

BILL ANALYSIS

C.S.H.B. 12
By: Price
Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties report that there is a waiting list for a defendant who is or may be a person with a mental illness or an intellectual disability to be admitted to a state hospital for competency restoration services. This situation can result in a defendant having to spend the often lengthy waiting period in jail. C.S.H.B. 12 seeks to remedy this situation by providing for a jail-based competency restoration program and by making certain other changes to competency restoration procedures.

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.H.B. 12 amends the Code of Criminal Procedure to make the jail-based competency restoration pilot program permanent and to transfer duties and powers regarding the program from the Department of State Health Services to the Health and Human Services Commission (HHSC). The bill authorizes HHSC to develop and implement a jail-based competency restoration program in any Texas county that chooses to participate in the program and to contract with a different provider of jail-based competency restoration services for each program. The bill defines "competency restoration" as the treatment or education process for restoring a person's ability to consult with the person's attorney with a reasonable degree of rational understanding and a rational and factual understanding of the court proceedings and charges against the person. The bill revises the eligibility requirements for a provider of jail-based competency restoration services to contract with HHSC. The bill establishes that the jail-based competency restoration program does not affect the responsibility of a county to provide the same basic care to a participant as is provided to other inmates of the jail in which the participant is located. The bill requires the executive commissioner of HHSC to adopt rules relating to jail-based competency restoration programs not later than November 1, 2017. The bill extends to a jail-based competency restoration program the applicability of statutory provisions relating to the maximum period of a defendant's commitment for competency restoration, the mandatory dismissal of misdemeanor charges against a defendant who has been committed for competency restoration and is not tried before the expiration of the maximum period of restoration, certain expert testimony required for commitment, requirements for a committed defendant's individual treatment program, requirements for notice and reports to the court, transportation of a committed defendant to court, certain information supporting commitment that a program provider is required to submit to the court, and court-ordered medications. The bill repeals a

provision regarding requirements for a contract for jail-based competency restoration services between a provider and a county.

C.S.H.B. 12 extends the duty of a sheriff to provide notice to a magistrate regarding a defendant suspected of having mental illness or intellectual disability to a municipal jailer having custody of such a defendant. The bill changes the deadline for providing such notice from not later than 72 hours after receiving credible information that may establish reasonable cause to believe that a defendant is such a defendant to not later than four hours after receiving that information. The bill restricts the type of defendant for which such notice must be provided to a defendant in custody for an offense punishable as a Class B misdemeanor or any higher category of offense and requires the notice to include any information related to the sheriff's or municipal jailer's determination. The bill includes in the information a local mental health authority, a local intellectual and developmental disability authority, or another qualified mental health or intellectual disability expert is required to collect and provide to a magistrate information regarding any treatment previously recommended to the defendant. The bill specifies the form an expert must use to submit the written assessment of all of the collected information. The bill changes the location in which a magistrate may order a defendant who fails or refuses to submit to the collection of such information to submit to an examination from an appropriate mental health facility to an appropriate jail or another place and reduces the maximum amount of time the magistrate may order the defendant to that location for an examination from 21 days to 48 hours. The bill removes the authorization for a magistrate to order a defendant to certain state-run facilities for an examination. The bill changes the entity that the county in which the committing court is located is required to reimburse for certain costs relating to the defendant's transportation from the applicable facility to which the defendant is ordered to the local mental health authority or local intellectual and developmental disability authority. The bill changes the deadline by which an expert's written assessment must be provided to the magistrate in a misdemeanor case from not later than the 10th day after the date an order for the assessment is issued to not later than the 30th day after that date, limits the applicability of that deadline to a defendant who is released from custody, and sets the deadline for the provision of that assessment to the magistrate for a defendant held in custody at not later than 72 hours after the time an order for the assessment was issued. The bill includes among the actions a trial court may take regarding a defendant determined to have a mental illness or intellectual disability referring the defendant to an appropriate specialty court. The bill requires the magistrate to submit to the Office of Court Administration (OCA) on a monthly basis the number of expert written assessments provided to the court.

C.S.H.B. 12 limits the assault offenses that disqualify a defendant determined to have a mental illness or intellectual disability from release on personal bond to an assault offense that involved family violence. The bill adds to the criteria that must be met for a magistrate to be required to release such a defendant on personal bond that the magistrate finds, after considering all the circumstances, a pretrial risk assessment, if applicable, and any other credible information provided by the attorney representing the state or the defendant, that release on personal bond would reasonably ensure the defendant's appearance in court as required and the safety of the community and the victim of the alleged offense. The bill clarifies the conditions a magistrate may impose on a defendant who is so released.

C.S.H.B. 12 requires the trial of a criminal action against a defendant who has been returned to court and determined to be restored to competency to be given preference over other matters before the court, whether civil or criminal, with certain exceptions. The bill requires a court that receives an expert report on a defendant's competency or incompetency to stand trial to submit to OCA on a monthly basis the number of such reports provided to the court. The bill repeals a requirement for a court to forward such a report to the Texas Correctional Office on Offenders with Medical or Mental Impairments.

C.S.H.B. 12 limits the applicability of statutory procedures for releasing on bail a defendant found incompetent to stand trial to a defendant charged with an offense punishable as a Class A

misdemeanor or any higher category of offense and establishes alternative procedures for the release on bail of a defendant found incompetent to stand trial who is charged with an offense punishable as a Class B misdemeanor. The bill restricts a court's authority to commit a defendant who is incompetent to stand trial and charged with an offense punishable as a Class B misdemeanor to any eligible facility for competency restoration to a situation in which neither a jail-based competency restoration program nor an outpatient competency restoration program are available; otherwise, the bill requires the court to commit the defendant to a jail-based competency restoration program or release the defendant on bail under the bill's provisions. The bill requires a court, if the court determines that a defendant who is charged with an offense punishable as a Class B misdemeanor, found incompetent to stand trial, and subject to an initial restoration period is not a danger to others and may be safely treated on an outpatient basis with the specific objective of attaining competency to stand trial and an appropriate outpatient competency restoration program is available for the defendant, to release the defendant on bail or continue the defendant's release on bail and order the defendant to participate in an outpatient competency restoration program for a period not to exceed 60 days, subject to conditions reasonably related to ensuring public safety and the effectiveness of the defendant's treatment. The bill authorizes such an order to require the defendant to participate in, as appropriate, an outpatient competency restoration program administered by a community center or an outpatient competency restoration program administered by any other entity that provides competency restoration services and in an appropriate prescribed regimen of medical, psychiatric, or psychological care or treatment, including care or treatment involving the administration of psychoactive medication. The bill limits the court's authority to order a defendant to participate in an outpatient competency restoration program to a situation in which the court receives and approves a comprehensive plan that provides for the treatment of the defendant for purposes of competency restoration and identifies the person who will be responsible for providing that treatment to the defendant and the court finds that the treatment proposed by the plan will be available to and provided to the defendant. The bill extends to a defendant charged with a Class B misdemeanor and issued any of these court orders the applicability of statutory provisions relating to the transfer of the defendant by a sheriff to the applicable program, procedures for a defendant who has been restored to competency after the defendant's competency trial but before the defendant's transport to the applicable program, procedures applicable to a defendant whose charges are dismissed, the deadline for returning a defendant to court after commitment or release on bail, and court-ordered medications.

C.S.H.B. 12 specifies that competency restoration services are included among the purposes of a court's commitment of a defendant to a facility or program for competency restoration. The bill authorizes a defendant to be committed to a jail-based competency restoration program only if the program provider determines the defendant will begin to receive competency restoration services within 72 hours of arriving at the program. The bill requires the head of an inpatient facility or the provider of a jail-based competency restoration program to which a defendant is committed for competency restoration to promptly notify the court when the head of the facility or program provider believes that the defendant can be safely transferred to a competency restoration program for education services but has not attained competency to stand trial.

C.S.H.B. 12 requires a court, on notification from the head of a facility or a program provider that a defendant can be safely transferred to a competency restoration program for education services but has not attained competency to stand trial, to order the defendant to receive competency restoration education services in a jail-based competency restoration program or in an outpatient competency restoration program, as appropriate and if available. The bill requires a court that enters such an order for a defendant who was committed for competency restoration to a facility other than a jail-based competency restoration program to send a copy of that order to the sheriff of the county in which the court is located, the head of the facility to which the defendant was committed for competency restoration, and the local mental health authority or local intellectual and developmental disability authority, as appropriate. The bill requires a facility to which a defendant is committed for competency restoration, as soon as practicable but not later than 10 days after receiving a copy of such an order, to discharge the defendant into the

care of the sheriff of the county in which the court is located and requires the sheriff to transport the defendant to the jail-based competency restoration program or outpatient competency restoration program, as appropriate. The bill requires a jail-based competency restoration program or outpatient competency restoration program that receives the defendant to give to the court notice regarding the defendant's entry into the program for purposes of receiving competency restoration education services and any subsequent notice otherwise required. The bill requires a sheriff having custody of a defendant for transportation, according to information available at the time and unless directed otherwise by a physician treating the defendant, to ensure that the defendant is provided with the types and dosages of medication prescribed for the defendant.

C.S.H.B. 12 amends the Government Code to require the administrative director of OCA to make available to courts information concerning best practices for addressing the needs of persons with mental illness in the court system, including the use of the preferred terms and phrases provided by state law. The bill adds a temporary provision set to expire September 1, 2019, requiring OCA to collect information from specialty courts in Texas regarding outcomes of participants in those specialty courts who are persons with mental illness, including recidivism rates of those participants, and other relevant information as determined by OCA, for the period beginning September 1, 2017, and ending September 1, 2018, and requiring OCA to submit to the legislature a report containing and evaluating the collected information not later than December 1, 2018.

C.S.H.B. 12 requires HHSC to establish a program to provide grants to county-based community collaboratives for the purposes of reducing recidivism by, the frequency of arrests of, and incarceration of persons with mental illness and reducing the total waiting time for forensic commitment of persons with mental illness to a state hospital. The bill authorizes a community collaborative to petition HHSC for a grant under the program only if the collaborative includes a county, a local mental health authority that operates in the county, and each hospital district, if any, located in the county and authorizes a collaborative to include other local entities designated by the collaborative's members. The bill requires HHSC to condition each grant provided to a community collaborative on the collaborative providing matching funds from non-state sources in a total amount at least equal to the provided grant amount and authorizes a collaborative to seek and receive gifts, grants, or donations from any person to raise matching funds. The bill requires a community collaborative, for each state fiscal year for which the collaborative seeks a grant, to submit a petition to HHSC not later than the 30th day of that fiscal year and sets out the information required to be included with a petition. The bill requires HHSC, not later than the 60th day of each fiscal year, to review plans submitted with a petition before HHSC provides the grant, to estimate, for each petition timely submitted and containing the required information, the number of cases of serious mental illness in certain low income households located in the county included in the community collaborative that submitted the petition, and to determine, for each state fiscal year, an amount of grant money available for the program on a per-case basis using a specified formula. The bill requires HHSC, not later than the 90th day of each fiscal year, to make a grant available to a community collaborative receiving a grant under the program in a specified amount and sets out acceptable uses for the grant money and matching funds. The bill requires each community collaborative that receives a grant, not later than the 90th day after the last day of the state fiscal year for which HHSC distributes the grant, to prepare and submit a report describing the effect of the grant money and matching funds in achieving the standard defined by the outcome measures in the submitted plan. The bill authorizes HHSC to make inspections of the operation and provision of mental health services provided by a community collaborative to ensure state money appropriated for the grant program is used effectively.

