

BILL ANALYSIS

Senate Research Center
80R11843 KEL-D

C.S.S.B. 441
By: Deuell
Criminal Justice
4/18/2007
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The current overflow of individuals requiring the services of state mental health facilities has led to a six- to eight-month waiting list for treatment for those individuals. During this time, the condition of those individuals who are on the waiting list may deteriorate. Changes to the statutory procedure regarding the determination of competency for potentially mentally ill offenders may make this process more efficient and more quickly address those on the waiting list.

C.S.S.B. 441 limits the timeframe in which a party can object to the report on a defendant's competency from 15 to 10 days. This bill also requires that the competency hearing is to be held within 20 days, rather than 30 days, following the date of objection unless continued for good cause for a period not to exceed 20 days.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 46B.079, Code of Criminal Procedures, as follows:

Art. 46B.079. RETURN TO COMMITTING COURT. (a) Requires a defendant committed under this subchapter (Procedures After Determination of Incompetency) to be returned to the committing court as soon as practicable after notice to the court is provided under Article 46B.080(a), Code of Criminal Procedure, but not later than the date on which the defendant's term of commitment expires, subject to Article 46B.082(b), Code of Criminal Procedure.

(b) Requires a defendant determined to be incompetent, and whose resultant term of commitment has not expired, to be returned to the committing court as soon as practicable after the 10th, rather than 15th, day following the date on which the parties receive services on any report filed with the committing court regarding the defendant's ability to attain competency as described by Article 46B.080(b), Code of Criminal Procedure, except that the defendant is prohibited from being returned to the committing court earlier than 72 hours before the date the hearing is scheduled if a party objects to the findings of the report not later than the 10th day after the date of service on said report. Provides that this subsection is subject to Article 46B.082(c).

SECTION 2. Amends Article 46B.082(b), Code of Criminal Procedures, to require the head of a facility of the Department of State Health Services to which a defendant has been committed and from which the defendant has not been transported before the 10th, rather than the 15th, day after the date on which the court received notice regarding the defendant's competency, or if, with respect to that defendant, the court received notification under Article 46B.080(b), Code of Criminal Procedure, and neither party objected in a timely manner to the findings of the report, to transport the defendant to the committing court and to place the defendant into the custody of the sheriff of the county of the committing court's location.

SECTION 3. Amends Articles 46B.084(a) and (c), Code of Criminal Procedure, as follows:

(a) Makes a conforming change.

(c) Requires a hearing in regards to the return of a defendant to the committing court to be held no later than the 20th day after the date of objection, rather than within 30 days following that date, unless continued for good cause for a period not to exceed 20 days, rather than 30 days.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: September 1, 2007.