

BILL ANALYSIS

S.B. 1057
By: Duncan
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Last session, the Legislature passed S.B. 553 which created a 16-member task force to review the statutes and practices with respect to determining whether a criminal defendant is competent to stand trial. That task force met for the last two years and developed a number of recommendations to ensure appropriate and consistent application of criminal competency laws. From the outset, all interested parties agreed that the current criminal competency statute was complex, confusing and very difficult to use. Senate Bill 1057 creates a new criminal competency statute to streamline the process and ensure consistency in its application across the state.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

Senate Bill 1057 amends the Criminal Procedure, Family, and Health & Safety codes relating to the competency of a defendant in criminal and juvenile justice cases. A person is incompetent if he does not have sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding or have a rational, as well as a factual, understanding of the proceedings against him. In addition, any party, or the court, may raise the issue of competency.

If the court finds there is evidence to support a finding of incompetency, the court is required to order a competency evaluation and stay all other proceedings in the case. Upon a finding of incompetency, the defendant may be committed for up to 120 days (with 1 possible 60-day extension) for treatment to restore the defendant to competency or be released on bail, provided that the defendant is not a danger to others.

The bill outlines the qualifications for experts providing the examinations, as well as the factors experts are to consider and include in their reports. It also streamlines the procedure for an extended commitment to a mental health facility if the defendant cannot be restored within the 120-day period.

A provision to the statute outlines a due process procedure whereby a defendant, who has been restored to competency yet refused to take his medication, can be forced to do so.

EFFECTIVE DATE

January 1, 2004.