

BILL ANALYSIS

C.S.S.B. 1326
By: Zaffirini
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.S.B. 1326 seeks to remedy this situation by providing for a county 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 rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 30 of this bill.

ANALYSIS

C.S.S.B. 1326 amends the Code of Criminal Procedure to authorize a county or counties jointly to develop and implement a jail-based competency restoration program through which an applicable county contracts with a provider of jail-based competency restoration services that is a local mental health authority or local behavioral health authority that is in good standing with the Health and Human Services Commission (HHSC), which may include an authority that is in good standing with HHSC and subcontracts with a provider of jail-based competency restoration services. The bill sets out requirements for a county jail-based competency restoration program and 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, including a rational and factual understanding of the court proceedings and charges against the person. The bill requires the executive commissioner of HHSC to adopt, not later than November 1, 2017, rules as necessary for a county to develop and implement a county jail-based competency restoration program. The bill requires HHSC, as part of the rulemaking process, to establish specified contract monitoring and oversight requirements that are consistent with local mental health authority or local behavioral health authority performance contract monitoring and oversight requirements, as applicable. The bill authorizes HHSC to inspect on behalf of the state any aspect of a county jail-based competency restoration program. The bill requires a psychiatrist or psychologist for the provider to conduct specified psychiatric or psychological evaluations of a defendant during the period the defendant receives competency restoration services in the jail and to submit to the court a report concerning each evaluation.

C.S.S.B. 1326 sets out requirements for the psychiatrist or psychologist for the provider and for the court on determination, at any time during a defendant's commitment to a program, by the

psychiatrist or psychologist for the provider that the defendant has attained competency to stand trial or that the defendant's competency to stand trial is unlikely to be restored in the foreseeable future. The bill establishes procedures for a defendant who, as determined by the psychiatrist or psychologist for the provider, has not been restored to competency by the end of the 60th day after the date the defendant began to receive services in the program, depending on whether the defendant is charged with a felony or a misdemeanor. Statutory provisions relating to a defendant's incompetency to stand trial apply to a defendant receiving competency restoration services under a county jail-based competency restoration program in the same manner as those provisions apply to any other defendant who is subject to competency restoration proceedings, unless otherwise provided by the bill, and the bill's provisions expressly do not affect the responsibility of a county to ensure the safety of a defendant who is committed to such a program and to provide the same adequate care to the defendant as is provided to other inmates of the jail in which the defendant is located.

C.S.S.B. 1326 extends to a jail-based competency restoration program the applicability of statutory provisions relating to the maximum period 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.

C.S.S.B. 1326 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 12 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 72 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 96 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.S.B. 1326 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.S.B. 1326 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.S.B. 1326 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 a jail-based competency restoration program is not available or a licensed or qualified mental health professional determines that a jail-based competency restoration program is not appropriate, but 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 if 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. 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 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, and the deadline for returning a defendant to court after commitment or release on bail. The bill provides the option for certain defendants to be placed in the custody or care of a sheriff's deputy for transportation as an alternative to being placed in the custody or care of the sheriff.

C.S.S.B. 1326 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 is clinically ready and can be safely transferred to a competency restoration program for education services but has not yet attained competency to stand trial.

C.S.S.B. 1326 requires a court, on notification from the head of a facility or a jail-based competency restoration program provider that a defendant is clinically ready and 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 the 10th day 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 or into the care of the sheriff's deputy and requires the sheriff or sheriff's deputy 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.

C.S.S.B. 1326 requires a sheriff or sheriff's deputy 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. The bill entitles a sheriff to reimbursement from the state for providing the medication to the extent funds are appropriated for that purpose. The bill expressly does not require a sheriff to comply with the requirement to provide medication if the sheriff determines that funds are not available from the state to reimburse the sheriff. The bill revises the information on which a court may base a determination with regard to a defendant's competency to stand trial following the defendant's return to the court.

C.S.S.B. 1326 removes the requirement that a provider of the Department of State Health Services (DSHS) jail-based competency restoration pilot program assign staff members to defendants participating in the program at an average ratio not lower than 3.7 to 1. The bill postpones from December 1, 2016, to December 1, 2018, the deadline by which the commissioner of state health services is required to submit a report concerning the pilot program to the presiding officers of the applicable standing committees of the senate and the house of representatives. The bill makes statutory provisions relating to the DSHS program permanent by repealing the expiration date of the provisions. The bill removes provisions relating to required reports regarding a defendant who is committed to a mental health facility or residential care facility in a county in which a DSHS program is operating.