C.S.H.B. 12 amends the Health and Safety Code to require the Texas Correctional Office on Offenders with Medical or Mental Impairments to approve and make generally available in electronic format a standard form for use by experts in reporting mental health assessment results to a magistrate. The bill removes the requirement for the office to review examinations to determine the competency of defendants in criminal cases to stand trial and examinations to

determine the fitness of children to proceed with respect to adjudications of delinquent conduct or conduct indicating a need for supervision and periodically report to the legislature and the court of criminal appeals findings made as a result of that review. The bill repeals a requirement for a district or juvenile court to submit to the office on a monthly basis all reports based on those examinations.

C.S.H.B. 12 repeals the following provisions:

- Article 46B.026(c), Code of Criminal Procedure
- Articles 46B.090(h), (n), and (o), Code of Criminal Procedure
- Section 614.0032(c), Health and Safety Code

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 12 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. Article 15.17, Code of Criminal Procedure, is amended.

SECTION 2. Article 16.22, Code of Criminal Procedure, is amended to read as follows:

Art. 16.22. EARLY IDENTIFICATION OF DEFENDANT SUSPECTED OF HAVING MENTAL ILLNESS OR INTELLECTUAL DISABILITY [~~MENTAL RETARDATION~~]. (a)(1) Not later than four [72] hours after the sheriff or other person having custody of a defendant for an offense punishable as a Class B misdemeanor or any higher category of offense determines that [receiving credible information that may establish] reasonable cause may exist to believe that the [a] defendant [committed to the sheriff's custody] has a mental illness or is a person with an intellectual disability [mental retardation, including observation of the defendant's behavior immediately before, during, and after the defendant's arrest and the results of any previous assessment of the defendant], the sheriff or other person shall provide written or electronic notice [~~of the information~~] to the magistrate. The notice must include any information related

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as introduced version.

SECTION 2. Article 16.22, Code of Criminal Procedure, is amended to read as follows:

Art. 16.22. EARLY IDENTIFICATION OF DEFENDANT SUSPECTED OF HAVING MENTAL ILLNESS OR INTELLECTUAL DISABILITY [~~MENTAL RETARDATION~~]. (a)(1) Not later than four [72] hours after the sheriff or municipal jailer having custody of a defendant for an offense punishable as a Class B misdemeanor or any higher category of offense receives [receiving] credible information that may establish reasonable cause to believe that the [a] defendant [committed to the sheriff's custody] has a mental illness or is a person with an intellectual disability [mental retardation, including observation of the defendant's behavior immediately before, during, and after the defendant's arrest and the results of any previous assessment of the defendant], the sheriff or municipal jailer shall provide written or electronic notice [~~of the information~~] to the magistrate. The notice must include any information related

to the sheriff's or other person's determination, such as information regarding the defendant's behavior immediately before, during, and after the defendant's arrest and, if applicable, the results of any previous assessment of the defendant. On a determination that there is reasonable cause to believe that the defendant has a mental illness or is a person with an intellectual disability [mental retardation], the magistrate, except as provided by Subdivision (2), shall order the local mental health [~~or mental retardation~~] authority, local intellectual and developmental disability authority, or another qualified mental health or intellectual disability [mental retardation] expert to:

(A) collect information regarding whether the defendant has a mental illness as defined by Section 571.003, Health and Safety Code, or is a person with an intellectual disability [mental retardation] as defined by Section 591.003, Health and Safety Code, including, if applicable, information obtained from any previous assessment of the defendant and information regarding any previously recommended treatment; and

(B) provide to the magistrate a written assessment of the information collected under Paragraph (A) on the form approved by the Texas Correctional Office on Offenders with Medical or Mental Impairments under Section 614.0032(b)(3), Health and Safety Code.

(2) The magistrate is not required to order the collection of information under Subdivision (1) if the defendant in the year preceding the defendant's applicable date of arrest has been determined to have a mental illness or to be a person with an intellectual disability [mental retardation] by the local mental health [~~or mental retardation~~] authority, local intellectual and developmental disability authority, or another mental health or intellectual disability [mental retardation] expert described by Subdivision (1). A court that elects to use the results of that previous determination may proceed under Subsection (c).

(3) If the defendant fails or refuses to submit to the collection of information regarding the defendant as required under Subdivision (1), the magistrate may order

to the sheriff's or municipal jailer's determination, such as information regarding the defendant's behavior immediately before, during, and after the defendant's arrest and, if applicable, the results of any previous assessment of the defendant. On a determination that there is reasonable cause to believe that the defendant has a mental illness or is a person with an intellectual disability [mental retardation], the magistrate, except as provided by Subdivision (2), shall order the local mental health [~~or mental retardation~~] authority, the local intellectual and developmental disability authority, or another qualified mental health or intellectual disability [mental retardation] expert to:

(A) collect information regarding whether the defendant has a mental illness as defined by Section 571.003, Health and Safety Code, or is a person with an intellectual disability [mental retardation] as defined by Section 591.003, Health and Safety Code, including, if applicable, information obtained from any previous assessment of the defendant and information regarding any previously recommended treatment; and

(B) provide to the magistrate a written assessment of the information collected under Paragraph (A) on the form approved by the Texas Correctional Office on Offenders with Medical or Mental Impairments under Section 614.0032(b)(2), Health and Safety Code.

(2) The magistrate is not required to order the collection of information under Subdivision (1) if the defendant in the year preceding the defendant's applicable date of arrest has been determined to have a mental illness or to be a person with an intellectual disability [mental retardation] by the local mental health [~~or mental retardation~~] authority, the local intellectual and developmental disability authority, or another mental health or intellectual disability [mental retardation] expert described by Subdivision (1). A court that elects to use the results of that previous determination may proceed under Subsection (c).

(3) If the defendant fails or refuses to submit to the collection of information regarding the defendant as required under Subdivision (1), the magistrate may order

the defendant to submit to an examination in a jail or in another place ~~[mental health facility]~~ determined to be appropriate by the local mental health ~~[or mental retardation]~~ authority or local intellectual and developmental disability authority for a reasonable period not to exceed 48 hours ~~[21 days]~~. If applicable, the ~~[The magistrate may order a defendant to a facility operated by the Department of State Health Services or the Department of Aging and Disability Services for examination only on request of the local mental health or mental retardation authority and with the consent of the head of the facility. If a defendant who has been ordered to a facility operated by the Department of State Health Services or the Department of Aging and Disability Services for examination remains in the facility for a period exceeding 21 days, the head of that facility shall cause the defendant to be immediately transported to the committing court and placed in the custody of the sheriff of the county in which the committing court is located. That]~~ county in which the committing court is located shall reimburse the local mental health authority or local intellectual and developmental disability authority ~~[facility]~~ for the mileage and per diem expenses of the personnel required to transport the defendant, calculated in accordance with the state travel regulations in effect at the time.

(b) Except as otherwise permitted by the magistrate for good cause shown, a ~~[A]~~ written assessment of the information collected under Subsection (a)(1)(A) shall be provided to the magistrate;

(1) for a defendant held in custody, not later than 72 hours after the time an order was issued under Subsection (a); or

(2) for a defendant released from custody, not later than the 30th day after the date an ~~[of any]~~ order was issued under Subsection (a).

(b-1) The ~~[in a felony case and not later than the 10th day after the date of any order issued under that subsection in a misdemeanor case, and the]~~ magistrate shall provide copies of the written assessment to the defense counsel, the ~~[prosecuting]~~ attorney representing the state, and the trial court. The written assessment must include

the defendant to submit to an examination in a jail or in another place ~~[mental health facility]~~ determined to be appropriate by the local mental health ~~[or mental retardation]~~ authority or local intellectual and developmental disability authority for a reasonable period not to exceed 48 hours ~~[21 days]~~. If applicable, the ~~[The magistrate may order a defendant to a facility operated by the Department of State Health Services or the Department of Aging and Disability Services for examination only on request of the local mental health or mental retardation authority and with the consent of the head of the facility. If a defendant who has been ordered to a facility operated by the Department of State Health Services or the Department of Aging and Disability Services for examination remains in the facility for a period exceeding 21 days, the head of that facility shall cause the defendant to be immediately transported to the committing court and placed in the custody of the sheriff of the county in which the committing court is located. That]~~ county in which the committing court is located shall reimburse the local mental health authority or local intellectual and developmental disability authority ~~[facility]~~ for the mileage and per diem expenses of the personnel required to transport the defendant, calculated in accordance with the state travel regulations in effect at the time.

(b) Same as introduced version.

(b-1) Same as introduced version.

a description of the procedures used in the collection of information under Subsection (a)(1)(A) and the applicable expert's observations and findings pertaining to:

- (1) whether the defendant is a person who has a mental illness or is a person with an intellectual disability [~~mental retardation~~];
- (2) whether there is clinical evidence to support a belief that the defendant may be incompetent to stand trial and should undergo a complete competency examination under Subchapter B, Chapter 46B; and
- (3) any appropriate or recommended treatment or service.

(c) After the trial court receives the applicable expert's written assessment relating to the defendant under Subsection (b-1) [(b)] or elects to use the results of a previous determination as described by Subsection (a)(2), the trial court may, as applicable:

- (1) resume criminal proceedings against the defendant, including any appropriate proceedings related to the defendant's release on personal bond under Article 17.032 if the defendant is being held in custody;
- (2) resume or initiate competency proceedings, if required, as provided by Chapter 46B or other proceedings affecting the defendant's receipt of appropriate court-ordered mental health or intellectual disability [~~mental retardation~~] services, including proceedings related to the defendant's receipt of outpatient mental health services under Section 574.034, Health and Safety Code; [øø]
- (3) consider the written assessment during the punishment phase after a conviction of the offense for which the defendant was arrested, as part of a presentence investigation report, or in connection with the impositions of conditions following placement on community supervision, including deferred adjudication community supervision; or
- (4) refer the defendant to an appropriate specialty court established or operated under Subtitle K, Title 2, Government Code.

(d) This article does not prevent the applicable court from, before, during, or after the collection of information regarding

(c) Same as introduced version.

(d) Same as introduced version.

the defendant as described by this article:

- (1) releasing a defendant who has a mental illness [mentally ill] or is a person with an intellectual disability [mentally-retarded defendant] from custody on personal or surety bond, including imposing as a condition of release that the defendant submit to an examination or other assessment; or
- (2) ordering an examination regarding the defendant's competency to stand trial.

(e) The magistrate shall submit to the Office of Court Administration of the Texas Judicial System on a monthly basis the number of written assessments provided to the court under Subsection (a)(1)(B).

SECTION 3. Articles 17.032(a), (b), (c), and (d), Code of Criminal Procedure, are amended to read as follows:

(a) In this article, "violent offense" means an offense under the following sections of the Penal Code:

- (1) Section 19.02 (murder);
- (2) Section 19.03 (capital murder);
- (3) Section 20.03 (kidnapping);
- (4) Section 20.04 (aggravated kidnapping);
- (5) Section 21.11 (indecent with a child);
- (6) Section 22.01(a)(1) (assault), if the offense involved family violence as defined by Section 71.004, Family Code;
- (7) Section 22.011 (sexual assault);
- (8) Section 22.02 (aggravated assault);
- (9) Section 22.021 (aggravated sexual assault);
- (10) Section 22.04 (injury to a child, elderly individual, or disabled individual);
- (11) Section 29.03 (aggravated robbery);
- (12) Section 21.02 (continuous sexual abuse of young child or children); or
- (13) Section 20A.03 (continuous trafficking of persons).

