

BILL ANALYSIS

Senate Research Center
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S.B. 440
By: Deuell
Criminal Justice
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

As proposed, S.B. 440 ensures that the length of commitment in a state hospital for a criminal defendant during mental incompetency proceedings does not exceed the maximum sentence for the criminal offense. This bill provides that once the maximum term has expired and civil commitment proceedings have occurred may the defendant may be confined for an additional period of time in a mental hospital or other in-patient or residential facility pursuant to a civil commitment proceeding. This bill also states that only defendants who have been restored to competency and have not been tried are eligible for the mandatory dismissal of a misdemeanor charges after the two-year statute of limitation expires. S.B. 440 protects incarcerated people with severe mental illnesses from receiving inadequate and possibly harmful treatment of their mental health needs.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 46B, Code of Criminal Procedure, by amending Articles 46B.009 and 46B.010 and by adding Article 46B.0095, as follows:

Art. 46B.009. TIME CREDITS. Deletes existing Subsection (b), regarding the prohibition against committing a defendant to a mental hospital or other in-patient or residential facility (hospital or facility) for longer than the maximum term provided by law for the offense and the authorization, on expiration of that term, to confine the defendant in a hospital or facility for an additional term, only pursuant to civil commitment proceedings. Makes conforming changes.

Art. 46B.0095. MAXIMUM PERIOD OF COMMITMENT DETERMINED BY MAXIMUM TERM FOR OFFENSE. Prohibits a defendant from being committed to a mental hospital or other in-patient or residential facility under this chapter for a cumulative period that exceeds the maximum term provided by law for the offense for which the defendant was to be tried. Authorizes the defendant, on expiration of that maximum term, to be confined for an additional period in a mental hospital or other in-patient or residential facility only pursuant to civil commitment proceedings.

Art. 46B.010. MANDATORY DISMISSAL OF MISDEMEANOR CHARGES. Requires the court on the motion of the attorney representing the state to dismiss the charge if a court commits a defendant who is charged with a misdemeanor punishable by confinement and the defendant, after having been restored to competency under Article 46B.084, regarding the proceedings of a incompetent defendant's return to court, is not tried before two years from the date of the commitment order.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2007.