C.S.S.B. 1326 amends the Government Code to require the administrative director of the courts in OCA to make available to courts information concerning best practices for addressing the needs of persons with mental illness in the court system.

C.S.S.B. 1326 adds a temporary provision set to expire September 1, 2019, requiring OCA to collect certain information from specialty courts in Texas regarding outcomes of participants in those specialty courts who are persons with mental illness for the period beginning September 1, 2017, and ending September 1, 2018, and to submit to the legislature a report containing and evaluating that information not later than December 1, 2018.

C.S.S.B. 1326 amends the Health and Safety Code to change the maximum period for which temporary inpatient or outpatient mental health services may be authorized in the applicable court order for a proposed patient from 90 days to 45 days except that the bill authorizes the order to specify a maximum period of 90 days if the judge finds that the longer period is necessary. The bill removes the prohibition against an order specifying a shorter period. The bill removes the requirement for the Texas Correctional Office on Offenders with Medical or Mental Impairments 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.S.B. 1326 repeals the following provisions:

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

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 1326 may differ from the engrossed in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

SENATE ENGROSSED	HOUSE COMMITTEE SUBSTITUTE
SECTION 1. Article 15.17, Code of Criminal Procedure, is amended.	SECTION 1. Same as engrossed version.
SECTION 2. Article 16.22, Code of Criminal Procedure, is amended.	SECTION 2. Same as engrossed version.
SECTION 3. Articles 17.032(a), (b), (c), and (d), Code of Criminal Procedure, are amended.	SECTION 3. Substantially the same as engrossed version.
SECTION 4. Article 32A.01, Code of Criminal Procedure, is amended.	SECTION 4. Same as engrossed version.

SECTION 5. Article 46B.001, Code of Criminal Procedure, is amended.

SECTION 6. The heading to Article 46B.0095, Code of Criminal Procedure, is amended.

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

SECTION 8. Article 46B.010, Code of Criminal Procedure, is amended.

SECTION 9. Article 46B.026, Code of Criminal Procedure, is amended.

SECTION 10. Article 46B.071(a), Code of Criminal Procedure, is amended.

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 competency restoration program for a period not to exceed 60 days.

(c) Notwithstanding Subsection (b), the court may order a defendant to participate in an outpatient competency restoration

SECTION 5. Same as engrossed version.

SECTION 6. Same as engrossed version.

SECTION 7. Same as engrossed version.

SECTION 8. Substantially the same as engrossed version.

SECTION 9. Same as engrossed version.

SECTION 10. Same as engrossed version.

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 competency restoration program for a period not to exceed 60 days.

(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 12. The heading to Article 46B.072, Code of Criminal Procedure, is amended.

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

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:

(b) For purposes of 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

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.

SECTION 12. Same as engrossed version.

SECTION 13. Same as engrossed version.

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:

(b) For purposes of 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.

(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 committing the defendant 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 or to a jail-based competency restoration program. 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) Except as provided by Subsection (f), a defendant charged with an offense punishable as a Class B misdemeanor may be committed under this subchapter only to a jail-based competency restoration program.

(f) A defendant charged with an offense punishable as a Class B misdemeanor may be committed to a mental health facility or residential care facility described by Subsection (d) only if a jail-based competency restoration program is not available

~~[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~~

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.

(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 committing the defendant 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 or to a jail-based competency restoration program. 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) Except as provided by Subsection (f), a defendant charged with an offense punishable as a Class B misdemeanor may be committed under this subchapter only to a jail-based competency restoration program.

(f) A defendant charged with an offense punishable as a Class B misdemeanor may be committed to a mental health facility or residential care facility described by Subsection (d) only if a jail-based competency restoration program is not available or a licensed or qualified mental health professional determines that a jail-based competency restoration program is not 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 15. Article 46B.074(a), Code of Criminal Procedure, is amended.

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

SECTION 18. Article 46B.076, Code of Criminal Procedure, is amended.

SECTION 19. Article 46B.077, Code of Criminal Procedure, is amended.