(b) Notwithstanding Article 17.03(b), or a bond schedule adopted or a standing order entered by a judge, a [A] magistrate shall release a defendant on personal bond unless good cause is shown otherwise if [the]:

- (1) the defendant is not charged with and has not been previously convicted of a violent offense;
- (2) the defendant is examined by the local

(e) Same as introduced version.

SECTION 3. Articles 17.032(a), (b), (c), and (d), Code of Criminal Procedure, are amended to read as follows:

(a) Same as introduced version.

(b) Notwithstanding Article 17.03(b), or a bond schedule adopted or a standing order entered by a judge, a [A] magistrate shall release a defendant on personal bond unless good cause is shown otherwise if [the]:

- (1) the defendant is not charged with and has not been previously convicted of a violent offense;
- (2) the defendant is examined by the local

mental health ~~[or mental retardation]~~ authority, local intellectual and developmental disability authority, or another qualified mental health or intellectual disability expert under Article 16.22 ~~[of this code]~~;

(3) the applicable expert, in a written assessment submitted to the magistrate under Article 16.22, ~~is~~:

~~[(A)]~~ concludes that the defendant has a mental illness or is a person with an intellectual disability ~~[mental retardation]~~ and requires treatment not available in jail ~~[is nonetheless competent to stand trial]~~; ~~and~~

~~[(B)]~~ recommends mental health treatment for the defendant; ~~and~~

(4) the magistrate determines, in consultation with the local mental health ~~[or mental retardation]~~ authority or local intellectual and developmental disability authority, that appropriate community-based mental health or intellectual disability ~~[mental retardation]~~ services for the defendant are available in accordance with ~~[through the Texas Department of Mental Health and Mental Retardation under]~~ Section 534.053 or 534.103, Health and Safety Code, or through another mental health or intellectual disability ~~[mental retardation]~~ services provider; ~~and~~

(5) the magistrate finds, after considering all the circumstances, a pretrial risk assessment, if applicable, and any other credible information provided by the attorney representing the state or the defendant, that release on personal bond would reasonably ensure the defendant's appearance in court as required and the safety of the community and the victim of the alleged offense.

(c) The magistrate, unless good cause is shown for not requiring treatment, shall require as a condition of release on personal bond under this article that the defendant submit to outpatient or inpatient mental health or intellectual disability ~~[mental retardation]~~ treatment as recommended by the local mental health ~~[or mental retardation]~~ authority, local intellectual and developmental disability authority, or another qualified mental health or intellectual disability expert if the defendant's:

mental health ~~[or mental retardation]~~ authority, the local intellectual and developmental disability authority, or another qualified mental health or intellectual disability expert under Article 16.22 ~~[of this code]~~;

(3) the applicable expert, in a written assessment submitted to the magistrate under Article 16.22:

(A) concludes that the defendant has a mental illness or is a person with an intellectual disability ~~[mental retardation]~~ and is nonetheless competent to stand trial; ~~and~~

B) recommends mental health treatment for the defendant; ~~and~~

(4) the magistrate determines, in consultation with the local mental health ~~[or mental retardation]~~ authority or local intellectual and developmental disability authority, that appropriate community-based mental health or intellectual disability ~~[mental retardation]~~ services for the defendant are available in accordance with ~~[through the Texas Department of Mental Health and Mental Retardation under]~~ Section 534.053 or 534.103, Health and Safety Code, or through another mental health or intellectual disability ~~[mental retardation]~~ services provider; ~~and~~

(5) the magistrate finds, after considering all the circumstances, a pretrial risk assessment, if applicable, and any other credible information provided by the attorney representing the state or the defendant, that release on personal bond would reasonably ensure the defendant's appearance in court as required and the safety of the community and the victim of the alleged offense.

(c) Substantially the same as introduced version.

(1) mental illness or intellectual disability [~~mental retardation~~] is chronic in nature; or
(2) ability to function independently will continue to deteriorate if the defendant is not treated.

(d) In addition to a condition of release imposed under Subsection (c) [~~of this article~~], the magistrate may require the defendant to comply with other conditions that are reasonably necessary to ensure the defendant's appearance in court as required and the safety of [~~protect~~] the community and the victim of the alleged offense.

SECTION 4. Article 32A.01, Code of Criminal Procedure, is amended.

No equivalent provision.

SECTION 5. The heading to Article 46B.0095, Code of Criminal Procedure, is amended.

SECTION 6. Articles 46B.0095(a), (b), (c), and (d), Code of Criminal Procedure, are amended to read as follows:

(a) A defendant may not, under Subchapter D or E or any other provision of this chapter, be committed to a mental hospital or other inpatient or residential facility or to a jail-based restoration of competency program, ordered to participate in an outpatient [~~treatment~~] program, or subjected to any combination of [~~both~~] inpatient or [~~and~~] outpatient treatment or program participation for a cumulative period that exceeds the maximum term provided by law for the offense for which the defendant was to be tried, except that if the defendant is charged

(d) Same as introduced version.

SECTION 4. Same as introduced version.

SECTION 5. Article 46B.001, Code of Criminal Procedure, is amended by adding Subdivision (9) to read as follows:

(9) "Competency restoration" means the treatment or education process for restoring a person's ability to consult with the person's attorney with a reasonable degree of rational understanding and a rational and factual understanding of the court proceedings and charges against the person.

SECTION 6. Same as introduced version.

SECTION 7. Articles 46B.0095(a), (b), (c), and (d), Code of Criminal Procedure, are amended to read as follows:

(a) A defendant may not, under Subchapter D or E or any other provision of this chapter, be committed to a mental hospital or other inpatient or residential facility or to a jail-based competency restoration program, ordered to participate in an outpatient competency restoration [~~treatment~~] program, or subjected to any combination of [~~both~~] inpatient, [~~and~~] outpatient, or jail-based competency restoration program participation [~~treatment~~] for a cumulative period that exceeds the maximum term provided by law for the offense for which the defendant was to be tried, except that if the defendant is charged

with a misdemeanor and has been ordered only to participate in an outpatient ~~[treatment]~~

program under Subchapter D or E, the maximum period of restoration is two years.

(b) On expiration of the maximum restoration period under Subsection (a), the mental hospital, ~~[or other inpatient or residential]~~ facility, or ~~[outpatient treatment]~~ program provider identified in the most recent order of commitment or order of outpatient ~~[treatment]~~ program participation under this

chapter shall assess the defendant to determine if civil proceedings under Subtitle C or D, Title 7, Health and Safety Code, are appropriate. The defendant may be confined for an additional period in a mental hospital or other ~~[inpatient or residential]~~

facility or jail-based program or ordered to participate for an

additional period in an outpatient ~~[treatment]~~ program, as appropriate, only pursuant to civil proceedings conducted under Subtitle C or D, Title 7, Health and Safety Code, by a court with probate jurisdiction.

(c) The cumulative period described by Subsection (a):

(1) begins on the date the initial order of commitment or initial order for outpatient ~~[treatment]~~

program participation is entered under this chapter; and

(2) in addition to any inpatient or outpatient ~~treatment~~ periods

or program participation periods described by Subsection (a), includes any time that, following the entry of an order described by Subdivision (1), the defendant is confined in a correctional facility, as defined by Section 1.07, Penal Code, or is otherwise in the custody of the sheriff during or while awaiting, as applicable:

(A) the defendant's transfer to:

(i) a mental hospital or other inpatient or residential facility; or

(ii) a jail-based restoration of competency program;

(B) the defendant's release on bail to participate in an outpatient ~~treatment~~ program; or

(C) a criminal trial following any temporary restoration of the defendant's competency to stand trial.

with a misdemeanor and has been ordered only to participate in an outpatient competency restoration or treatment program under Subchapter D or E, the maximum period of restoration is two years.

(b) On expiration of the maximum restoration period under Subsection (a), the mental hospital, ~~[or other inpatient or residential]~~ facility, or ~~[outpatient treatment]~~ program provider identified in the most recent order of commitment or order of outpatient competency restoration or treatment program participation under this

chapter shall assess the defendant to determine if civil proceedings under Subtitle C or D, Title 7, Health and Safety Code, are appropriate. The defendant may be confined for an additional period in a mental hospital or other ~~[inpatient or residential]~~

facility or jail-based competency restoration program or ordered to participate for an

additional period in an outpatient ~~treatment~~ program, as appropriate, only pursuant to civil proceedings conducted under Subtitle C or D, Title 7, Health and Safety Code, by a court with probate jurisdiction.

(c) The cumulative period described by Subsection (a):

(1) begins on the date the initial order of commitment or initial order for outpatient competency restoration or treatment

program participation is entered under this chapter; and

(2) in addition to any inpatient or outpatient competency restoration ~~[treatment]~~ periods

or program participation periods described by Subsection (a), includes any time that, following the entry of an order described by Subdivision (1), the defendant is confined in a correctional facility, as defined by Section 1.07, Penal Code, or is otherwise in the custody of the sheriff during or while awaiting, as applicable:

(A) the defendant's transfer to:

(i) a mental hospital or other inpatient or residential facility; or

(ii) a jail-based competency restoration program;

(B) the defendant's release on bail to participate in an outpatient competency restoration or ~~treatment~~ program; or

(C) a criminal trial following any temporary restoration of the defendant's competency to stand trial.

(d) The court shall credit to the cumulative period described by Subsection (a) any time that a defendant, following arrest for the offense for which the defendant was to be tried, is confined in a correctional facility, as defined by Section 1.07, Penal Code, before the initial order of commitment or initial order for outpatient ~~treatment~~ program participation is entered under this chapter.

SECTION 7. Article 46B.010, Code of Criminal Procedure, is amended to read as follows:

Art. 46B.010. MANDATORY DISMISSAL OF MISDEMEANOR CHARGES. If a court orders that a defendant charged with a misdemeanor punishable by confinement be committed to a mental hospital or other inpatient or residential facility or to a jail-based restoration of competency program, participate in an outpatient ~~treatment~~

program, or be subjected to any combination of ~~both~~ inpatient or ~~and~~ outpatient

treatment or program participation, and the defendant is not tried before the expiration of the maximum period of restoration described by Article 46B.0095:

- (1) on the motion of the attorney representing the state, the court shall dismiss the charge; or
- (2) on the motion of the attorney representing the defendant and notice to the attorney representing the state, the court:
 - (A) shall set the matter to be heard not later than the 10th day after the date of filing of the motion; and
 - (B) may dismiss the charge on a finding that the defendant was not tried before the expiration of the maximum period of restoration.

SECTION 8. Article 46B.026, Code of Criminal Procedure, is amended.

SECTION 9. Article 46B.071(a), Code of Criminal Procedure, is amended to read as follows:

- (a) Except as provided by Subsection (b),

(d) The court shall credit to the cumulative period described by Subsection (a) any time that a defendant, following arrest for the offense for which the defendant was to be tried, is confined in a correctional facility, as defined by Section 1.07, Penal Code, before the initial order of commitment or initial order for outpatient competency restoration or treatment program participation is entered under this chapter.

SECTION 8. Article 46B.010, Code of Criminal Procedure, is amended to read as follows:

Art. 46B.010. MANDATORY DISMISSAL OF MISDEMEANOR CHARGES. If a court orders that a defendant charged with a misdemeanor punishable by confinement be committed to a mental hospital or other inpatient or residential facility or to a jail-based competency restoration program, participate in an outpatient competency restoration or treatment

program, or be subjected to any combination of ~~both~~ inpatient or ~~and~~ outpatient competency restoration or

treatment program participation, and the defendant is not tried before the expiration of the maximum period of restoration described by Article 46B.0095:

- (1) on the motion of the attorney representing the state, the court shall dismiss the charge; or
- (2) on the motion of the attorney representing the defendant and notice to the attorney representing the state, the court:
 - (A) shall set the matter to be heard not later than the 10th day after the date of filing of the motion; and
 - (B) may dismiss the charge on a finding that the defendant was not tried before the expiration of the maximum period of restoration.

