

By: Cortez

H.B. No. 322

A BILL TO BE ENTITLED

AN ACT

1
2 relating to certain evidentiary presumptions and burdens of proof
3 in determining a defendant's incompetency to stand trial or a
4 defendant's insanity in a criminal case.

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

6 SECTION 1. Article 46B.003, Code of Criminal Procedure, is
7 amended by adding Subsection (c) to read as follows:

8 (c) The presumption of the defendant's competency and the
9 burden of proof to establish the defendant's incompetency as
10 described by Subsection (b) each apply in the trial of the case
11 regardless of any finding of the defendant's incompetency to stand
12 trial in a previous case.

13 SECTION 2. Article 46C.153, Code of Criminal Procedure, is
14 amended by adding Subsection (a-1) to read as follows:

15 (a-1) The burden of proof described by Subsection (a)(2)
16 applies in a defendant's case regardless of any previous acquittal
17 of the defendant by reason of insanity or another prior judgment of
18 a court indicating the defendant's lack of sanity.

19 SECTION 3. The changes in law made by this Act apply only to
20 a trial or case relating to an offense committed on or after the
21 effective date of this Act. A trial or case relating to an offense
22 committed before the effective date of this Act is governed by the
23 law in effect when the offense was committed, and the former law is
24 continued in effect for that purpose. For purposes of this section,

1 an offense was committed before the effective date of this Act if
2 any element of the offense occurred before that date.

3 SECTION 4. This Act takes effect September 1, 2023.