the provision and coordination of forensic services statewide.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 1 of this bill.

### **ANALYSIS**

C.S.H.B. 2023 amends the Health and Safety Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, to require the commissioner of state health services, as soon as practicable after the bill's effective date, to appoint a forensic director. The bill requires the forensic director to have proven expertise in the social, health, and legal systems for forensic patients and in the intersection of those systems. The bill defines "forensic services" as a competency examination, competency restoration services, or mental health services provided to a current or former forensic patient in the community or at a Department of State Health Services (DSHS) facility. The bill defines "forensic patient" as a person with mental illness who is, under applicable Code of Criminal Procedure provisions, examined on the issue of competency to stand trial by an appointed expert, found incompetent to stand trial, committed to court-ordered mental health services, or found not guilty by reason of insanity.

C.S.H.B. 2023 establishes that the forensic director reports to the commissioner of state health services and is responsible for statewide coordination and oversight of forensic services and any DSHS programs relating to evaluation of forensic patients, transition of forensic patients from

inpatient to outpatient or community-based services, community forensic monitoring, or forensic research and training. The bill establishes that the forensic director is responsible for addressing issues with the delivery of forensic services in Texas, including significant increases in populations with serious mental illness and criminal justice system involvement, adequate availability of DSHS facilities for civilly committed forensic patients, wait times for forensic patients who require competency restoration services, interruption of mental health services of recently released forensic patients, and coordination of services provided to forensic patients by state agencies.

C.S.H.B. 2023 requires the executive commissioner of the Health and Human Services Commission (HHSC) to establish a workgroup of experts and stakeholders to make recommendations concerning the creation of a comprehensive plan for the effective coordination of forensic services. The bill requires the workgroup to have a minimum of nine members, with the executive commissioner selecting the total number of members at the time the executive commissioner establishes the workgroup, and sets out the composition of the workgroup. The bill requires the workgroup to collaborate and align efforts with other workgroups in Texas in developing recommendations, especially workgroups for which the focus is mental health issues, and authorizes the workgroup, in developing recommendations, to use information compiled by those workgroups. The bill requires the workgroup, not later than July 1, 2016, to send a report describing the workgroup's recommendations to the lieutenant governor, the speaker of the house of representatives, and the standing committees of the senate and the house of representatives with primary jurisdiction over forensic services. The bill authorizes the executive commissioner to adopt rules as necessary to implement the workgroup. The bill dissolves the workgroup and sets its provisions governing the workgroup to expire November 1, 2019.

C.S.H.B. 2023 requires the executive commissioner, not later than November 1, 2015, to establish the forensic workgroup, appoint members of the workgroup, and adopt any rules necessary to implement the bill's provisions.

#### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2015.

#### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 2023 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

##### INTRODUCED

SECTION 1. Chapter 532, Health and Safety Code, is amended by adding Section 532.013 to read as follows:

Sec. 532.013. FORENSIC MEDICAL DIRECTOR. (a) In this section:

- (1) "Commissioner" means the commissioner of the department.
- (2) "Department" means the Department of State Health Services.
- (3) "Forensic patient" means a person with mental illness who is:

##### HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Chapter 532, Health and Safety Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended by adding Sections 532.0024 and 532.0025 to read as follows:

Sec. 532.0024. FORENSIC DIRECTOR. (a) In this section:

- (1) "Forensic patient" means a person with mental illness who is:
- (A) examined on the issue of competency to

(A) found incompetent to stand trial under Subchapter C, Chapter 46B, Code of Criminal Procedure;

(B) committed to court-ordered mental health services under Subchapter E, Chapter 46B, Code of Criminal Procedure;

(C) as described by Subchapter F, Chapter 46B, Code of Criminal Procedure, subject to a civil commitment proceeding under Subtitle C, Title 7, for court-ordered mental health services under that subtitle; or

(D) found not guilty by reason of insanity under Chapter 46C, Code of Criminal Procedure.

(4) "Forensic services" means competency restoration services or mental health services provided a forensic patient at a department facility.

(b) The commissioner shall appoint a forensic medical director.

(c) To be qualified for appointment as forensic medical director, a person must:

(1) be a physician licensed to practice in this state; and

(2) have proven expertise in forensic services.