SECTION 9. Same as introduced version.

SECTION 10. Article 46B.071(a), Code of Criminal Procedure, is amended to read as follows:

- (a) Except as provided by Subsection (b),

on a determination that a defendant is incompetent to stand trial and is subject to an initial restoration period,

the court shall:

(1) if the defendant is charged with an offense punishable as a Class B misdemeanor:

(A) commit the defendant to a program [facility] under Article 46B.073; or

(B) ~~(2)~~ release the defendant on bail under Article 46B.0711; or

(2) if the defendant is charged with an offense punishable as a Class A misdemeanor or any higher category of offense:

(A) commit the defendant to a facility or program under Article 46B.073; or

(B) release the defendant on bail under Article 46B.072.

SECTION 10. Subchapter D, Chapter 46B, Code of Criminal Procedure, is amended by adding Article 46B.0711 to read as follows: Art. 46B.0711. RELEASE ON BAIL FOR CLASS B MISDEMEANOR.

(a) Subject to conditions reasonably related to ensuring public safety and the effectiveness of the defendant's treatment, if the court determines that a defendant charged with an offense punishable as a Class B misdemeanor and found incompetent to stand trial is not a danger to others and may be safely treated on an outpatient basis with the specific objective of attaining competency to stand trial,

the court shall:

(1) release the defendant on bail or continue the defendant's release on bail; and

on a determination that a defendant is incompetent to stand trial,

the court shall:

(1) if the defendant is charged with an offense punishable as a Class B misdemeanor:

(A) commit the defendant to a jail-based competency restoration program [facility] under Article 46B.073; [or]

(B) ~~(2)~~ release the defendant on bail under Article 46B.0711; or

(C) commit the defendant to a facility under Article 46B.073 only if:

(i) a jail-based competency restoration program under Article 46B.073 is not available; and

(ii) an outpatient competency restoration program under Article 46B.0711 is not available; or

(2) if the defendant is charged with an offense punishable as a Class A misdemeanor or any higher category of offense:

(A) commit the defendant to a facility or jail-based competency restoration program under Article 46B.073; or

(B) release the defendant on bail under Article 46B.072.

SECTION 11. Subchapter D, Chapter 46B, Code of Criminal Procedure, is amended by adding Article 46B.0711 to read as follows: Art. 46B.0711. RELEASE ON BAIL FOR CLASS B MISDEMEANOR. (a) This article applies only to a defendant who is subject to an initial restoration period based on Article 46B.071.

(b) Subject to conditions reasonably related to ensuring public safety and the effectiveness of the defendant's treatment, if the court determines that a defendant charged with an offense punishable as a Class B misdemeanor and found incompetent to stand trial is not a danger to others and may be safely treated on an outpatient basis with the specific objective of attaining competency to stand trial, and an appropriate outpatient competency restoration program is available for the defendant,

the court shall:

(1) release the defendant on bail or continue the defendant's release on bail; and

(2) order the defendant to participate in an outpatient treatment program for a period not to exceed 90 days.

(b) If the defendant successfully completes the outpatient treatment program described by Subsection (a), the court shall:

(1) on the motion of the attorney representing the state, dismiss the charge; or
(2) proceed as otherwise required by this subchapter.

(c) If the defendant does not successfully complete the outpatient treatment program described by Subsection (a), the court may:

(1) for the remainder of the 90-day period described by Subsection (a)(2), commit the defendant to a jail-based restoration of competency program under Article 46B.073 if the maximum period of restoration described by Article 46B.0095 has not expired; or

(2) on the motion of the attorney representing the state, dismiss the charge.

No equivalent provision.

No equivalent provision.

(2) order the defendant to participate in an outpatient competency restoration program for a period not to exceed 60 days.

No equivalent provision.

No equivalent provision.

(c) Notwithstanding Subsection (b), the court may order a defendant to participate in an outpatient competency restoration program under this article only if:

(1) the court receives and approves a comprehensive plan that:

(A) provides for the treatment of the defendant for purposes of competency restoration; and

(B) identifies the person who will be responsible for providing that treatment to the defendant; and

(2) the court finds that the treatment proposed by the plan will be available to and will be provided to the defendant.

(d) An order issued under this article may require the defendant to participate in:

(1) as appropriate, an outpatient competency restoration program administered by a community center or an outpatient competency restoration program administered by any other entity that provides competency restoration services; and

(2) an appropriate prescribed regimen of medical, psychiatric, or psychological care or treatment, including care or treatment involving the administration of psychoactive medication, including those required under

Article 46B.086.

SECTION 11. The heading to Article 46B.072, Code of Criminal Procedure, is amended.

SECTION 12. Article 46B.072, Code of Criminal Procedure, is amended by amending Subsection (a-1) and adding Subsections (e) and (f) to read as follows:

(a-1) Subject to conditions reasonably related to ensuring [~~assuring~~] public safety and the effectiveness of the defendant's treatment, if the court determines that a defendant

found incompetent to stand trial is not a danger to others and may be safely treated on an outpatient basis with the specific objective of attaining competency to stand trial and if an appropriate outpatient treatment program is available for the defendant, the court:

(1) may release on bail a defendant found incompetent to stand trial with respect to an offense punishable as a felony or may continue the defendant's release on bail; and
(2) shall release on bail a defendant found incompetent to stand trial with respect to an offense punishable as a Class A [a] misdemeanor or shall continue the defendant's release on bail.

(e) If the defendant successfully completes the outpatient treatment program described by Subsection (a-1), the court shall:

(1) on the motion of the attorney representing the state, dismiss the charge;
or
(2) proceed as otherwise required by this subchapter.

(f) If the defendant does not successfully complete the outpatient treatment program described by Subsection (a-1), the court may:

(1) for the remainder of the 120-day period described by Subsection (b), commit the defendant to a facility or to a jail-based restoration of competency program under Article 46B.073 if the maximum period of restoration described by Article 46B.0095

SECTION 12. Substantially the same as introduced version.

SECTION 13. Articles 46B.072(a-1), (b), (c), and (d), Code of Criminal Procedure, are amended to read as follows:

(a-1) Subject to conditions reasonably related to ensuring [~~assuring~~] public safety and the effectiveness of the defendant's treatment, if the court determines that a defendant charged with an offense punishable as a felony or a Class A misdemeanor and

found incompetent to stand trial is not a danger to others and may be safely treated on an outpatient basis with the specific objective of attaining competency to stand trial, and [~~if~~] an appropriate outpatient competency restoration [treatment] program is available for the defendant, the court:

(1) may release on bail a defendant found incompetent to stand trial with respect to an offense punishable as a felony or may continue the defendant's release on bail; and
(2) shall release on bail a defendant found incompetent to stand trial with respect to an offense punishable as a Class A [a] misdemeanor or shall continue the defendant's release on bail.

No equivalent provision.

No equivalent provision.

has not expired; or
(2) on the motion of the attorney
representing the state, dismiss the charge.

No equivalent provision.

No equivalent provision.

No equivalent provision.

(b) The court shall order a defendant released on bail under Subsection (a-1) to participate in an outpatient competency restoration [~~treatment~~] program for a period not to exceed 120 days.

(c) Notwithstanding Subsection (a-1), the court may order a defendant to participate in an outpatient competency restoration [~~treatment~~] program under this article only if:

(1) the court receives and approves a comprehensive plan that:

(A) provides for the treatment of the defendant for purposes of competency restoration; and

(B) identifies the person who will be responsible for providing that treatment to the defendant; and

(2) the court finds that the treatment proposed by the plan will be available to and will be provided to the defendant.

(d) An order issued under this article may require the defendant to participate in:

(1) as appropriate, an outpatient competency restoration [~~treatment~~] program administered by a community center or an outpatient competency restoration [~~treatment~~] program administered by any other entity that provides outpatient competency restoration services; and

(2) an appropriate prescribed regimen of medical, psychiatric, or psychological care or treatment, including care or treatment involving the administration of psychoactive medication, including those required under Article 46B.086.

SECTION 13. Article 46B.073, Code of Criminal Procedure, is amended to read as follows:

Art. 46B.073. COMMITMENT FOR RESTORATION TO COMPETENCY.

(a) This article applies only to a defendant [~~not released on bail~~] who is subject to an initial restoration period based on Article 46B.071 and who:

(1) was not released on bail; or

SECTION 14. Article 46B.073, Code of Criminal Procedure, is amended by amending Subsections (b), (c), (d), and (e) and adding Subsection (f) to read as follows:

No equivalent provision.

(2) if released on bail, is made subject to this article by action of the court under Article 46B.0711(c) or 46B.072(f).

(b) For further examination, psychiatric stabilization, and treatment toward

the specific objective of the defendant attaining competency to stand trial, the court shall commit a defendant described by Subsection (a) to a mental health facility, ~~[or]~~ residential care facility, or jail-based restoration of competency program for the applicable period as follows:

(1) a period of not more than 60 days, if the defendant is described by Subsection (a)(1) and charged with an offense punishable as a misdemeanor; ~~[or]~~

(2) a period of not more than 120 days, if the defendant is described by Subsection (a)(1) and charged with an offense punishable as a felony; or

(3) the remainder of the restoration period specified by the court under Article 46B.0711 or 46B.072, as applicable.

(b-1) A defendant charged with an offense punishable as a Class B misdemeanor may be committed under this subchapter only to a jail-based restoration of competency program.

(c) If the defendant is charged with an offense listed in Article 17.032(a), other than an offense listed in Article 17.032(a)(6),

or the indictment alleges an affirmative finding under Article 42A.054(c) or (d), the court shall enter an order committing the defendant for psychiatric stabilization

to the maximum security unit of any facility designated by the Department of State Health Services, to an agency of the United States operating a mental hospital, ~~[or]~~ to a Department of Veterans Affairs hospital, or to a jail-based restoration of competency program.

(d) If the defendant is not charged with an offense described by Subsection (c) and the indictment does not allege an affirmative finding under Article 42A.054(c) or (d), the court shall enter an order committing the defendant for psychiatric stabilization to a

(b) For further examination and competency restoration services with ~~[treatment toward]~~

the specific objective of the defendant attaining competency to stand trial, the court shall commit a defendant described by Subsection (a) to a mental health facility, ~~[or]~~ residential care facility, or jail-based competency restoration program for the applicable period as follows:

(1) a period of not more than 60 days, if the defendant is charged with an offense punishable as a misdemeanor; or

(2) a period of not more than 120 days, if the defendant is charged with an offense punishable as a felony.

No equivalent provision.

(c) If the defendant is charged with an offense listed in Article 17.032(a), other than an offense under Section 22.01(a)(1), Penal Code ~~[listed in Article 17.032(a)(6)]~~, or the indictment alleges an affirmative finding under Article 42A.054(c) or (d), the court shall enter an order committing the defendant for competency restoration services

to the maximum security unit of any facility designated by the Department of State Health Services, to an agency of the United States operating a mental hospital, or to a Department of Veterans Affairs hospital.

(d) If the defendant is not charged with an offense described by Subsection (c) and the indictment does not allege an affirmative finding under Article 42A.054(c) or (d), the court shall enter an order, in accordance with Article 46B.071(a), committing the

jail-based restoration of competency program or to a mental health facility or residential care facility determined to be appropriate by the local mental health authority or local intellectual and developmental disability authority.

