

BILL ANALYSIS

Senate Research Center
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S.B. 679
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Jurisprudence
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AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

The 78th Legislature, Regular Session, passed a comprehensive rewrite of the criminal competency statute, Article 46B, Code of Criminal Procedure. This legislation is a clean up and modification of that Act.

As proposed, S.B. 679 modifies the statute to allow for a hearing to determine the competency of a defendant to stand trial to be held via teleconference; allows a defendant to remain at the state hospital pending the actual setting of a trial or hearing date (instead of the detainee remaining in the county jail); requires the defendant to be transported within 72 hours of the court date; and allows the state to dismiss criminal charges against a defendant while the competency issue is being resolved. Transition language provides that all defendants in the system will be examined under the new guidelines.

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.001, Code of Criminal Procedure, by adding Subdivision (9) to define "electronic broadcast system."

SECTION 2. Amends Article 46B.004, Code of Criminal Procedure, by amending Subsection (d) and adding Subsection (e), as follows:

(d) Makes a conforming change.

(e) Authorizes the court on the motion of the attorney representing the state, at anytime during the proceedings under this chapter after the issue of the defendant's incompetency to stand trial is first raised, to dismiss all charges pending against the defendant, regardless of whether there is any evidence to support a finding of the defendant's incompetency under Subsection (d) or whether the court has made a finding of incompetency under this chapter. Prohibits the court, if the court dismisses the charges against the defendant, to continue the proceedings under this chapter, except that, if there is evidence to support a finding of the defendant's incompetency under Subsection (d), the court may proceed under Subchapter F (Extended Commitment: Charges Dismissed). Requires the court, if the court does not elect to proceed under Subchapter F, to discharge the defendant.

SECTION 3. Amends Article 46B.079, Code of Criminal Procedure Code, as follows:

Art. 46B.079. RETURN TO COMMITTING COURT. (a) Creates this subsection from existing text. Requires a defendant committed under this subchapter to be returned to the committing court as soon as practicable after the date on which the defendant's term of commitment expires.

(b) Requires a defendant committed under this subchapter whose term of commitment has not yet expired to be returned to the committing court as soon as practicable after the 15th day following the date on which the parties receive

service on any report filed under Article 46B.080(b) (Notice to Committing Court) regarding the defendant's ability to attain competency, except that, if a party objects to the findings of the report and the issue is set for a hearing under Article 46B.084 (Proceedings on Return of Defendant to Court), the defendant is prohibited from being returned to the committing court earlier than 72 hours before the date the hearing is scheduled. Deletes existing text relating to the timeline of a committed defendant's return to the committing court.

SECTION 4. Amends Article 46B.107(d) Code of Criminal Procedure, to authorize the court to conduct the hearing at the facility or by means of an electronic broadcast system.

SECTION 5. Amends Article 46B.113(c), Code of Criminal Procedure Code, to require a jury, if a court holds a hearing under this article, on the request of either party or the motion of the court, to make the competency determination. Authorizes the court, if the competency determination will be made by the court, rather than a jury, to conduct the hearing at the facility or by means of an electronic broadcast system.

SECTION 6. Amends Article 46B.114, Code of Criminal Procedure, as follows:

Art. 46B.114. TRANSPORTATION OF DEFENDANT TO COURT. Requires an order setting a hearing to determine whether the defendant has been restored to competency, if the hearing is not conducted at the facility to which the defendant has been committed under this chapter or conducted by means of an electronic broadcast system as permitted by this subchapter, to direct that, as soon as possible but not earlier than 72 hours before the date the hearing is scheduled, the defendant be placed in the custody of the sheriff of the county in which the committing court is located or the sheriff's designee for transportation to the court. Prohibits the sheriff or the sheriff's designee from taking custody of the defendant under this article until 72 hours before the date the hearing is scheduled.

SECTION 7. Amends Article 46B.115, Code of Criminal Procedure, by adding Subsection (c) to authorize the court, if the competency determination will be made by the court, to conduct the hearing at the facility to which the defendant has been committed under this chapter or to conduct the hearing by means of an electronic broadcast system.

SECTION 8. Amends Article 46B.117(a), Code of Criminal Procedure, to require the court, if a defendant under order of commitment to a facility is found to not have been restored to competency to stand trial, to remand the defendant pursuant to that order of commitment, and if applicable, order the defendant placed in the custody of the sheriff or the sheriff's designee for transportation back to the facility.

SECTION 9. Amends Article 46B.151(a), Code of Criminal Procedure, to make a conforming change.

SECTION 10. Repealer: Article 46B.085, (Recommitment Prohibited), Code of Criminal Procedure.

SECTION 11. (a) and (b) Make application of this Act prospective.

(c) Provides that the change in law made by the repeal of Article 46B.085, Code of Criminal Procedure, applies to a defendant charged with an offense committed before, on or after the effective date of this Act.

SECTION 12. Provides that a determination of incompetency is covered by Chapter 46B (Incompetency to Stand Trial), Code of Criminal Procedure, notwithstanding Section 16, Chapter 35, Acts of the 78th Legislature, for a defendant against whom proceedings were initiated before January 1, 2004, under former Article 46.02 (Insanity as a Defense), Code of Criminal Procedure, and for whom proceedings have not become final before the effective date of this Act.

SECTION 13. Effective date: September 1, 2005.