

## BILL ANALYSIS

Senate Research Center

S.B. 591  
By: Duncan  
Jurisprudence  
7/24/2003  
Enrolled

### DIGEST AND PURPOSE

A task force, created by the 77th Texas Legislature, studied the issue of competency in criminal proceedings. The task force has recommended changing the make-up of the board of the Texas Council on Offenders with Mental Impairments (TCOMI) to provide for certain expertise. S.B. 591 sets forth the requirements for the TCOMI board and related program administration.

### 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 the heading to Chapter 614, Health and Safety Code, to read as follows:

CHAPTER 614. TEXAS CORRECTIONAL OFFICE ON OFFENDERS WITH MEDICAL OR MENTAL IMPAIRMENTS

SECTION 2. Amends Section 614.001, Health and Safety Code, as follows:

Sec. 614.001. DEFINITIONS. Defines “board,” “committee,” “mental impairment,” and “office,” redefines “offender,” and deletes the definition of “adaptive behavior.” Makes nonsubstantive changes.

SECTION 3. Amends Section 614.002, Health and Safety Code, as follows:

Sec. 614.002. New heading: COMPOSITION OF COMMITTEE; DUTIES. (a) Provides that The Advisory Committee (committee) to the Texas Board of Criminal Justice Texas Council on Offenders with Medical or Mental Impairments office), rather than the Texas Council on Offenders with Medical or Mental Impairments, is composed of 31, rather than 30, members.

(b) Sets forth the makeup of the committee required to be appointed by the governor, with the advice and consent of the senate.

(c)(1) Requires certain entities, by September 1 of each even-numbered year, to submit to the governor for consideration a list of five candidates from their respective fields for at-large membership on the committee.

(2) Authorizes The Texas Medical Association, the Texas Society of Psychiatric Physicians, and the Texas Psychological Association to submit a candidate for membership only if the candidate has documented expertise and educational training in, as appropriate, medical forensics, forensic psychology, or forensic psychiatry. Deletes text referring to restrictions on a person being an at-large member of the Texas Board of Criminal Justice (TBCJ).

(d) Prohibits a person from being a member of the committee, rather than council, if the person is required to register as a lobbyist under Chapter 305 (Registration of Lobbyists), Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the committee. Deletes text restricting a person from acting as general counsel for the committee.

(e) and (f) Make conforming changes.

(g) Makes a conforming change. Deletes references to Subsections (c) and (k).

(h), (i) and (j) Make conforming changes.

(k) Requires the committee to advise TBCJ and TCOMI director on matters related to offenders with medical or mental impairments and perform other duties imposed by TBCJ. Deletes text referring to qualification requirements of members who are not associated with a state agency.

SECTION 4. Amends Section 614.003, Health and Safety Code, as follows:

Sec. 614.003. New heading: TEXAS CORRECTIONAL OFFICE ON OFFENDERS WITH MEDICAL OR MENTAL IMPAIRMENTS; DIRECTOR. Requires TCOMI to perform duties imposed on or assigned to TCOMI by this chapter, other law, TBCJ, and the executive director of the Texas Department of Criminal Justice (TDCJ). Requires TDCJ's executive director to hire a director of TCOMI. Provides that the director serves at the pleasure of the executive director. Requires the director to hire the employees for TCOMI. Deletes text referring to providing information to certain entities.

SECTION 5. Amends Section 614.0031, Health and Safety Code, to make conforming changes.

SECTION 6. Amends Chapter 614, Health and Safety Code, by adding Section 614.0032, as follows:

Sec. 614.0032. SPECIAL DUTIES RELATED TO MEDICALLY RECOMMENDED SUPERVISION; COMPETENCY DETERMINATION. (a) Requires TCOMI to perform duties imposed on the office by Section 508.146, Government Code.

(b) Requires TCOMI, with the special assistance of committee members appointed under Section 614.002(b)(1), to review examinations to determine the competency of defendants in criminal cases to stand trial and periodically to report findings made as a result of the review to the legislature and the court of criminal appeals.

SECTION 7. Amends Section 614.004, Health and Safety Code, to make a conforming change.

SECTION 8. Amends Section 614.005, Health and Safety Code, to make conforming changes.

SECTION 9. Amends Section 614.006, Health and Safety Code, as follows:

Sec. 614.006. New heading: APPLICABILITY OF CERTAIN GOVERNMENT CODE PROVISIONS. (a) Provides that the provisions of Chapter 2110 (State Agency Advisory Committees), Government Code, other than Section 2110.002(a) (Composition of Advisory Committees), apply to the committee.