(e) On notification from the head of a facility or a program provider under Article 46B.079(b)(1), the court shall order the defendant to receive competency restoration education services in a jail-based restoration of competency program or in an outpatient competency restoration education program, as appropriate.

(f) If a defendant for whom an order is entered under Subsection (e) was committed for psychiatric stabilization to a facility other than a jail-based restoration of competency program, the court shall send a copy of that order to:

(1) the sheriff of the county in which the court is located; and

(2) the head of the facility to which the defendant was committed for psychiatric stabilization

~~[Notwithstanding Subsections (b), (c), and (d) and notwithstanding the contents of the applicable order of commitment, in a county in which the Department of State Health Services operates a jail based restoration of competency pilot program under Article 46B.090, a defendant for whom an order is issued under this article committing the defendant to a mental health facility or residential care facility shall be provided competency restoration services at the jail under the pilot program if the service provider at the jail determines the defendant will immediately begin to receive services. If the service provider at the jail determines the defendant will not immediately begin to receive competency restoration services, the defendant shall be transferred to the appropriate mental health facility or residential care facility as provided by the~~

defendant to a jail-based competency restoration program or to a mental health facility or residential care facility determined to be appropriate by the local mental health authority or local intellectual and developmental disability authority. A defendant may be committed to a jail-based competency restoration program only if the program provider determines the defendant will begin to receive competency restoration services within 72 hours of arriving at the program.

(e) On notification from the head of a facility or a program provider under Article 46B.079(b)(1), the court shall order the defendant to receive competency restoration education services in a jail-based competency restoration program or in an outpatient competency restoration program, as appropriate and if available.

(f) If a defendant for whom an order is entered under Subsection (e) was committed for competency restoration to a facility other than a jail-based competency restoration program, the court shall send a copy of that order to:

(1) the sheriff of the county in which the court is located;

(2) the head of the facility to which the defendant was committed for competency restoration; and

(3) the local mental health authority or local intellectual and developmental disability authority, as appropriate

~~[Notwithstanding Subsections (b), (c), and (d) and notwithstanding the contents of the applicable order of commitment, in a county in which the Department of State Health Services operates a jail based restoration of competency pilot program under Article 46B.090, a defendant for whom an order is issued under this article committing the defendant to a mental health facility or residential care facility shall be provided competency restoration services at the jail under the pilot program if the service provider at the jail determines the defendant will immediately begin to receive services. If the service provider at the jail determines the defendant will not immediately begin to receive competency restoration services, the defendant shall be transferred to the appropriate mental health facility or residential care facility as provided by the~~

court order. This subsection expires September 1, 2019].

SECTION 14. Article 46B.074(a), Code of Criminal Procedure, is amended to read as follows:

(a) A defendant may be committed to a jail-based restoration of competency program, mental health facility, or residential care facility under this subchapter only on competent medical or psychiatric testimony provided by an expert qualified under Article 46B.022.

SECTION 15. Article 46B.075, Code of Criminal Procedure, is amended to read as follows:

Art. 46B.075. TRANSFER OF DEFENDANT TO FACILITY OR ~~[OUTPATIENT TREATMENT]~~ PROGRAM. An order issued under Article 46B.0711, 46B.072, or 46B.073 must place the defendant in the custody of the sheriff for transportation to the facility or ~~[outpatient treatment]~~ program, as applicable, in which the defendant is to receive treatment for purposes of competency restoration.

SECTION 16. Articles 46B.0755(a), (b), and (d), Code of Criminal Procedure, are amended.

SECTION 17. Article 46B.076, Code of Criminal Procedure, is amended.

SECTION 18. Article 46B.077, Code of Criminal Procedure, is amended to read as follows:

Art. 46B.077. INDIVIDUAL TREATMENT PROGRAM. (a) The facility or jail-based program to which the defendant is committed or the outpatient treatment program to which the defendant is released on bail shall:

- (1) develop an individual program of treatment;
- (2) assess and evaluate whether the defendant is likely to be restored to

court order. This subsection expires September 1, 2019].

SECTION 15. Substantially the same as introduced version.

SECTION 16. Article 46B.075, Code of Criminal Procedure, is amended to read as follows:

Art. 46B.075. TRANSFER OF DEFENDANT TO FACILITY OR ~~[OUTPATIENT TREATMENT]~~ PROGRAM. An order issued under Article 46B.0711, 46B.072, or 46B.073 must place the defendant in the custody of the sheriff for transportation to the facility or ~~[outpatient treatment]~~ program, as applicable, in which the defendant is to receive [treatment for purposes of] competency restoration services.

SECTION 17. Same as introduced version.

SECTION 18. Same as introduced version.

SECTION 19. Article 46B.077, Code of Criminal Procedure, is amended to read as follows:

Art. 46B.077. INDIVIDUAL TREATMENT PROGRAM. (a) The facility or jail-based competency restoration program to which the defendant is committed or the outpatient competency restoration ~~[treatment]~~ program to which the defendant is released on bail shall:

- (1) develop an individual program of treatment;
- (2) assess and evaluate whether the defendant is likely to be restored to

competency in the foreseeable future; and
(3) report to the court and to the local mental health authority or to the local intellectual and developmental disability authority on the defendant's progress toward achieving competency.

(b) If the defendant is committed to an inpatient mental health facility, ~~[or to a]~~ residential care facility, or jail-based restoration of competency program, the facility or program shall report to the court at least once during the commitment period. If the defendant is released to a treatment

program not provided by an inpatient mental health facility, ~~[or a]~~ residential care facility, or jail-based restoration of competency program, the treatment program shall report to the court:

(1) not later than the 14th day after the date on which the defendant's treatment begins; and

(2) until the defendant is no longer released to the treatment program, at least once during each 30-day period following the date of the report required by Subdivision (1).

SECTION 19. Article 46B.078, Code of Criminal Procedure, is amended to read as follows:

Art. 46B.078. CHARGES SUBSEQUENTLY DISMISSED. If the charges pending against a defendant are dismissed, the court that issued the order under Article 46B.0711, 46B.072, or 46B.073 shall send a copy of the order of dismissal to the sheriff of the county in which the court is located and to the head of the facility, the provider of the jail-based restoration of competency program, or the provider of the outpatient ~~[treatment]~~ program, as appropriate. On receipt of the copy of the order, the facility or ~~[outpatient treatment]~~ program shall discharge the defendant into the care of the sheriff for transportation in the manner described by Article 46B.082.

SECTION 20. Article 46B.079, Code of Criminal Procedure, is amended to read as follows:

competency in the foreseeable future; and
(3) report to the court and to the local mental health authority or to the local intellectual and developmental disability authority on the defendant's progress toward achieving competency.

(b) If the defendant is committed to an inpatient mental health facility, ~~[or to a]~~ residential care facility, or jail-based competency restoration program, the facility or program shall report to the court at least once during the commitment period.

If the defendant is released to a competency restoration ~~[treatment]~~

program not provided by an inpatient mental health facility, ~~[or a]~~ residential care facility, or jail-based competency restoration program, the ~~[treatment]~~ program shall report to the court:

(1) not later than the 14th day after the date on which the defendant's competency restoration services begin ~~[treatment begins]~~; and

(2) until the defendant is no longer released to the ~~[treatment]~~ program, at least once during each 30-day period following the date of the report required by Subdivision (1).

SECTION 20. Article 46B.078, Code of Criminal Procedure, is amended to read as follows:

Art. 46B.078. CHARGES SUBSEQUENTLY DISMISSED. If the charges pending against a defendant are dismissed, the court that issued the order under Article 46B.0711, 46B.072, or 46B.073 shall send a copy of the order of dismissal to the sheriff of the county in which the court is located and to the head of the facility, the provider of the jail-based competency restoration program, or the provider of the outpatient competency restoration ~~[treatment]~~ program, as appropriate. On receipt of the copy of the order, the facility or ~~[outpatient treatment]~~ program shall discharge the defendant into the care of the sheriff for transportation in the manner described by Article 46B.082.

SECTION 21. Article 46B.079, Code of Criminal Procedure, is amended to read as follows:

Art. 46B.079. NOTICE AND REPORT TO COURT. (a) The head of the facility, the provider of the jail-based restoration of competency program, or the provider of the outpatient ~~[treatment]~~ program, as appropriate, not later than the 15th day before the date on which the initial restoration period is to expire according to the terms of the order or under Article 46B.0095 or other applicable provisions of this chapter, shall notify the applicable court that the period is about to expire.

(b) The head of the facility, jail-based restoration of competency program provider, or outpatient ~~[treatment]~~ program provider shall promptly notify the court when the head of the facility or ~~[outpatient treatment]~~ program provider believes that:

(1) the defendant has attained psychiatric stabilization but has not attained competency to stand trial;

(2) the defendant has attained competency to stand trial; or

(3) ~~(2)~~ the defendant is not likely to attain competency in the foreseeable future.

(c) When the head of the facility or ~~[outpatient treatment]~~ program provider gives notice to the court under Subsection (a), (b)(2), or (b)(3) ~~[(b)]~~, the head of the facility or ~~[outpatient treatment]~~ program provider also shall file a final report with the court stating the reason for the proposed discharge under this chapter and including a list of the types and dosages of medications prescribed for the defendant while the defendant was in the facility or participating in the ~~[outpatient treatment]~~ program. To enable any objection to the findings of the report to be made in a timely manner under Article 46B.084(a-1), the court shall provide copies of the report to the attorney representing the defendant and the attorney representing the state.

Art. 46B.079. NOTICE AND REPORT TO COURT. (a) The head of the facility, the provider of the jail-based competency restoration program, or the provider of the outpatient competency restoration ~~[treatment]~~ program, as appropriate, not later than the 15th day before the date on which the initial restoration period is to expire according to the terms of the order or under Article 46B.0095 or other applicable provisions of this chapter, shall notify the applicable court that the period is about to expire.

(b) The head of the facility or jail-based competency restoration ~~[or outpatient treatment]~~ program provider shall promptly notify the court when the head of the facility or ~~[outpatient treatment]~~ program provider believes that:

(1) the defendant can be safely transferred to a competency restoration program for education services but has not attained competency to stand trial;

(2) the defendant has attained competency to stand trial; or

(3) ~~(2)~~ the defendant is not likely to attain competency in the foreseeable future.

(b-1) The outpatient competency restoration program provider shall promptly notify the court when the program provider believes that:

(1) the defendant has attained competency to stand trial; or

(2) the defendant is not likely to attain competency in the foreseeable future.

(c) When the head of the facility or ~~[outpatient treatment]~~ program provider gives notice to the court under Subsection (a), ~~[(b)]~~, or (b-1), the head of the facility or ~~[outpatient treatment]~~ program provider also shall file a final report with the court stating the reason for the proposed discharge under this chapter and including a list of the types and dosages of medications prescribed for the defendant while the defendant was in the facility or participating in the ~~[outpatient treatment]~~ program. To enable any objection to the findings of the report to be made in a timely manner under Article 46B.084(a-1), the court shall provide copies of the report to the attorney representing the defendant and the attorney representing the state.

(d) If the head of the facility or [~~outpatient treatment~~] program provider notifies the court that the initial restoration period is about to expire, the notice may contain a request for an extension of the period for an additional period of 60 days and an explanation for the basis of the request. An explanation provided under this subsection must include a description of any evidence indicating a reduction in the severity of the defendant's symptoms or impairment.

SECTION 21. Article 46B.080(a), Code of Criminal Procedure, is amended.

