

BILL ANALYSIS

C.S.S.B. 562
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Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Individuals with mental illness or intellectual disabilities who are charged with violent or sexual offenses and are found incompetent to stand trial or are acquitted by reason of insanity wait for prolonged periods of time in county jails without adequate mental health treatment until they are sent to maximum security units and then assessed to determine whether the unit is an appropriate setting for competency restoration for them. Concerns have been raised that these initial placements, in addition to being inefficient and unnecessary for individuals for whom it is determined that maximum security placement is not appropriate, may be detrimental to these individuals' mental health. C.S.S.B. 562 seeks to address these issues by revising the criminal and juvenile procedures regarding persons who are or may be persons with mental illness or intellectual disability, including by ensuring that the adequate location for a defendant required to receive competency restoration is determined at the outset, rather than waiting for the defendant to be sent to a maximum security unit first before determining the adequate treatment setting.

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

ANALYSIS

C.S.S.B. 562 amends the Code of Criminal Procedure to require a county that transfers a defendant to the Texas Department of Criminal Justice (TDCJ) to deliver to a TDCJ-designated officer a copy of any mental health records, mental health screening reports, or similar information regarding the mental health of a defendant.

C.S.S.B. 562 limits the facilities for which the Health and Human Services Commission (HHSC) may designate the commitment of a defendant who is incompetent to stand trial to facilities operated by HHSC or under a contract with HHSC for such purpose. The bill revises the requirement for the civil commitment of a defendant who is incompetent to stand trial and charged with a violent offense other than for assault involving certain conduct or for whom the indictment charging the offense contains an affirmative finding that the offense involved the use or exhibition of a deadly weapon to a maximum security unit of certain facilities as follows:

- by removing the exception to the requirement for a defendant who is charged with assault involving certain conduct; and
- by removing the condition that the commitment must be to a maximum security unit.

C.S.S.B. 562 authorizes the assessment of a defendant committed to a maximum security unit by HHSC, at any time before the defendant is restored to competency, by the review board appointed by the executive commissioner of HHSC to determine whether the defendant is manifestly dangerous. If the review board determines the defendant is not manifestly dangerous, HHSC is required to transfer the defendant to a non-maximum security facility designated by HHSC. The bill requires a committing court, on receiving notice from the head of a facility or outpatient treatment provider of intent to release a committed defendant, to hold a hearing to determine whether release is appropriate under certain criteria and specifies that the court may hold the hearing on motion of the attorney representing the state or on its own motion, regardless of whether the court receives such a notice of intent to release the defendant.

C.S.S.B. 562 limits the facilities which HHSC may designate for the commitment of a defendant who is acquitted by reason of insanity to facilities operated by HHSC or under a contract with HHSC for such purpose. The bill revises the requirement for a person who is committed under statutory provisions relating to disposition of a defendant following acquittal by reason of insanity to be committed to a maximum security unit of certain facilities by removing the condition that the commitment must be to a maximum security unit.

C.S.S.B. 562 amends the Health and Safety Code to revise the definition of "forensic patient," for purposes of statutory provisions setting out the duties of the forensic director, by:

- adding a person with an intellectual disability to the definition; and
- adding to the definition the specification that such a patient is a person with a mental illness or a person with an intellectual disability who is examined on the issue of fitness to proceed with juvenile court proceedings by an applicable expert or who is found unfit to proceed with juvenile proceedings for delinquent conduct or conduct indicating a need for supervision.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2019.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 562 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

The substitute includes provisions limiting the facilities for which HHSC may designate the commitment of certain defendants who are incompetent to stand trial or of a defendant who is acquitted by reason of insanity to facilities operated by HHSC or under a contract with HHSC for such a purpose.