(b) Deletes previous section heading. Makes conforming changes.

SECTION 10. Amends Section 614.007, Health and Safety Code, to require TCOMI to perform

certain actions and makes conforming and nonsubstantive changes.

SECTION 11. Amends Section 614.008, Health and Safety Code, as follows:

Sec. 614.008. New heading: **COMMUNITY-BASED DIVERSION PROGRAM FOR OFFENDERS WITH MEDICAL OR MENTAL IMPAIRMENTS**. (a) Authorizes TCOMI to maintain at least one program in a county selected by the TCOMI to employ a cooperative community-based alternative system to divert from the state criminal justice system offenders with mental impairments or offenders who are identified as being elderly, physically disabled, terminally ill, or significantly ill, rather than persons who do not have an instant offense that is an offense described in Section 3g, Article 42.12, Code of Criminal Procedure, and to rehabilitate those offenders.

(b) Deletes text referring to program requirements. Makes conforming changes.

(c) Redesignates this subsection from Subsection (d). Makes conforming changes.

SECTION 12. Amends Section 614.009, Health and Safety Code, as follows:

Sec. 614.009. New heading: **BIENNIAL REPORT**. Requires TCOMI, not later than February 1 of each odd-numbered year, to present to TBCJ and file with certain elected officials a report giving the details of the TCOMI activities during the preceding biennium. Sets forth the report's required content. Makes conforming changes.

SECTION 13. Amends Section 614.0101, Health and Safety Code, to require the committee, rather than the council to develop and implement policies that provide the public with a reasonable opportunity to appear before the committee and to speak on any issue under the jurisdiction of the committee or TCOMI.

SECTION 14. Amends Section 614.0102, Health and Safety Code, to make conforming changes.

SECTION 15. Amends Sections 614.013(a), (b), and (e), Health and Safety Code, make conforming changes.

SECTION 16. Amends Section 614.014 (a), Health and Safety Code, to make a conforming change.

SECTION 17. Amends Section 614.016, Health and Safety Code, to make conforming changes.

SECTION 18. Amends Section 614.017(c)(2), Health and Safety Code, to redefine "special needs offender."

SECTION 19. Amends Section 614.019, Health and Safety Code, as follows:

Sec. 614.019. New heading: **PROGRAMS FOR JUVENILES**. Authorizes certain entities to establish and maintain programs, building on existing successful efforts in communities, to address prevention, intervention, and continuity of care for juveniles with mental health and substance abuse disorders.

SECTION 20. Renumbers Section 614.019, Health and Safety Code, as Section 614.020, and amends it as follows:

Sec. 614.020. Redesignated from Section 614.019. New heading: **YOUTH ASSERTIVE COMMUNITY TREATMENT PROGRAM**. Makes conforming changes.

SECTION 21. Amends Section 508.146, Government Code, as follows:

Sec. 508.146. MEDICALLY RECOMMENDED INTENSIVE SUPERVISION. (a) Authorizes an inmate serving a sentence for which parole eligibility is otherwise determined under Section 508.145(f) to become eligible for release on medically recommended intensive supervision on a date designated by a parole panel that is earlier than the date computed under that section under certain circumstances.

(b), (c), and (d) Make conforming changes.

SECTION 22. Repealer: Sections 614.010 (Personnel), 614.011 (Additional Pilot Program), and 614.012 (Additional Duties), Health and Safety Code.

SECTION 23. (a) Makes application of this Act prospective. Provides that this Act does not prohibit a person who is a member of the Texas Council on Offenders with Mental Impairments immediately before September 1, 2003, from being reappointed as a member of the Advisory Committee to the Texas Board of Criminal Justice on Offenders with Medical or Mental Impairments if the person has the qualifications required for the position under Section 614.002, Health and Safety Code, as amended by this Act. Requires the entities required by Section 614.002(c), Health and Safety Code, as amended by this Act, to submit a list of candidates for membership on the Advisory Committee to the Texas Board of Criminal Justice on Offenders with Medical or Mental Impairments no later than September 1, 2003.

(b) Requires The Texas Correctional Office on Offenders with Medical or Mental Impairments to present to the TBCJ the first biennial report required by Section 614.009, Health and Safety Code, as amended by this Act, not later than February 1, 2005.

SECTION 24. Effective date: September 1, 2003.