(d) The forensic medical director reports to the commissioner and is responsible for:

(1) statewide coordination and oversight of forensic services;

(2) any programs operated by the department relating to evaluation of forensic patients, transition of forensic patients from inpatient to outpatient or community-based services, community forensic monitoring, or forensic research and training; and

(3) addressing issues with the delivery of forensic services in the state, including:

(A) significant increases in populations with serious mental illness and criminal justice system involvement;

(B) adequate availability of department facilities for civilly committed forensic patients;

(C) wait times for forensic patients who require competency restoration services;

(D) interruption of mental health services of recently released forensic patients; and

(E) coordination of services provided forensic patients by state agencies.

stand trial by an expert appointed under Subchapter B, Chapter 46B, Code of Criminal Procedure;

(B) found incompetent to stand trial under Subchapter C, Chapter 46B, Code of Criminal Procedure;

(C) committed to court-ordered mental health services under Subchapter E, Chapter 46B, Code of Criminal Procedure; or

(D) found not guilty by reason of insanity under Chapter 46C, Code of Criminal Procedure.

(2) "Forensic services" means a competency examination, competency restoration services, or mental health services provided to a current or former forensic patient in the community or at a department facility.

(b) The commissioner shall appoint a forensic director.

(c) To be qualified for appointment as forensic director, a person must have proven expertise in the social, health, and legal systems for forensic patients, and in the intersection of those systems.

(d) The forensic director reports to the commissioner and is responsible for:

(1) statewide coordination and oversight of forensic services;

(2) any programs operated by the department relating to evaluation of forensic patients, transition of forensic patients from inpatient to outpatient or community-based services, community forensic monitoring, or forensic research and training; and

(3) addressing issues with the delivery of forensic services in the state, including:

(A) significant increases in populations with serious mental illness and criminal justice system involvement;

(B) adequate availability of department facilities for civilly committed forensic patients;

(C) wait times for forensic patients who require competency restoration services;

(D) interruption of mental health services of recently released forensic patients; and

(E) coordination of services provided to forensic patients by state agencies.

No equivalent provision.

Sec. 532.0025. FORENSIC WORKGROUP. (a) In this section, "forensic patient" and "forensic services" have the meanings assigned by Section 532.0024.

(b) The executive commissioner shall establish a workgroup of experts and stakeholders to make recommendations concerning the creation of a comprehensive plan for the effective coordination of forensic services.

(c) The workgroup must have not fewer than nine members, with the executive commissioner selecting the total number of members at the time the executive commissioner establishes the workgroup.

(d) The executive commissioner shall appoint as members of the workgroup:

(1) a representative of the department;

(2) a representative of the Texas Department of Criminal Justice;

(3) a representative of the Texas Juvenile Justice Department;

(4) a representative of the Texas Correctional Office on Offenders with Medical or Mental Impairments;

(5) a representative of the Sheriff's Association of Texas;

(6) a superintendent of a state hospital with a maximum security forensic unit;

(7) a representative of a local mental health authority;

(8) a representative of the County Judges and Commissioners Association;

(9) a representative of the protection and advocacy system of this state established in accordance with 42 U.S.C. Section 15043, appointed by the administrative head of that system; and

(10) additional members as needed to comply with the number of members selected by the executive commissioner, who must be recognized experts in forensic patients or persons who represent the interests of forensic patients, and who may be advocates, family members, psychiatrists, psychologists, social workers, psychiatric nurses, or representatives of hospitals licensed under Chapter 241 or 577.

(e) In developing recommendations, the workgroup may use information compiled by, and shall collaborate and align efforts with, other workgroups in the state, especially workgroups for which the focus is

mental health issues.

(f) Not later than July 1, 2016, the workgroup established under this section shall send a report describing the workgroup's recommendations to the lieutenant governor, the speaker of the house of representatives, and the standing committees of the senate and the house of representatives with primary jurisdiction over forensic services.

(g) The executive commissioner may adopt rules as necessary to implement this section.

(h) The workgroup established under this section is dissolved and this section expires November 1, 2019.

No equivalent provision.

SECTION 2. Not later than November 1, 2015, the executive commissioner of the Health and Human Services Commission shall:

(1) establish a forensic workgroup and shall appoint members of that workgroup, as required by Section 532.0025, Health and Safety Code, as added by this Act; and

(2) adopt any rules necessary for the implementation of Section 532.0024 or 532.0025, Health and Safety Code, as added by this Act.

SECTION 2. The commissioner of the Department of State Health Services shall appoint a forensic **medical** director as required by Section 532.013, Health and Safety Code, as added by this Act, as soon as practicable after the effective date of this Act.

SECTION 3. The commissioner of state health services shall appoint a forensic director as required by Section 532.0024, Health and Safety Code, as added by this Act, as soon as practicable after the effective date of this Act.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

SECTION 4. Same as introduced version.