

By: Smith

H.B. No. 2743

A BILL TO BE ENTITLED

AN ACT

1
2 relating to procedures regarding the court-ordered administration
3 of psychoactive medication for criminal defendants who are found
4 incompetent to stand trial.

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

6 SECTION 1. Articles 46B.086(a) and (b), Code of Criminal
7 Procedure, are amended to read as follows:

8 (a) This article applies only to a defendant:

9 (1) who is determined under this chapter to be
10 incompetent to stand trial;

11 (2) who either:

12 (A) remains confined in a correctional facility,
13 as defined by Section 1.07, Penal Code, for a period exceeding 72
14 hours while awaiting transfer to an inpatient mental health
15 facility, a residential care facility, or an outpatient competency
16 restoration program;

17 (B) is committed to an inpatient mental health
18 facility, a residential care facility, or a jail-based competency
19 restoration program for the purpose of competency restoration;

20 (C) is confined in a correctional facility while
21 awaiting further criminal proceedings following competency
22 restoration; or

23 (D) is subject to Article 46B.072, if the court
24 has made the determinations required by Subsection (a-1) of that

1 article; and

2 (3) for whom a correctional facility or jail-based
3 competency restoration program that employs or contracts with a
4 licensed psychiatrist, an inpatient mental health facility, a
5 residential care facility, or an outpatient competency restoration
6 program provider has prepared a continuity of care plan that
7 requires the defendant to take psychoactive medications[~~, and~~

8 [~~(4) who, after a hearing held under Section 574.106
9 or 592.156, Health and Safety Code, if applicable, has been found to
10 not meet the criteria prescribed by Sections 574.106(a) and (a-1)
11 or 592.156(a) and (b), Health and Safety Code, for court-ordered
12 administration of psychoactive medications].~~

13 (b) If a defendant described by Subsection (a) refuses to
14 take psychoactive medications as required by the defendant's
15 continuity of care plan, the director of the facility or the program
16 provider, as applicable, shall notify the court in which the
17 criminal proceedings are pending of that fact not later than the end
18 of the next business day following the refusal. The court shall
19 promptly notify the attorney representing the state and the
20 attorney representing the defendant of the defendant's refusal.
21 The attorney representing the state may file a written motion to
22 compel medication. The motion to compel medication must be filed
23 not later than the 15th day after the date the court notifies the
24 attorney representing the state of the defendant's refusal [~~a judge
25 issues an order stating that the defendant does not meet the
26 criteria for court-ordered administration of psychoactive
27 medications under Section 574.106 or 592.156, Health and Safety~~

1 Code], except that[, ~~for a defendant in an outpatient competency~~
2 ~~restoration program,~~] the motion may be filed at any time for a
3 defendant in an outpatient competency restoration program.

4 SECTION 2. The change in law made by this Act relating to a
5 court order for psychoactive medication applies to an order issued
6 on or after the effective date of this Act. An order issued before
7 that date is governed by the law as it existed immediately before
8 the effective date of this Act, and the former law is continued in
9 effect for that purpose.

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