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

~~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 15. Same as engrossed 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 or sheriff's deputy 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 engrossed version.

SECTION 18. Same as engrossed version.

SECTION 19. Same as engrossed version.

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.

SECTION 22. Article 46B.080(a), Code of Criminal Procedure, is amended.

SECTION 23. Subchapter D, Chapter 46B, Code of Criminal Procedure, is amended by adding Articles 46B.0805 and 46B.0825 to read as follows:

Art. 46B.0805. COMPETENCY RESTORATION EDUCATION SERVICES. (a) 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 an outpatient competency restoration program, as appropriate and if available.

(b) If a defendant for whom an order is entered under Subsection (a) 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

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 or sheriff's deputy for transportation in the manner described by Article 46B.082.

SECTION 21. Same as engrossed version.

SECTION 22. Same as engrossed version.

SECTION 23. Subchapter D, Chapter 46B, Code of Criminal Procedure, is amended by adding Articles 46B.0805 and 46B.0825 to read as follows:

Art. 46B.0805. COMPETENCY RESTORATION EDUCATION SERVICES. (a) On notification from the head of a facility or a jail-based competency restoration 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 an outpatient competency restoration program, as appropriate and if available.

(b) If a defendant for whom an order is entered under Subsection (a) 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.

(c) As soon as practicable but not later than the 10th day after the date of receipt of a copy of an order under Subsection (b)(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.

(d) 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.0825. ADMINISTRATION OF MEDICATION WHILE IN CUSTODY OF SHERIFF. (a) A sheriff having custody of a defendant for transportation as required by Article 46B.075, 46B.0805, or 46B.082 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.

(b) To the extent funds are appropriated for that purpose, a sheriff is entitled to reimbursement from the state for providing the medication required by Subsection (a).

(c) If the sheriff determines that funds are not available from the state to reimburse the sheriff as provided by Subsection (b), the sheriff is not required to comply with Subsection (a).

SECTION 24. Article 46B.081, Code of Criminal Procedure, is amended.

SECTION 25. The heading to Article

intellectual and developmental disability authority, as appropriate.

(c) As soon as practicable but not later than the 10th day after the date of receipt of a copy of an order under Subsection (b)(2), the applicable facility shall discharge the defendant into the care of the sheriff of the county in which the court is located or into the care of the sheriff's deputy. The sheriff or sheriff's deputy shall transport the defendant to the jail-based competency restoration program or outpatient competency restoration program, as appropriate.

(d) 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.0825. ADMINISTRATION OF MEDICATION WHILE IN CUSTODY OF SHERIFF. (a) A sheriff or sheriff's deputy having custody of a defendant for transportation as required by Article 46B.0805 or 46B.082 or during proceedings described by Article 468.084 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.

(b) To the extent funds are appropriated for that purpose, a sheriff is entitled to reimbursement from the state for providing the medication required by Subsection (a).

(c) If the sheriff determines that funds are not available from the state to reimburse the sheriff as provided by Subsection (b), the sheriff is not required to comply with Subsection (a).

SECTION 24. Same as engrossed version.

No equivalent provision. (But see SECTION

46B.082, Code of Criminal Procedure, is amended to read as follows:
Art. 46B.082. TRANSPORTATION OF DEFENDANT TO COURT.

SECTION 26. 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 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 27. Article 46B.083, Code of Criminal Procedure, is amended.

SECTION 28. Article 46B.084(a-1)(1), Code of Criminal Procedure, is amended.

25 below.)

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

Art. 46B.082. TRANSPORTATION OF DEFENDANT TO COURT.

(a) On notification from the court under Article 46B.078, the sheriff of the county in which the court is located or the sheriff's deputy [designee] shall transport the defendant to the court.

(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 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. Same as engrossed version.

SECTION 27. Same as engrossed version.

