

By: Watson

S.B. No. 1389

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the period for which a person may be committed to a
3 facility or a jail-based or outpatient program for restoration of
4 competency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Article 46B.072(b), Code of Criminal Procedure,
7 is amended to read as follows:

8 (b) The court shall order a defendant released on bail under
9 Subsection (a-1) to participate in an outpatient competency
10 restoration program for a period not to exceed 60 [~~120~~] days.

11 SECTION 2. Article 46B.073(b), Code of Criminal Procedure,
12 is amended to read as follows:

13 (b) For purposes of further examination and competency
14 restoration services with the specific objective of the defendant
15 attaining competency to stand trial, the court shall commit a
16 defendant described by Subsection (a) to a mental health facility,
17 residential care facility, or jail-based competency restoration
18 program for [~~the applicable period as follows:~~

19 [~~(1)~~] a period of not more than 60 days[~~, if the~~
20 ~~defendant is charged with an offense punishable as a misdemeanor,~~
21 ~~or~~

22 [~~(2)~~ a period of not more than 120 days, if the
23 ~~defendant is charged with an offense punishable as a felony].~~

24 SECTION 3. Article 46B.079(d), Code of Criminal Procedure,

1 is amended to read as follows:

2 (d) If the head of the facility or program provider notifies
3 the court that the initial restoration period is about to expire,
4 the notice may contain a request for an extension of the period for
5 an additional period of 30 [~~60~~] days and an explanation for the
6 basis of the request. An explanation provided under this
7 subsection must include a description of any evidence indicating a
8 reduction in the severity of the defendant's symptoms or
9 impairment.

10 SECTION 4. Articles [46B.080](#)(a) and (c), Code of Criminal
11 Procedure, are amended to read as follows:

12 (a) On a request of the head of a facility or a program
13 provider that is made under Article [46B.079](#)(d) and notwithstanding
14 any other provision of this subchapter, the court may enter an order
15 extending the initial restoration period for an additional period
16 of 30 [~~60~~] days.

17 (c) The court may grant only one 30-day [~~60-day~~] extension
18 under this article in connection with the specific offense with
19 which the defendant is charged.

20 SECTION 5. Article [46B.090](#)(1), Code of Criminal Procedure,
21 is amended to read as follows:

22 (1) If the psychiatrist for the provider determines that a
23 defendant ordered to participate in the pilot program has not been
24 restored to competency by the end of the 60th day after the date the
25 defendant began to receive services in the pilot program:

26 (1) for a defendant charged with a felony, the court
27 may:

1 (A) order a single extension under Article
2 46B.080 and the transfer of the defendant [~~shall be transferred,~~
3 without unnecessary delay [~~and for the remainder of the period~~
4 ~~prescribed by Article 46B.073(b),~~] to the first available facility
5 that is appropriate for that defendant as provided by Article
6 46B.073(c) or (d) for the remainder of the period under the
7 extension;

8 (B) proceed under Subchapter E or F; or

9 (C) release the defendant on bail as permitted
10 under Chapter 17; and

11 (2) for a defendant charged with a misdemeanor, the
12 court may:

13 (A) order a single extension under Article
14 46B.080 and, notwithstanding Articles 46B.073(e) and (f), the
15 transfer of the defendant without unnecessary delay to the
16 appropriate mental health facility or residential care facility as
17 provided by Article 46B.073(d) for the remainder of the period
18 under the extension;

19 (B) proceed under Subchapter E or F;

20 (C) release the defendant on bail as permitted
21 under Chapter 17; or

22 (D) dismiss the charges in accordance with
23 Article 46B.010.

24 SECTION 6. Article 46B.091(j), Code of Criminal Procedure,
25 is amended to read as follows:

26 (j) If the psychiatrist or psychologist for the provider
27 determines that a defendant committed to a program implemented

1 under this article has not been restored to competency by the end of
2 the 60th day after the date the defendant began to receive services
3 in the program:

4 (1) for a defendant charged with a felony, the court
5 may:

6 (A) order a single extension under Article
7 46B.080 and the transfer of the defendant [~~shall be transferred,~~]
8 without unnecessary delay [~~and for the remainder of the period~~
9 ~~prescribed by Article 46B.073(b),~~] to the first available facility
10 that is appropriate for that defendant as provided by Article
11 46B.073(c) or (d) for the remainder of the period under the
12 extension;

13 (B) proceed under Subchapter E or F; or

14 (C) release the defendant on bail as permitted
15 under Chapter 17; and

16 (2) for a defendant charged with a misdemeanor, the
17 court may:

18 (A) order a single extension under Article
19 46B.080 and, notwithstanding Articles 46B.073(e) and (f), the
20 transfer of the defendant without unnecessary delay to the
21 appropriate mental health facility or residential care facility as
22 provided by Article 46B.073(d) for the remainder of the period
23 under the extension;

24 (B) proceed under Subchapter E or F;

25 (C) release the defendant on bail as permitted
26 under Chapter 17; or

27 (D) dismiss the charges in accordance with

1 Article 46B.010.

2 SECTION 7. The changes in law made by this Act apply only to
3 the commitment of a defendant against whom proceedings are
4 initiated under Chapter 46B, Code of Criminal Procedure, as amended
5 by this Act, on or after the effective date of this Act. The
6 commitment of a defendant against whom proceedings are initiated
7 before the effective date of this Act is governed by the law in
8 effect on the date the proceedings were initiated, and the former
9 law is continued in effect for that purpose.

10 SECTION 8. This Act takes effect September 1, 2019.