

SUBJECT: Sending competency exam reports on criminal defendants to TCOOMMI

COMMITTEE: Corrections — favorable, without amendment

VOTE: 5 ayes — Madden, D. Jones, Haggerty, Hochberg, McReynolds

0 nays

2 absent — R. Allen, Noriega

WITNESSES: None

BACKGROUND: Health and Safety Code, sec. 614.0032(b) requires the Texas Correctional Office on Offenders with Medical or Mental Impairments, part of the Texas Department of Criminal Justice (TDCJ), to review examinations made to determine the competency of criminal defendants to stand trial and periodically to report the findings to the Legislature and the Court of Criminal Appeals.

DIGEST: HB 2194 would require courts receiving reports from experts who have examined criminal defendants to determine competency to stand trial to forward reports as soon as practicable to the Texas Correctional Office on Offenders with Medical or Mental Impairments (TCOOMMI). Courts would direct experts performing the exams to provide their reports to the court and the appropriate parties in a form approved by TCOOMMI. TCOOMMI would approve and make available an electronic, standard form for experts to use in reporting the results of the competency exams.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2005.

SUPPORTERS SAY: HB 2194 is necessary to solve problems that have arisen as TCOOMMI has tried to implement a charge from the 78th Legislature to review the reports of examinations of criminal defendants made to determine competency to stand trial. The legislation did not require that courts send the reports to TCOOMMI or provide a mechanism for sending the reports.

As a result, TCOOMMI does not know if it is receiving all of the reports, and the reports vary widely in length and content. In one eight-month period, TCOOMMI did not receive any reports from three major metropolitan areas. In some large counties, hundreds of experts may be performing competency exams of varying detail and reporting different types of information. Some reports have been one page long and others 20 or 30 pages.

HB 2194 would solve these problems by requiring courts to send competency reports to TCOOMMI and requiring that they be on a standard form. This would allow TCOOMMI's to meet its obligation to report to the Legislature and the Court of Criminal Appeals on the competency reports.

HB 2194 would make easier the job of experts who examine criminal defendants and courts who must report the information to TCOOMMI. Experts, such as doctors and psychologists, would know exactly what information is needed and how to report it. TCOOMMI has been working with experts to develop a standard form that would clarify what information should be reported and that would be flexible enough for experts to include any information they wanted. The bill would not place a reporting burden on courts because it would require them to send the reports only as soon as practicable after they received them.

HB 2194 would require TCOOMMI to develop an electronic standard form that could ease the filing of reports. However, the bill would not require the forms to be filed electronically, so counties not electronically capable of doing so would have another option.

**OPPONENTS
SAY:**

Requiring experts to make their competency reports on a standard form could reduce their flexibility to write a report that is adequately tailored to an individual's situation. A standard form may not account for items that an expert wants to include or not include in a competency report.