SECTION 29. 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 [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 the [outpatient—treatment] program provider, as applicable, shall notify

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, or an outpatient competency restoration [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];~~ or
 - (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 the [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 competency restoration ~~[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 30. Articles 46B.090(f) and (n), Code of Criminal Procedure, are amended to read as follows:

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

(1) the provider:

(A) has previously provided jail-based competency restoration services for one or

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 competency restoration ~~[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 29. Articles 46B.090(f), (l), and (n), Code of Criminal Procedure, are amended to read as follows:

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

(1) the provider:

(A) has previously provided jail-based competency restoration services for one or

more years; or

(B) is a local mental health authority that has previously provided competency restoration services;

(2) the provider's jail-based competency restoration program:

(A) 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; and

(C) ~~[assigns staff members to defendants participating in the program at an average ratio not lower than 3.7 to 1; and~~

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

(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.

more years; or

(B) is a local mental health authority that has previously provided competency restoration services;

(2) the provider's jail-based competency restoration program:

(A) 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; and

(C) ~~[assigns staff members to defendants participating in the program at an average ratio not lower than 3.7 to 1; and~~

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

(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.

(1) If the psychiatrist for the provider determines that a defendant ordered to participate in the pilot program has not been restored to competency by the end of the 60th day after the date the defendant began to receive services ~~[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

(n) If the department develops and implements a jail-based restoration of competency pilot program under this article, not later than December 1, 2018 [2016], the commissioner of the department shall submit a report concerning the pilot program to the presiding officers of the standing committees of the senate and house of representatives having primary jurisdiction over health and human services issues and over criminal justice issues. The report must include the information collected by the department during the pilot program and the commissioner's evaluation of the outcome of the program as of the date the report is submitted.

SECTION 31. Subchapter D, Chapter 46B, Code of Criminal Procedure, is amended by adding Article 46B.091 to read as follows:
Art. 46B.091. JAIL-BASED COMPETENCY RESTORATION PROGRAM IMPLEMENTED BY COUNTY. (a) In this article:
(1) "Commission" means the Health and Human Services Commission.
(2) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.
(b) A county or counties jointly may develop and implement a jail-based competency restoration program.
(c) A county that implements a program under this article shall contract with a provider of jail-based competency restoration services that is a local mental health authority or local behavioral health authority that is in good standing with the commission, which may include an authority that is in good standing with the commission and subcontracts with a provider of jail-based competency restoration services.

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.

(n) If the department develops and implements a jail-based restoration of competency pilot program under this article, not later than December 1, 2018 [2016], the commissioner of the department shall submit a report concerning the pilot program to the presiding officers of the standing committees of the senate and house of representatives having primary jurisdiction over health and human services issues and over criminal justice issues. The report must include the information collected by the department during the pilot program and the commissioner's evaluation of the outcome of the program as of the date the report is submitted.

SECTION 30. Subchapter D, Chapter 46B, Code of Criminal Procedure, is amended by adding Article 46B.091 to read as follows:
Art. 46B.091. JAIL-BASED COMPETENCY RESTORATION PROGRAM IMPLEMENTED BY COUNTY. (a) In this article:
(1) "Commission" means the Health and Human Services Commission.
(2) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.
(b) A county or counties jointly may develop and implement a jail-based competency restoration program.
(c) A county that implements a program under this article shall contract with a provider of jail-based competency restoration services that is a local mental health authority or local behavioral health authority that is in good standing with the commission, which may include an authority that is in good standing with the commission and subcontracts with a provider of jail-based competency restoration services.

(d) A jail-based competency restoration program must:

(1) provide jail-based competency restoration services through the use of a multidisciplinary treatment team that are:

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

(B) similar to other competency restoration programs;

(2) employ or contract for the services of at least one psychiatrist;

(3) provide jail-based competency restoration services through licensed or qualified mental health professionals;

(4) provide weekly competency restoration hours commensurate to the hours provided as part of a competency restoration program at an inpatient mental health facility;

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

(6) ensure coordination of general health care;

(7) provide mental health treatment and substance use disorder treatment to defendants, as necessary, for competency restoration; and

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

(e) The executive commissioner shall adopt rules as necessary for a county to develop and implement a program under this article. The commission shall, as part of the rulemaking process, establish contract monitoring and oversight requirements for a local mental health authority or local behavioral health authority that contracts with a county to provide jail-based competency restoration services under this article. The contract monitoring and oversight requirements must be consistent with local mental health authority or local behavioral health authority performance contract monitoring and oversight requirements, as applicable.

(f) The commission may inspect on behalf of the state any aspect of a program implemented under this article.