SECTION 22. Article 46B.081, Code of Criminal Procedure, is amended to read as follows:

Art. 46B.081. RETURN TO COURT. Subject to Article 46B.082(b), a defendant committed or released on bail under this subchapter shall be returned to the applicable court as soon as practicable after notice to the court is provided under Article 46B.079(a), (b)(2), or (b)(3) [~~46B.079~~], but not later than the date of expiration of the period for restoration specified by the court under Article 46B.0711, 46B.072, or 46B.073.

SECTION 23. The heading to Article 46B.082, Code of Criminal Procedure, is amended.

SECTION 24. Article 46B.082(b), Code of Criminal Procedure, is amended to read as follows:

(b) If before the 15th day after the date on which the court received notification under Article 46B.079(a), (b)(2), or (b)(3), [~~46B.079~~] a defendant committed to a facility or jail-based program or ordered to participate in an outpatient [~~treatment~~] program has not been transported to the court that issued the order under Article 46B.0711, 46B.072, or 46B.073, as applicable, the head of the

facility or provider of the jail-based program to which the defendant is committed or the provider

(d) If the head of the facility or [~~outpatient treatment~~] program provider notifies the court that the initial restoration period is about to expire, the notice may contain a request for an extension of the period for an additional period of 60 days and an explanation for the basis of the request. An explanation provided under this subsection must include a description of any evidence indicating a reduction in the severity of the defendant's symptoms or impairment.

SECTION 22. Same as introduced version.

SECTION 23. Article 46B.081, Code of Criminal Procedure, is amended to read as follows:

Art. 46B.081. RETURN TO COURT. Subject to Article 46B.082(b), a defendant committed or released on bail under this subchapter shall be returned to the applicable court as soon as practicable after notice to the court is provided under Article 46B.079(a), (b)(2), (b)(3), or (b-1) [~~46B.079~~], but not later than the date of expiration of the period for restoration specified by the court under Article 46B.0711, 46B.072, or 46B.073.

SECTION 24. Same as introduced version.

SECTION 25. Article 46B.082(b), Code of Criminal Procedure, is amended to read as follows:

(b) If before the 15th day after the date on which the court received notification under Article 46B.079(a), (b)(2), (b)(3), or (b-1) [~~46B.079~~] a defendant committed to a facility or jail-based competency restoration program or ordered to participate in an outpatient competency restoration [~~treatment~~] program has not been transported to the court that issued the order under Article 46B.0711, 46B.072, or 46B.073, as applicable, the head of the facility or provider of the jail-based competency restoration program to which the defendant is committed or the provider

of the outpatient ~~[treatment]~~ program in which the defendant is participating shall cause the defendant to be promptly transported to the court and placed in the custody of the sheriff of the county in which the court is located. The county in which the court is located shall reimburse the Department of State Health Services or the Health and Human ~~[Department of Aging and Disability]~~ Services Commission, as appropriate, for the mileage and per diem expenses of the personnel required to transport the defendant, calculated in accordance with rates provided in the General Appropriations Act for state employees.

SECTION 25. Subchapter D, Chapter 46B, Code of Criminal Procedure, is amended by adding Articles 46B.0825 and 46B.0826 to read as follows:

Art. 46B.0825. DISCHARGE AND TRANSPORTATION OF DEFENDANT AFTER PSYCHIATRIC STABILIZATION. (a) As soon as practicable after receiving a copy of an order under Article 46B.073(f)(2), the applicable facility shall discharge the defendant into the care of the sheriff of the county in which the court is located, and

the sheriff or the sheriff's designee shall transport the defendant to the jail-based restoration of competency program or outpatient competency restoration education program, as appropriate.

(b) A jail-based restoration of competency program or outpatient competency restoration education program that receives a defendant under this article shall give to the court:

(1) notice regarding the defendant's entry into the program for purposes of receiving competency restoration education services; and

(2) subsequent notice as otherwise required under Article 46B.079.

Art. 46B.0826. ADMINISTRATION OF MEDICATION WHILE IN CUSTODY OF SHERIFF. A sheriff or other person having custody of a defendant for transportation as required by Article 46B.075, 46B.082, or

of the outpatient competency restoration ~~[treatment]~~ program in which the defendant is participating shall cause the defendant to be promptly transported to the court and placed in the custody of the sheriff of the county in which the court is located. The county in which the court is located shall reimburse ~~[the Department of State Health Services or]~~ the Health and Human ~~[Department of Aging and Disability]~~ Services Commission or program provider, as appropriate, for the mileage and per diem expenses of the personnel required to transport the defendant, calculated in accordance with rates provided in the General Appropriations Act for state employees.

SECTION 26. Subchapter D, Chapter 46B, Code of Criminal Procedure, is amended by adding Articles 46B.0825 and 46B.0826 to read as follows:

Art. 46B.0825. DISCHARGE AND TRANSPORTATION OF DEFENDANT FOR COMPETENCY RESTORATION EDUCATION SERVICES. (a) As soon as practicable but not later than 10 days after receiving a copy of an order under Article 46B.073(f)(2), the applicable facility shall discharge the defendant into the care of the sheriff of the county in which the court is located.

The sheriff shall transport the defendant to the jail-based competency restoration program or outpatient competency restoration program, as appropriate.

(b) A jail-based competency restoration program or outpatient competency restoration program that receives a defendant under this article shall give to the court:

(1) notice regarding the defendant's entry into the program for purposes of receiving competency restoration education services; and

(2) subsequent notice as otherwise required under Article 46B.079.

Art. 46B.0826. ADMINISTRATION OF MEDICATION WHILE IN CUSTODY OF SHERIFF. A sheriff having custody of a defendant for transportation as required by Article 46B.075, 46B.082, or

46B.0825 shall, according to information available at the time and unless directed otherwise by a physician treating the defendant, ensure that the defendant is provided with the types and dosages of medication prescribed for the defendant.

SECTION 26. Article 46B.083, Code of Criminal Procedure, is amended to read as follows:

Art. 46B.083. SUPPORTING COMMITMENT INFORMATION PROVIDED BY FACILITY [~~HEAD~~] OR [~~OUTPATIENT~~—~~TREATMENT~~] PROGRAM [~~PROVIDER~~]. (a) If the head of the facility, the jail-based restoration of competency program provider, or the outpatient [~~treatment~~]

program provider believes that the defendant is a person with mental illness and meets the criteria for court-ordered mental health services under Subtitle C, Title 7, Health and Safety Code, the head of the facility or the [~~outpatient treatment~~] program provider shall have submitted to the court a certificate of medical examination for mental illness.

(b) If the head of the facility, the jail-based restoration of competency program provider, or the outpatient [~~treatment~~] program provider believes that the defendant is a person with an intellectual disability, the head of the facility or the [~~outpatient treatment~~] program provider shall have submitted to the court an affidavit stating the conclusions reached as a result of the examination.

SECTION 27. Articles 46B.086(a), (b), (c), and (d), Code of Criminal Procedure, are amended to read as follows:

(a) This article applies only to a defendant:
(1) who is determined under this chapter to be incompetent to stand trial;
(2) who either:
(A) remains confined in a correctional facility, as defined by Section 1.07, Penal Code, for a period exceeding 72 hours while awaiting transfer to an inpatient mental health facility, a residential care facility, a jail-based restoration of competency program, or an outpatient [~~treatment~~]

46B.0825 shall, according to information available at the time and unless directed otherwise by a physician treating the defendant, ensure that the defendant is provided with the types and dosages of medication prescribed for the defendant.

SECTION 27. Article 46B.083, Code of Criminal Procedure, is amended to read as follows:

Art. 46B.083. SUPPORTING COMMITMENT INFORMATION PROVIDED BY FACILITY [~~HEAD~~] OR [~~OUTPATIENT~~—~~TREATMENT~~] PROGRAM [~~PROVIDER~~]. (a) If the head of the facility, the jail-based competency restoration program provider, or the outpatient competency restoration [~~treatment~~]

program provider believes that the defendant is a person with mental illness and meets the criteria for court-ordered mental health services under Subtitle C, Title 7, Health and Safety Code, the head of the facility or the [~~outpatient treatment~~] program provider shall have submitted to the court a certificate of medical examination for mental illness.

(b) If the head of the facility, the jail-based competency restoration program provider, or the outpatient competency restoration [~~treatment~~] program provider believes that the defendant is a person with an intellectual disability, the head of the facility or the [~~outpatient treatment~~] program provider shall have submitted to the court an affidavit stating the conclusions reached as a result of the examination.

SECTION 28. Articles 46B.086(a), (b), (c), and (d), Code of Criminal Procedure, are amended to read as follows:

(a) This article applies only to a defendant:
(1) who is determined under this chapter to be incompetent to stand trial;
(2) who either:
(A) remains confined in a correctional facility, as defined by Section 1.07, Penal Code, for a period exceeding 72 hours while awaiting transfer to an inpatient mental health facility, a residential care facility, a jail-based competency restoration program, or an outpatient competency restoration

program;

(B) is committed to an inpatient mental health facility, ~~or~~ a residential care facility, or a jail-based restoration of competency program for the purpose of competency restoration;

(C) is confined in a correctional facility while awaiting further criminal proceedings following competency restoration ~~treatment~~;

(D) is subject to Article 46B.0711, if the court has made the determinations required by Subsection (a) of that article; or

(E) ~~(D)~~ is subject to Article 46B.072, if the court has made the determinations required by Subsection (a-1) of that article;

(3) for whom a correctional facility that employs or contracts with a licensed psychiatrist, an inpatient mental health facility, a residential care facility, a jail-based restoration of competency program, or an outpatient ~~treatment~~ program provider has prepared a continuity of care plan that requires the defendant to take psychoactive medications; and

(4) who, after a hearing held under Section 574.106 or 592.156, Health and Safety Code, if applicable, has been found to not meet the criteria prescribed by Sections 574.106(a) and (a-1) or 592.156(a) and (b), Health and Safety Code, for court-ordered administration of psychoactive medications.

(b) If a defendant described by Subsection (a) refuses to take psychoactive medications as required by the defendant's continuity of care plan, the director of the ~~correctional~~ facility or ~~outpatient treatment~~ program provider, as applicable, shall notify the court in which the criminal proceedings are pending of that fact not later than the end of the next business day following the refusal. The court shall promptly notify the attorney representing the state and the attorney representing the defendant of the defendant's refusal. The attorney representing the state may file a written motion to compel medication. The motion to compel medication must be filed not later than the 15th day after the date a judge issues an order stating that the defendant does not meet the criteria for court-ordered administration of psychoactive medications under Section 574.106 or 592.156, Health

~~treatment~~ program;

(B) is committed to an inpatient mental health facility, ~~or~~ a residential care facility, or a jail-based competency restoration program for the purpose of competency restoration;

(C) is confined in a correctional facility while awaiting further criminal proceedings following competency restoration ~~treatment~~;

(D) is subject to Article 46B.0711, if the court has made the determinations required by Subsection (b) of that article; or

(E) ~~(D)~~ is subject to Article 46B.072, if the court has made the determinations required by Subsection (a-1) of that article;

(3) for whom a correctional facility or jail-based competency restoration program that employs or contracts with a licensed psychiatrist, an inpatient mental health facility, a residential care facility, or an outpatient competency restoration ~~treatment~~ program provider has prepared a continuity of care plan that requires the defendant to take psychoactive medications; and

(4) who, after a hearing held under Section 574.106 or 592.156, Health and Safety Code, if applicable, has been found to not meet the criteria prescribed by Sections 574.106(a) and (a-1) or 592.156(a) and (b), Health and Safety Code, for court-ordered administration of psychoactive medications.

