

## **BILL ANALYSIS**

Senate Research Center  
76R10557 GWK-D

H.B. 245  
By: Gallego (Ellis)  
Criminal Justice  
5/13/1999  
Engrossed

### **DIGEST**

The United States Supreme Court held that the United States Constitution requires that an inmate sentenced to death be mentally competent to be executed. H.B. 245 prohibits the state from executing a person sentenced to death if the person is mentally incompetent and establishes a procedure to determine the person's level of mental competency.

### **PURPOSE**

As proposed, H.B. 245 establishes procedures for determining whether a defendant sentenced to death is incompetent for purposes of execution.

### **RULEMAKING AUTHORITY**

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

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 46, Code of Criminal Procedure, by adding Article 46.04, as follows:

Art. 46.04. COMPETENCY TO BE EXECUTED. Prohibits a person who is incompetent to be executed from being executed. Provides that the trial court retains jurisdiction over motions brought by or for a defendant under this article. Requires the trial court to order at least two mental health experts to examine a defendant using the standard described by Subsection (d) to determine whether the defendant is incompetent to be executed if the attorneys representing the state or the defendant, or the trial court on its own motion raises the issue of the defendant's incompetency to be executed. Provides that a defendant is incompetent to be executed if the defendant does not understand that the defendant is to be executed, the imminence of the execution, and the reason why the execution is to take place. Requires mental health experts examining a defendant under this article to provide within a time ordered by the court copies of their reports to the attorneys representing the state or the defendant and the court. Prohibits the defendant from being executed if, on the basis of the reports provided by mental health experts, the court finds the defendant incompetent to be executed. Requires the trial court to periodically order the convicted person to be reexamined by mental health experts to determine whether the convicted person is no longer incompetent to be executed. Authorizes the trial court to set an execution date as otherwise provided by law if, on the basis of reports issued by mental health experts, the court finds that the defendant is not incompetent to be executed.

SECTION 2. Effective date: September 1, 1999.

SECTION 3. Emergency clause.