

BILL ANALYSIS

Senate Research Center
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S.B. 925
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Criminal Justice
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As Filed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Under current Texas law, the procedures for courts to consider claims that death row inmates are considered incompetent for the purposes of execution are governed by Article 46.05, Code of Criminal Procedure. There are two parts to the test for competence to be determined. Article 46.05 provides that an inmate making a "substantial showing" of incompetence is afforded a hearing before the district court and two experts are appointed to evaluate the inmate's mental status. After the hearing, the district court determines the inmate's competency for the purpose of execution.

As proposed, S.B. 925 equalizes the appellate rights for the prosecution and the defense and shifts the method of district court determinations to a process similar to that adopted in habeas corpus proceedings. It does not create any mandatory stay for execution for inmates to appeal a district court's finding of competence to be executed. Rather, it permits the court to authorize, at its discretion, a stay of execution.

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 46.05, Code of Criminal Procedure, by amending Subsections (g), (k), and (l), and adding Subsections (m) and (n), as follows:

(g) Authorizes the trial court to set an execution date as otherwise provided by law.

(k) Requires the trial court to determine, on the basis of reports provided under Subsection (i), or other specific information the defendant has established, rather than the trial court making a finding, by a preponderance of the evidence that the defendant is incompetent to be executed. Authorizes the court to set an execution date as otherwise provided by law, if the court finds that the defendant is not incompetent to be executed.

(l) Requires the clerk, following the trial court's determination under Subsection (k) and on motion of a party, to send immediately to the court of criminal appeals in accordance with Section 8(d), Article 11.071, the appropriate documents for that court's review and entry of a judgment of whether to adopt the trial court's order, findings, or recommendations issued under Subsections (g) or (k). Requires the court of criminal appeals to determine whether any existing execution date should be withdrawn and a stay of execution issued while that court is conducting its review or, if a stay is not issued during the review, after entry of its judgment.

(m) Creates this subsection from existing text. Requires the trial court, if a stay of execution is issued by the court of criminal appeals, to periodically order that the defendant be reexamined by mental health experts to determine whether the defendant is no longer incompetent to be executed.

(n) Redesignated from existing Subsection (l). Authorizes the court to withdraw any stay of execution issued under Subsection (l), and authorizes the trial court to set an execution

date as otherwise provided by law, if the court of criminal appeals enters a judgment that a defendant is not incompetent to be executed.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2005.