(b) If a defendant described by Subsection (a) refuses to take psychoactive medications as required by the defendant's continuity of care plan, the director of the ~~correctional~~ facility or ~~outpatient treatment~~ program provider, as applicable, shall notify the court in which the criminal proceedings are pending of that fact not later than the end of the next business day following the refusal. The court shall promptly notify the attorney representing the state and the attorney representing the defendant of the defendant's refusal. The attorney representing the state may file a written motion to compel medication. The motion to compel medication must be filed not later than the 15th day after the date a judge issues an order stating that the defendant does not meet the criteria for court-ordered administration of psychoactive medications under Section 574.106 or 592.156, Health

and Safety Code, except that, for a defendant in an outpatient [treatment] program, the motion may be filed at any time.

(c) The court, after notice and after a hearing held not later than the 10th day after the motion to compel medication is filed, may authorize the director of the [correctional] facility or the program provider, as applicable, to have the medication administered to the defendant, by reasonable force if necessary. A hearing under this subsection may be conducted using an electronic broadcast system as provided by Article 46B.013.

(d) The court may issue an order under this article only if the order is supported by the testimony of two physicians, one of whom is the physician at or with the applicable [correctional] facility or [outpatient treatment] program who is prescribing the medication as a component of the defendant's continuity of care plan and another who is not otherwise involved in proceedings against the defendant. The court may require either or both physicians to examine the defendant and report on the examination to the court.

SECTION 28. The heading to Article 46B.090, Code of Criminal Procedure, is amended.

SECTION 29. Articles 46B.090(a), (a-1), (b), (c), (f), (g), (i), (j), (k), (l), and (m), Code of Criminal Procedure, are amended to read as follows:

(a) In this article:

(1) "Commission" [~~,"department"~~] means the Health and Human Services Commission [~~Department of State Health Services~~].

(2) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

(a-1) The commission may [~~If the legislature appropriates to the department the funding necessary for the department to~~

and Safety Code, except that, for a defendant in an outpatient competency restoration [treatment] program, the motion may be filed at any time.

(c) Same as introduced version.

(d) Same as introduced version.

SECTION 29. Substantially the same as the introduced version.

SECTION 30. Article 46B.090, Code of Criminal Procedure, is amended by amending Subsections (a), (a-1), (b), (c), (f), (g), (i), (j), (k), (l), and (m) and adding Subsection (p) to read as follows:

(a) Same as introduced version.

(a-1) The commission may [~~If the legislature appropriates to the department the funding necessary for the department to~~

~~operate a jail-based restoration of competency pilot program as described by this article, the department shall] develop and implement a jail-based restoration of competency [the pilot] program in any county [one or two counties] in this state that chooses [choose] to participate in the [pilot] program. In developing the [pilot] program, the commission [department] shall coordinate and allow for input from a [each] participating county.~~

(b) The commission [department] shall contract with a provider of jail-based competency restoration services to provide services under a [the pilot] program implemented [if the department develops a pilot program] under this article. The commission may contract with a different provider for each program.

(c) ~~The executive [Not later than November 1, 2013, the] commissioner [of the department] shall adopt rules as necessary to implement a [the pilot] program[. In adopting rules] under this article, including rules that [the commissioner shall] specify the types of information the commission [department] must collect [during the operation of the pilot program] for use in evaluating a [the outcome of the pilot] program.~~

(f) To contract with the commission [department] under Subsection (b), a provider of jail-based competency restoration services must demonstrate to the commission [department] that:

(1) the provider:

(A) has previously provided jail-based competency restoration services for one or more years and is certified by a nationwide nonprofit organization that accredits behavioral health care organizations and programs; [or]

(B) is a local mental health authority in good standing with the commission [that has previously provided competency restoration services]; or

(C) operates under a contract with a local mental health authority in good standing with the commission; and

(2) the provider's jail-based restoration of

~~operate a jail-based restoration of competency pilot program as described by this article, the department shall] develop and implement a jail-based competency restoration [the pilot] program in any county [one or two counties] in this state that chooses [choose] to participate in the [pilot] program. In developing the [pilot] program, the commission [department] shall coordinate and allow for input from a [each] participating county.~~

(b) Same as introduced version.

(c) Same as introduced version.

(f) To contract with the commission [department] under Subsection (b), a provider of jail-based competency restoration services must demonstrate to the commission [department] that:

(1) the provider:

(A) has previously provided jail-based competency restoration services for one or more years and is certified by a nationwide nonprofit organization that accredits behavioral health care organizations and programs; or

(B) is a local mental health authority or local behavioral health authority in good standing with the commission, which may include an authority that subcontracts with a provider of jail-based [that has previously provided] competency restoration services that is in good standing with the commission; and

(2) the provider's jail-based competency

competency ~~[restoration]~~ program:

(A) provides clinical treatment and competency restoration through the use of [uses] a multidisciplinary treatment team [to provide clinical treatment that is:

~~[(i) directed toward the specific objective of restoring the defendant's competency to stand trial; and~~

~~[(ii) similar to the clinical treatment provided as part of a competency restoration program at an inpatient mental health facility];~~

(B) employs or contracts for the services of at least one psychiatrist or psychologist;

(C) provides jail-based competency restoration services through trained and experienced staff [assigns staff members to defendants participating in the program at an average ratio not lower than 3.7 to 1]; [and]

(D) ensures the safety of participants [provides weekly treatment hours commensurate to the treatment hours provided as part of a competency restoration program at an inpatient mental health facility];

(E) operates in the jail in a designated space that is separate from the space used for the general population of the jail;

(F) provides general health care,

mental health treatment, and substance use disorder treatment to participants, as necessary, for restoration of competency; and

(G) supplies clinically appropriate psychoactive medications for purposes of administering court-ordered medication to participants as applicable and in accordance with Article 46B.086 of this code and Section 574.106, Health and Safety Code

~~[(3) the provider is certified by a nationwide nonprofit organization that accredits health care organizations and programs, such as the Joint Commission on Health Care Staffing Services, or the provider is a local mental health authority in good standing with the department; and~~

~~[(4) the provider has a demonstrated history of successful jail-based competency restoration outcomes or, if the provider is a local mental health authority, a demonstrated history of successful competency restoration outcomes].~~

restoration program:

(A) provides competency restoration through the use of [uses] a multidisciplinary treatment team [to provide clinical treatment] that is:

(i) directed toward the specific objective of restoring the defendant's competency to stand trial; and

(ii) similar to other [the clinical treatment provided as part of a] competency restoration programs [program at an inpatient mental health facility];

(B) employs or contracts for the services of at least one psychiatrist;

(C) provides jail-based competency restoration services through licensed or qualified mental health professionals [assigns staff members to defendants participating in the program at an average ratio not lower than 3.7 to 1]; [and]

(D) provides weekly competency restoration [treatment] hours commensurate to the [treatment] hours provided as part of a competency restoration program at an inpatient mental health facility;

(E) operates in the jail in a designated space that is separate from the space used for the general population of the jail;

(F) ensures coordination of general health care;

(G) provides mental health treatment and substance use disorder treatment to participants, as necessary, for competency restoration; and

(H) supplies clinically appropriate psychoactive medications for purposes of administering court-ordered medication to participants as applicable and in accordance with Article 46B.086 of this code and Section 574.106, Health and Safety Code

~~[(3) the provider is certified by a nationwide nonprofit organization that accredits health care organizations and programs, such as the Joint Commission on Health Care Staffing Services, or the provider is a local mental health authority in good standing with the department; and~~

~~[(4) the provider has a demonstrated history of successful jail-based competency restoration outcomes or, if the provider is a local mental health authority, a demonstrated history of successful competency restoration outcomes].~~

(g) A contract under Subsection (b) must require a ~~the~~ designated provider to collect and submit to the commission ~~[department]~~ the information specified by rules adopted under Subsection (c).

(g) Same as introduced version.

(i) The psychiatrist or psychologist for the provider shall conduct at least two full psychiatric or psychological evaluations of the defendant during the period the defendant receives competency restoration services in the jail. The psychiatrist or psychologist must conduct one evaluation not later than the 21st day and one evaluation not later than the 55th day after the date the defendant begins to participate in the ~~[pilot]~~ program. The psychiatrist or psychologist shall submit to the court a report concerning each evaluation required under this subsection.

(i) Same as introduced version.

(j) If at any time during a defendant's participation in a ~~a [the jail-based restoration of competency pilot]~~ program implemented under this article the psychiatrist or psychologist for the provider determines that the defendant has attained competency to stand trial:

(j) Same as introduced version.

(1) the psychiatrist or psychologist for the provider shall promptly issue and send to the court a report demonstrating that fact; and

(2) the court shall consider that report as the report of an expert stating an opinion that the defendant has been restored to competency for purposes of Article 46B.0755(a) or (b).

(k) If at any time during a defendant's participation in a ~~a [the jail-based restoration of competency pilot]~~ program implemented under this article the psychiatrist or psychologist for the provider determines that the defendant's competency to stand trial is unlikely to be restored in the foreseeable future:

(k) Same as introduced version.

(1) the psychiatrist or psychologist for the provider shall promptly issue and send to the court a report demonstrating that fact; and

(2) the court shall:

(A) proceed under Subchapter E or F and order the transfer of the defendant, without unnecessary delay, to the first available facility that is appropriate for that defendant,

as provided under Subchapter E or F, as applicable; or
(B) release the defendant on bail as permitted under Chapter 17.

(l) If the psychiatrist or psychologist for the provider determines that a defendant ordered to participate in a ~~[the pilot]~~ program implemented under this article has not been restored to competency by the end of the 60th day after the date the defendant began to participate in the ~~[pilot]~~ program:

(1) for a defendant charged with a felony, the defendant shall be transferred, without unnecessary delay and for the remainder of the period prescribed by Article 46B.073(b), to the first available facility that is appropriate for that defendant as provided by Article 46B.073(c) or (d); and

(2) for a defendant charged with a misdemeanor, the court may:

(A) order a single extension under Article 46B.080 and, notwithstanding Article 46B.073(b-1), the transfer of the defendant without unnecessary delay to the appropriate mental health facility or residential care facility as provided by Article 46B.073(d) for the remainder of the period under the extension;

(B) proceed under Subchapter E or F;

(C) release the defendant on bail as permitted under Chapter 17; or

(D) dismiss the charges in accordance with Article 46B.010.

(m) Unless otherwise provided by this article, the provisions of this chapter, including the maximum periods prescribed by Article 46B.0095, apply to a defendant receiving competency restoration services, including competency restoration education services, under a ~~[the pilot]~~ program implemented under this article in the same manner as those provisions apply to any other defendant who is subject to proceedings under this chapter.

No equivalent provision.

SECTION 30. Subchapter C, Chapter 72,

85R 25180

Substitute Document Number: 85R 18826

(l) If the psychiatrist or psychologist for the provider determines that a defendant ordered to participate in a ~~[the pilot]~~ program implemented under this article has not been restored to competency by the end of the 60th day after the date the defendant began to participate in the ~~[pilot]~~ program:

(1) for a defendant charged with a felony, the defendant shall be transferred, without unnecessary delay and for the remainder of the period prescribed by Article 46B.073(b), to the first available facility that is appropriate for that defendant as provided by Article 46B.073(c) or (d); and

(2) for a defendant charged with a misdemeanor, the court may:

(A) order a single extension under Article 46B.080 and the transfer of the defendant without unnecessary delay to the appropriate mental health facility or residential care facility as provided by Article 46B.073(d) for the remainder of the period under the extension;

(B) proceed under Subchapter E or F;

(C) release the defendant on bail as permitted under Chapter 17; or

(D) dismiss the charges in accordance with Article 46B.010.