(g) A psychiatrist or psychologist for the provider shall conduct at least two full

(d) A jail-based competency restoration program must:

(1) provide jail-based competency restoration services through the use of a multidisciplinary treatment team that are:

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

(B) similar to other competency restoration programs;

(2) employ or contract for the services of at least one psychiatrist;

(3) provide jail-based competency restoration services through licensed or qualified mental health professionals;

(4) provide weekly competency restoration hours commensurate to the hours provided as part of a competency restoration program at an inpatient mental health facility;

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

(6) ensure coordination of general health care;

(7) provide mental health treatment and substance use disorder treatment to defendants, as necessary, for competency restoration; and

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

(e) The executive commissioner shall adopt rules as necessary for a county to develop and implement a program under this article. The commission shall, as part of the rulemaking process, establish contract monitoring and oversight requirements for a local mental health authority or local behavioral health authority that contracts with a county to provide jail-based competency restoration services under this article. The contract monitoring and oversight requirements must be consistent with local mental health authority or local behavioral health authority performance contract monitoring and oversight requirements, as applicable.

(f) The commission may inspect on behalf of the state any aspect of a program implemented under this article.

(g) A 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 is committed to the program. The psychiatrist or psychologist shall submit to the court a report concerning each evaluation required under this subsection.

(h) If at any time during a defendant's commitment to a program implemented under this article the psychiatrist or psychologist for the provider determines that the defendant has attained competency to stand trial:

(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).

(i) If at any time during a defendant's commitment to a 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:

(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.

(j) If the psychiatrist or psychologist for the provider determines that a defendant committed to a program implemented under this article has not been restored to competency by the end of the 60th day after the date the defendant was committed to the program:

(1) for a defendant charged with a felony,

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 is committed to the program. The psychiatrist or psychologist shall submit to the court a report concerning each evaluation required under this subsection.

(h) If at any time during a defendant's commitment to a program implemented under this article the psychiatrist or psychologist for the provider determines that the defendant has attained competency to stand trial:

(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).

(i) If at any time during a defendant's commitment to a 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:

(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.

(j) If the psychiatrist or psychologist for the provider determines that a defendant committed to a 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 receive services in the 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 Articles 46B.073(e) and (f), 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.
(k) 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 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.
(l) This article does not affect the responsibility of a county to ensure the safety of a defendant who is committed to the program and to provide the same adequate care to the defendant as is provided to other inmates of the jail in which the defendant is located.

No equivalent provision.

No equivalent provision.

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 Articles 46B.073(e) and (f), 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.
(k) 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 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.
(l) This article does not affect the responsibility of a county to ensure the safety of a defendant who is committed to the program and to provide the same adequate care to the defendant as is provided to other inmates of the jail in which the defendant is located.

SECTION 31. Subchapter C, Chapter 72, Government Code, is amended by adding Section 72.032 to read as follows:
Sec. 72.032. BEST PRACTICES EDUCATION. The director shall 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 Section 392.002.

SECTION 32. Chapter 121, Government

Code, is amended by adding Section 121.003 to read as follows:

Sec. 121.003. SPECIALTY COURTS REPORT. (a) In this section, "office" means the Office of Court Administration of the Texas Judicial System.

(b) For the period beginning September 1, 2017, and ending September 1, 2018, the office shall collect information from specialty courts in this state 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 the office.

(c) Not later than December 1, 2018, the office shall submit to the legislature a report containing and evaluating the information collected under Subsection (b).

(d) This section expires September 1, 2019.

SECTION 32. Section 574.034(g), Health and Safety Code, is amended.

SECTION 33. Same as engrossed version.

SECTION 33. Section 614.0032(b), Health and Safety Code, is amended.

SECTION 34. Same as engrossed version.

SECTION 34. The following provisions are repealed:

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

SECTION 35. Same as engrossed version.

SECTION 35. Not later than November 1, 2017, the executive commissioner of the Health and Human Services Commission shall adopt the rules described by Article 46B.091(e), Code of Criminal Procedure, as added by this Act.

SECTION 36. Same as engrossed version.

SECTION 36. 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

SECTION 37. Same as engrossed version.

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. This Act takes effect only if a specific appropriation for the implementation of the Act is provided in a general appropriations act of the 85th Legislature.

No equivalent provision.

SECTION 38. This Act takes effect September 1, 2017.

SECTION 38. Same as engrossed version.