

BILL ANALYSIS

Senate Research Center

H.B. 211
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Criminal Justice
5/20/2015
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law does not adequately address the time frame in which criminal proceedings may be resumed after a defendant who was determined to be incompetent to stand trial has subsequently been found competent to stand trial. H.B. 211 seeks to facilitate efficiency within the criminal justice system by remedying this issue.

H.B. 211 amends current law relating to resuming a criminal case after a defendant is determined to be competent to stand trial.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 46B.079(c), Code of Criminal Procedure, to require the court, to enable any objection to the findings of the report to be made in a timely manner under Article 46B.084(a-1), rather than Article 46B.084(a), to provide copies of the report to the attorney representing the defendant and the attorney representing the state. Makes no further change.

SECTION 2. Amends Article 46B.084, Code of Criminal Procedure, by amending Subsections (a), (b), and (d) and adding Subsections (a-1) and (d-1), as follows:

(a)(1) Requires the court, not later than the next business day following the return of a defendant to the court, to notify the attorney representing the state and the attorney for the defendant regarding the return. Requires the attorney for the defendant, within three business days of receiving notice under this subsection or, on a showing of good cause, a later date specified by the court, to meet and confer with the defendant to evaluate whether there is any suggestion that the defendant has not yet regained competency.

(2) Requires the court, notwithstanding Subdivision (1), in a county with a population of 125,000 or less, as soon as practicable following the date of the defendant's return to the court, to provide the notice required by that subdivision to the attorney representing the state and the attorney for the defendant. Requires the attorney for the defendant to meet and confer with the defendant as soon as practicable after the date of receipt of that notice.

(a-1)(1) Requires the court, following the defendant's return to the court, to make a determination with regard to the defendant's competency to stand trial. Requires the court to make the determination not later than the 20th day after the date on which the court received notification under Article 46B.079 (Notice and Report to Court), or not later than the fifth day after the date of the defendant's return to court, whichever occurs first, regardless of whether a party objects to the report as described by this subsection and the issue is set for hearing under Subsection (b). Makes no further change to this subdivision.

(2) Requires the court, notwithstanding Subdivision (1), in a county with a population of 125,000 or less, to make the determination described by that

subdivision not later than the 20th day after the date on which the court received notification under Article 46B.079, regardless of whether a party objects to the report as described by that subdivision and the issue is set for a hearing under Subsection (b).

(b) Requires that the issue, if a party objects under Subsection (a-1), rather than Subsection (a), be set for a hearing. Makes no further change to this subsection.

(d)(1) Requires, rather than authorizes, that criminal proceedings in the case against the defendant, if the defendant is found competent to stand trial, on the court's own motion, be resumed not later than the 14th day after the date of the court's determination under this article that the defendant's competency has been restored.

(2) Requires that criminal proceedings in the case against the defendant, notwithstanding Subdivision (1), in a county with a population of 125,000 or less, on the court's own motion, be resumed as soon as practicable after the date of the court's determination under this article that the defendant's competency has been restored.

(d-1) Provides that this article does not require the criminal case to be finally resolved within any specific period.

SECTION 3. Provides that the change in law made by this Act applies only to a proceeding under Chapter 46B (Incompetency to Stand Trial), Code of Criminal Procedure, that commences on or after the effective date of this Act, regardless of when the defendant may have committed the underlying offense for which the defendant became subject to the proceeding.

SECTION 4. Effective date: upon passage or September 1, 2015.