(m) Same as introduced version.

(p) This article does not affect the responsibility of a county to provide the same basic care to a participant as is provided to other inmates of the jail in which the participant is located.

SECTION 31. Same as introduced version.

17.110.1104

Government Code, is amended.

SECTION 31. Chapter 121, Government Code, is amended.

SECTION 32. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.0993 to read as follows:

Sec. 531.0993. GRANT PROGRAM TO REDUCE RECIDIVISM, ARREST, AND INCARCERATION AMONG INDIVIDUALS WITH MENTAL ILLNESS AND TO REDUCE WAIT TIME FOR FORENSIC COMMITMENT.

(a) For purposes of this section, "low-income household" means a household with a total income at or below 200 percent of the federal poverty guideline.

(b) The commission shall establish a program to award grants to county-based community collaboratives for the purposes of reducing:

(1) recidivism by, the frequency of arrests of, and incarceration of persons with mental illness; and

(2) the total waiting time for forensic commitment of persons with mental illness to a state hospital.

(c) A community collaborative may petition the commission for a grant under the program only if the collaborative includes a county, a local mental health authority that operates in the county, and each hospital district, if any, located in the county. A community collaborative may include other local entities designated by the collaborative's members.

(d) The commission shall condition each grant awarded to a community collaborative under this section on the collaborative providing matching funds from non-state sources in a total amount at least equal to the awarded grant amount. To raise matching funds, a collaborative may seek and receive gifts, grants, or donations from any person.

(e) For each state fiscal year for which a community collaborative seeks a grant, the

SECTION 32. Same as introduced version.

SECTION 33. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.0993 to read as follows:

Sec. 531.0993. GRANT PROGRAM TO REDUCE RECIDIVISM, ARREST, AND INCARCERATION AMONG INDIVIDUALS WITH MENTAL ILLNESS AND TO REDUCE WAIT TIME FOR FORENSIC COMMITMENT.

(a) Same as introduced version.

(b) The commission shall establish a program to provide grants to county-based community collaboratives for the purposes of reducing:

(1) recidivism by, the frequency of arrests of, and incarceration of persons with mental illness; and

(2) the total waiting time for forensic commitment of persons with mental illness to a state hospital.

(c) Same as introduced version.

(d) The commission shall condition each grant provided to a community collaborative under this section on the collaborative providing matching funds from non-state sources in a total amount at least equal to the provided grant amount. To raise matching funds, a collaborative may seek and receive gifts, grants, or donations from any person.

(e) For each state fiscal year for which a community collaborative seeks a grant, the

collaborative must submit a petition to the commission not later than the first day of that fiscal year. The community collaborative must include with a petition:

(1) a statement indicating the amount of matching funds the collaborative is able to provide; and

(2) a plan that:

(A) is endorsed by each of the collaborative's member entities;

(B) identifies a target population;

(C) describes how the grant money and matching funds will be used;

(D) includes outcome measures to evaluate the success of the plan; and

(E) describes how the success of the plan in accordance with the outcome measures would further the state's interest in the grant program's purposes.

(f) The commission must review and approve plans submitted with a petition under Subsection (e) before the commission awards a grant under this section. If the commission determines that a plan includes insufficient outcome measures, the commission may make the necessary changes to the plan to establish appropriate outcome measures. The commission may not make other changes to a plan.

(g) For each petition timely submitted and containing the statement and plan required by Subsection (e), the commission shall estimate the number of cases of serious mental illness in low-income households located in the county included in the community collaborative that submitted the petition.

(h) For each state fiscal year, the commission shall determine an amount of grant money available for the program on a per-case basis by dividing the total amount of money appropriated to the commission for the purpose of awarding grants under this section for that fiscal year by the total number of the cases estimated under

collaborative must submit a petition to the commission not later than the 30th day of that fiscal year. The community collaborative must include with a petition:

(1) a statement indicating the amount of matching funds the collaborative is able to provide; and

(2) a plan that:

(A) is endorsed by each of the collaborative's member entities;

(B) identifies a target population;

(C) describes how the grant money and matching funds will be used;

(D) includes outcome measures to evaluate the success of the plan; and

(E) describes how the success of the plan in accordance with the outcome measures would further the state's interest in the grant program's purposes.

(f) The commission must review plans submitted with a petition under Subsection (e) before the commission provides a grant under this section.

The commission must fulfill the commission's requirements under this subsection not later than the 60th day of each fiscal year.

(g) For each petition timely submitted and containing the statement and plan required by Subsection (e), the commission shall estimate the number of cases of serious mental illness in low-income households located in the county included in the community collaborative that submitted the petition. The commission must fulfill the commission's requirements under this subsection not later than the 60th day of each fiscal year.

(h) For each state fiscal year, the commission shall determine an amount of grant money available for the program on a per-case basis by dividing the total amount of money appropriated to the commission for the purpose of providing grants under this section for that fiscal year by the total number of the cases estimated under

Subsection (g) for all collaboratives to which the commission intends to award grants under this section.

(i) The commission shall make available to a community collaborative awarded a grant under this section a grant in an amount equal to the lesser of:

(1) the amount determined by multiplying the per-case amount determined under Subsection (h) by the number of cases of serious mental illness in low-income households estimated for that collaborative under Subsection (g); or

(2) the collaborative's available matching funds.

(j) Acceptable uses for the grant money and matching funds include:

(1) the continuation of a mental health jail diversion program;

(2) the establishment or expansion of a mental health jail diversion program;

(3) the establishment of alternatives to competency restoration in a state hospital, including outpatient competency restoration, inpatient competency restoration in a setting other than a state hospital, or jail-based competency restoration;

(4) the provision of assertive community treatment or forensic assertive community treatment with an outreach component;

(5) the provision of intensive mental health services and substance abuse treatment not readily available in the county;

(6) the provision of continuity of care services for an individual being released from a state hospital;

(7) the establishment of interdisciplinary rapid response teams to reduce law enforcement's involvement with mental health emergencies; and

(8) the provision of local community hospital, crisis, respite, or residential beds.

(k) Not later than the 90th day after the last day of the state fiscal year for which the commission distributes a grant under this section, each community collaborative that receives a grant shall prepare and submit a report describing the effect of the grant

Subsection (g) for all collaboratives to which the commission intends to provide grants under this section. The commission must fulfill the commission's requirements under this subsection not later than the 60th day of each fiscal year.

(i) Not later than the 90th day of each fiscal year, the commission shall make available to a community collaborative receiving a grant under this section a grant in an amount equal to the lesser of:

(1) the amount determined by multiplying the per-case amount determined under Subsection (h) by the number of cases of serious mental illness in low-income households estimated for that collaborative under Subsection (g); or

(2) the collaborative's available matching funds.

(j) Same as introduced version.

(k) Same as introduced version.

money and matching funds in achieving the standard defined by the outcome measures in the plan submitted under Subsection (e).

(l) The commission may make inspections of the operation and provision of mental health services provided by a community collaborative to ensure state money appropriated for the grant program is used effectively.

SECTION 33. Section 614.0032(b), Health and Safety Code, is amended to read as follows:

(b) The office shall:

(1) with the special assistance of committee members appointed under Section 614.002(b)(1):

(A) review examinations to determine the competency of defendants in criminal cases to stand trial and examinations to determine the fitness of children to proceed with respect to adjudications of delinquent conduct or conduct indicating a need for supervision; and

(B) periodically report to the legislature and the court of criminal appeals findings made as a result of the review described by Paragraph (A); ~~and~~

(2) approve and make generally available in electronic format a standard form for use by experts in reporting competency examination results under Chapter 46B, Code of Criminal Procedure; and

(3) approve and make generally available in electronic format a standard form for use by experts in reporting mental health assessment results under Article 16.22, Code of Criminal Procedure.

SECTION 34. Subchapter B, Chapter 32, Human Resources Code, is amended by adding Section 32.0266 to read as follows:

Sec. 32.0266. SUSPENSION AND AUTOMATIC REINSTATEMENT OF ELIGIBILITY FOR CERTAIN INMATES.

(a) In this section, "department" means the Texas Department of Criminal Justice.

(b) The eligibility for medical assistance of an inmate in the custody of the department is suspended during the period of custody if the inmate is determined by a physician to be a person with mental illness.

(l) Same as introduced version.

SECTION 34. Section 614.0032(b), Health and Safety Code, is amended to read as follows:

(b) The office shall:

(1) ~~[with the special assistance of committee members appointed under Section 614.002(b)(1):~~

~~[(A) review examinations to determine the competency of defendants in criminal cases to stand trial and examinations to determine the fitness of children to proceed with respect to adjudications of delinquent conduct or conduct indicating a need for supervision; and~~

~~[(B) periodically report to the legislature and the court of criminal appeals findings made as a result of the review described by Paragraph (A); and~~

~~[(2)] approve and make generally available in electronic format a standard form for use by experts in reporting competency examination results under Chapter 46B, Code of Criminal Procedure; and~~

(2) approve and make generally available in electronic format a standard form for use by experts in reporting mental health assessment results under Article 16.22, Code of Criminal Procedure.

No equivalent provision.

(c) An inmate whose eligibility for medical assistance is suspended under this section is automatically reinstated on the date the individual is released from the custody of the department. Following the reinstatement, the individual whose eligibility was suspended while an inmate in the custody of the department remains eligible until the expiration of the period of months for which the individual was certified as eligible, excluding the period during which the individual's eligibility was suspended.

(d) The executive commissioner and the department by rule shall adopt a memorandum of understanding that establishes the respective responsibilities of the commission and the department to ensure the suspension and automatic reinstatement of the eligibility of an individual for medical assistance under this section. The memorandum of understanding must establish methods for:

(1) identifying inmates in the custody of the department who have mental illness and who are eligible for medical assistance; and
(2) coordinating the period of an inmate's incarceration with the period of the inmate's suspension of eligibility for medical assistance under this section to ensure suspension under this section begins on the date the department's custody of the individual begins, and reinstatement under this section occurs on the date the individual is released from the department's custody.

SECTION 35. Articles 46B.090(h), (n), and (o), Code of Criminal Procedure, are repealed.

No equivalent provision.

SECTION 35. The following provisions are repealed:

- (1) Article 46B.026(c), Code of Criminal Procedure;
- (2) Articles 46B.090(h), (n), and (o), Code of Criminal Procedure; and
- (3) Section 614.0032(c), Health and Safety Code.

SECTION 36. Not later than November 1, 2017, the executive commissioner of the Health and Human Services Commission shall adopt the rules described by Article 46B.090(c), Code of Criminal Procedure, as amended by this Act.

SECTION 36. Except as otherwise provided by this Act, the changes in law made by this Act apply only to a defendant charged with an offense committed on or after the effective date of this Act. A defendant charged with an offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 37. The change in law made by this Act in adding Section 32.0266, Human Resources Code, applies only to an individual who is released from a facility or other setting described by that section on or after the effective date of this Act, regardless of the date the individual was:

- (1) confined in a facility or other setting described by Section 32.0266; or
- (2) determined eligible for medical assistance under Chapter 32, Human Resources Code.

SECTION 38. If before implementing any provision of Section 32.0266, Human Resources Code, as added by this Act, a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

SECTION 39. This Act takes effect September 1, 2017.

SECTION 37. Same as introduced version.

No equivalent provision.

No equivalent provision.

SECTION 38. Same as introduced version.