

BILL ANALYSIS

Senate Research Center
76R8609 PEP-D

H.B. 2765
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Criminal Justice
5/13/1999
Engrossed

DIGEST

In 1991, the legislature made revisions to Subtitles C and D, Health and Safety Code. Among those changes were modifications of the definition of mental retardation. Cross-references throughout the code were not changed. H.B. 2765 contains nonsubstantive revisions to correct cross-references pertaining to the revision of the definition of mental retardation in the Health and Safety Code.

PURPOSE

As proposed, H.B. 2765 contains nonsubstantive revisions to correct cross-references pertaining to the revision of the definition of mental retardation in the Health and Safety Code.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 3(d), Article 46.02, Code of Criminal Procedure, to provide that the provisions of this section (Examination of the Defendant) refers to a determination of whether the defendant is a person with mental retardation as defined by Section 591.003 (Definitions), Health and Safety Code, rather than a mentally retarded person as defined in Article 5547-300, V.T.C.S. (Mentally Retarded Persons Act of 1977). Makes conforming and nonsubstantive changes.

SECTION 2. Amends Section 4(a), Article 46.02, Code of Criminal Procedure, to provide that the provisions of this section (Incompetency Hearing) refer to a determination of whether the defendant is a person with mental retardation as defined by Section 591.003, Health and Safety Code, rather than a mentally retarded person as defined in Article 5547-300, V.T.C.S. (Mentally Retarded Persons Act of 1977). Makes conforming and nonsubstantive changes.

SECTION 3. Amends Sections 6(b), (c), and (d), Article 46.02, Code of Criminal Procedure, as follows:

(b) Provides that the proceedings under this section (Civil Commitment - Charges Pending) are governed by Subtitle C (Texas Mental Health Code), Title 7, Health and Safety Code, to the extent that subtitle applies, rather than Article 5547-1 et seq., V.T.C.S. (Texas Mental Health Code). Authorizes certain instructions to the jury based on a determination of whether the defendant has been in a mental hospital for at least 60 days or under Order of Temporary Commitment under Title 7C, Health and Safety Code, rather than pursuant to the provisions of Article 5547-1 et seq., V.T.C.S., within the twelve months preceding the hearing described in this section. Makes conforming and nonsubstantive changes.

(c) Requires a defendant ordered committed under this section to be treated and released in accordance with Title 7C, Health and Safety Code, rather than Article 5547-300, V.T.C.S. Makes conforming and nonsubstantive changes.

(d) Prohibits the application of provisions of Subtitles C and D (Persons With Mental Retardation Act), Title 7, Health and Safety Code, rather than Article 5547-1 et seq., V.T.C.S., relating to notice of hearings in proceedings conducted under this section. Requires appeals from the criminal court proceedings under this section to be to the court of appeals as in the proceedings for court-ordered mental health services under Title 7C, Health and Safety Code, rather than the Texas Mental Health Code, or for commitment to a mental retardation facility under Title 7D, Health and

Safety Code, rather than Article 5547-1 et seq., V.T.C.S.. Makes conforming and nonsubstantive changes.

SECTION 4. Amends Section 7, Article 46.02, Code of Criminal Procedure, to clarify that the Order of Protective Custody described in this section (Civil Commitment - Charges Dismissed) is issued under Title 7C, Health and Safety Code, rather than pursuant to provisions of the Texas Mental Health Code.

SECTION 5. Amends Sections 8(a) and (e), Article 46.02, Code of Criminal Procedure, as follows:

(a) Provides that a finding that the person is not manifestly dangerous is not a medical determination that the person no longer meets the criteria for involuntary civil commitment under Subtitles C and D, Title 7, Health and Safety Code, rather than Article 5547-1 et seq., V.T.C.S. or Article 5547-300, V.T.C.S. Makes conforming and nonsubstantive changes.

(e) Authorizes the court to civilly recommit a person in accordance with this section (General) under Subtitles C and D, Title 7, Health and Safety Code, rather than pursuant to the provisions of Article 5547-1 et seq., V.T.C.S. or pursuant to the provisions of Article 5547-300, V.T.C.S. Requires the recommitment to be made to the facility from which the defendant was discharged if accomplished under Title 7C, Health and Safety Code, rather than Article 5547-1 et seq., V.T.C.S. and to the Texas Department of Mental Health and Mental Retardation if accomplished under Title 7D, Health and Safety Code, rather than Article 5547-300, V.T.C.S. Makes conforming and nonsubstantive changes.

SECTION 6. Emergency clause.
Effective date: upon passage.