

BILL ANALYSIS

Senate Research Center
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S.B. 561
By: Carona
Jurisprudence
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AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Currently, a defendant who is the subject of a hearing to determine the defendant's competency to stand trial is required to be transported from the state hospital to the county courthouse for his/her mental competency hearing. During the time it takes to transport the defendant and await a hearing, a mentally ill defendant's mental condition can deteriorate. Sometimes, the deterioration can become so severe that the defendant, jail staff, and other inmates are unnecessarily exposed to safety risks.

As proposed, S.B. 561 creates a new approach for determining the need for a competency hearing, which is used to ascertain whether or not an inmate is mentally competent to stand trial, taking into account the patient's treatment plan when scheduling hearings to determine competency.

S.B. 561 provides that if two treating physicians determine that the patient will not attain competency in the foreseeable future, the hearing, upon the motion of a party, will not be scheduled. S.B. 561 also provides that if a party presents the court with supporting material which convinces the court that a hearing should be scheduled, the court will have the option of conducting the hearing at the treatment facility or via the means of an electronic broadcast system. The court will continue to have the option to transport the inmate back to the county jail to await a hearing. These new options will allow the patient to continue a prescribed treatment plan and not expose the patient to the hazards associated with transportation back to the court's home county and incarceration in the county jail while awaiting a hearing.

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.001, Code of Criminal Procedure, by adding Subdivision (9), to define "electronic broadcast system."

SECTION 2. Amends article 46B.107(d), Code of Criminal Procedure, to authorize the court to conduct a hearing at the facility or by means of an electronic broadcast system.

SECTION 3. Amends Article 46B.113, Code of Criminal Procedure, by amending Subsections (b) and (c), and by adding Subsection (b-1), as follows:

(b) Authorizes the court, subject to Subsection (b-1), to hold a hearing on a motion filed by a party to determine whether the defendant has been restored to competency, except that the court is prohibited from holding a hearing on the motion if two experts at the facility who meet the qualifications for appointment under Article 46B.022 (Experts: Qualifications), file with the court in response to the motion, no later than the 20th day after the date the motion is filed, a joint report stating that the defendant will not attain competency in the foreseeable future. Prohibits the court, subject to Article 46B.115(b), from holding a hearing on any subsequent motion filed by the same party under this subchapter until the earlier of certain actions. Makes a nonsubstantive change.

(b-1) Authorizes the court to hold a hearing on the court's own motion to inquire into restoration of competency and requires the court to hold a hearing if a motion of a party and any supporting material establish good reason to believe the defendant may have been restored to competency. Deletes existing text relating to the court's decision on its own motion to inquire into restoration of competency.

(c) Requires a jury, if a court holds a hearing under this article, on the request of either party or the motion of the court, to make the competency determination. Authorizes the court, if the competency determination will be made by the court rather than a jury, to conduct the hearing at the facility or by means of an electronic broadcast system.

SECTION 4. Amends Article 46B.114, Code of Criminal Procedure, as follows:

Art. 46B.114. TRANSPORTATION OF DEFENDANT TO COURT. Requires an order setting a hearing to determine whether the defendant has been restored to competency, if the hearing is not conducted at the facility to which the defendant has been committed or conducted by means of an electronic broadcast system as permitted by this subchapter, to direct that the defendant be placed in the custody of the sheriff of the county in which the committing court is located or the sheriff's designee for transportation to the court. Makes a nonsubstantive change.

SECTION 5. Amends Article 46B.115, Code of Criminal Procedure, by amending Subsection (b) and adding Subsection (c), as follows:

(b) Authorizes a court, regardless of whether a joint report of the defendant's incompetency has been submitted or retracted as provided by Article 46B.113(b), to hold a hearing on a request or motion under this article if the court first finds reason to believe the defendant's condition has materially changed since the prior determination that the defendant was not restored to competency.

(c) Authorizes the court, if the competency determination will be made by the court, to conduct the hearing at the facility to which the defendant has been committed under this chapter or to conduct the hearing by means of an electronic broadcast system.

SECTION 6. Amends Article 46B.117(a), Code of Criminal Procedure, to require the court, if a defendant under order of commitment to a facility is found to not have been restored to competency to stand trial, to remand the defendant pursuant to that order of commitment, and, if applicable, order the defend placed in the custody of the sheriff or the sheriff's designee for transportation back to the facility.

SECTION 7. Makes application of this Act prospective.

SECTION 8. Effective date: September 1, 2005.