

BILL ANALYSIS

C.S.S.B. 679
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Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Last session, the Legislature rewrote the criminal competency statute -- 46B Code of Criminal Procedure -- to streamline the procedure and make its application consistent statewide. C.S.S.B. 679 is a clean up bill which provides technical changes and clarifications as well as some changes to make the system efficient and cost effective. C.S.S.B. 679 allows for videoconferencing between the court and the hospital for a defendant who has been committed and allows the defendant to remain in the hospital to await a competency hearing until 72 hours prior to the hearing, thereby reducing time spent waiting in jail. Furthermore, the bill provides time credits for time spent in jail in addition to a mental health facility or residential care facility. Persons confined to a facility may not be confined beyond the maximum term provided by law. Further confinement may only be pursuant to civil commitment proceedings.

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

C.S.S.B. 679 allows for videoconferencing between a court and a hospital for a defendant who has been committed, upon written consent from both the defense and the prosecutor. While utilizing the videoconferencing, the defendant must be able to communicate privately with the defense attorney, without being recorded or heard. The court, however, retains the ability to terminate the appearance through electronic broadcast and require the defendant to appear in open court. A recording of the proceeding must be preserved to be accessed by the defendant until all appellate proceedings have been concluded.

C.S.S.B. 679 also requires the court to conduct a separate trial, rather than a hearing, to determine whether the defendant is competent to stand trial on the criminal charges. On the motion of the prosecutor, the court may dismiss all charges pending against the defendant regardless of whether there is evidence to support a finding of incompetency or if the court has made such a finding. The court may, however, proceed with civil commitment proceedings. Furthermore, the bill provides time credits for time spent in jail in addition to a mental health facility or residential care facility (facility). Persons confined to a facility may not be confined beyond the maximum term provided by law. Further confinement may only be pursuant to civil commitment proceedings. The bill also allows the defendant to remain in the hospital to await a competency hearing until 72 hours prior to the hearing, thereby reducing time spent waiting in jail.

C.S.S.B. 679 provides that a defendant may be committed to a facility only on competent medical or psychiatric testimony provided by an expert qualified under Article 46B.022 (Experts: Qualifications). The court may allow the expert to substitute their report for the required testimony.

C.S.S.B. 679 requires a defendant who has been committed to be returned to the committing court as soon as practicable after the 15th day after receiving the report from the head of the facility regarding the defendant's ability to attain competency or within 72 hours of a hearing regarding the determination of competency following the report if either party objects to the findings of the report.

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C.S.S.B. 679 clarifies that the report that the head of a facility is required to give the committing court regarding the reason for the proposed discharge and a list of medications utilized, is to be given at the time the facility head notifies the court of the opinion regarding competency, rather than at the time of discharge. C.S.S.B. 679 authorizes the court to order only one commitment and one extension in connection with the same offense. Any subsequent court orders for treatment must be issued under the extended commitment provisions.

C.S.S.B. 679 requires the Texas Correctional Office on Offenders with Medical or Mental Impairments to review examinations to determine the fitness of children to proceed with respect to adjudications of delinquent conduct and to report its findings on this review and the review of examinations determining competency to stand trial, periodically to the legislature and court of criminal appeals. A district or juvenile court is required to submit to the office on a monthly basis all reports based on these examinations.

EFFECTIVE DATE

September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute differs from the original by specifying the conditions necessary for videoconferencing to be utilized.