

## BILL ANALYSIS

Senate Research Center

S.B. 837  
By: Wentworth  
Jurisprudence  
7/18/2005  
Enrolled

### AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Article 46.03, Code of Criminal Procedure, sets out the procedures for the examination, trial, and disposition of individuals accused of a crime who offer the defense of not guilty by reason of insanity.

The Senate Jurisprudence Committee, in its Interim Report to the 79th Legislature, recommended enacting legislation to rewrite Article 46.03, Code of Criminal Procedure, to make the language more concise and easier for attorneys, judges, and mental health professionals to follow. The recommendations included making the provisions concerning release standards and post-release monitoring more explicit as well as conforming the standards for experts used in an insanity case to those standards for experts used to determine the competency of a defendant to stand trial.

S.B. 837 rewrites the insanity defense statute to streamline the process and improve the post-acquittal procedures for persons found not guilty by reason of insanity by including specific release standards and provisions regarding post-release monitoring.

### RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 3 (Section 533.0095, Health and Safety Code) of this bill.

### SECTION BY SECTION ANALYSIS

SECTION 1. Repealer: Article 46.03 (Insanity Defense), Code of Criminal Procedure.

SECTION 2. Amends Title 1, Code of Criminal Procedure, by adding Chapter 46C, as follows:

#### CHAPTER 46C. INSANITY DEFENSE

##### SUBCHAPTER A. GENERAL PROVISIONS

Art. 46C.001. DEFINITIONS. Defines "commissioner," "department," "mental illness," "mental retardation," and "residential care facility."

Art. 46C.002. MAXIMUM PERIOD OF COMMITMENT DETERMINED BY MAXIMUM TERM FOR OFFENSE. (a) Prohibits a person acquitted by reason of insanity from being committed to any facility or ordered to receive outpatient or community-based treatment and supervision for a cumulative period that exceeds the maximum term of the offense for which the person was tried.

(b) Authorizes the person to be confined or ordered to receive outpatient or community-based treatment and supervision on expiration of that maximum term only pursuant to civil commitment proceedings.

[Reserves Articles 46C.003-46C.050 for expansion.]

##### SUBCHAPTER B. RAISING THE INSANITY DEFENSE

Art. 46C.051. NOTICE OF INTENT TO RAISE INSANITY DEFENSE. (a) Requires a defendant planning to offer evidence of the insanity defense to file with the court a notice of the defendant's intention to offer that evidence.

(b) Requires the notice to contain a certification that a copy of the notice has been served on the attorney representing the state and be filed at least 10 days before the date the case is set for trial except as provided by Subsection (c).

(c) Requires the defendant, if before the 20-day period the court sets a pretrial hearing, to give notice at the hearing.

Art. 46C.052. EFFECT OF FAILURE TO GIVE NOTICE. Provides that unless notice is timely filed, evidence on the insanity defense is not admissible unless the court finds that good cause exists for failure to give notice.

[Reserves Articles 46C.053-46C.100 for expansion.]

### SUBCHAPTER C. COURT-ORDERED EXAMINATION AND REPORT

Art. 46C.101. APPOINTMENT OF EXPERTS. (a) Authorizes the court, if notice of intention to raise the insanity defense is filed, on its own motion or motion by certain other participants, to appoint one or more disinterested experts to perform certain functions.

(b) Requires the court to advise an expert appointed under this article of the facts and circumstances of the offense with which the defendant is charged and the elements of the insanity defense.

Art. 46C.102. EXPERTS: QUALIFICATIONS. (a) Authorizes the court to appoint qualified psychiatrists or psychologists as experts. Sets forth the required qualifications for the appointed psychiatrist or psychologist.

(b) Sets forth additional required qualifications for the appointed psychiatrist or psychologist.

(c) Sets forth the circumstances under which the court is authorized to appoint a psychiatrist or psychologist who does not meet the requirements of Subsections (a) and (b).

Art. 46C.103. COMPETENCY TO STAND TRIAL: CONCURRENT APPOINTMENT. (a) Authorizes an expert appointed under this subchapter to examine the defendant with regard to the insanity defense to be appointed by the court to examine the defendant with regard to the defendant's competency to stand trial if the expert files separate written reports with the court.

(b) Prohibits an expert from examining the defendant for purposes of determining the defendant's sanity and from filing a report regarding the defendant's sanity if in the opinion of the expert the defendant is incompetent to proceed, notwithstanding Subsection (a).

Art. 46C.104. ORDER COMPELLING DEFENDANT TO SUBMIT TO EXAMINATION. (a) Authorizes the court to order any defendant to submit to examination for the purposes described by this chapter. Authorizes the court to take the defendant into custody for a certain period if the defendant fails or refuses to submit to the examination. Provides that court-ordered custody may include custody at a facility operated by the Department of State Health Services (department).

(b) Requires the head of a department facility, if the defendant has remained at that facility past a certain timeframe, to transport the defendant to the committing court and place the defendant in the custody of the sheriff. Sets forth the required reimbursement by the county to the facility.

(c) Prohibits the court from ordering the defendant to a facility operated by the department for examination without the consent of the head of the facility.

Art. 46C.105. REPORTS SUBMITTED BY EXPERTS. (a) Requires a written report of the examination to be submitted to the court within a certain timeframe. Requires the court to provide copies of the report to the defense counsel and the attorney representing the state.

(b) Sets forth the information the report must include.

(c) Requires the examiner to submit a separate report stating certain observations and findings regarding mental illness and mental retardation.

Art. 46C.106. COMPENSATION OF EXPERTS. (a) Requires the appointed experts to be paid by the county in which the indictment was returned or information was filed.

(b) Requires the county to reimburse reasonable expenses to a facility operated by the department that accepts a defendant for examination.

Art. 46C.107. EXAMINATION BY EXPERT OF DEFENDANT'S CHOICE. Requires the court, on timely request, if a defendant wishes to be examined by an expert of the defendant's own choice, to provide the examiner with reasonable opportunity to examine the defendant.

[Reserves Articles 46C.108-46C.150 for expansion.]

#### SUBCHAPTER D. DETERMINATION OF ISSUE OF DEFENDANT'S SANITY

Art. 46C.151. DETERMINATION OF SANITY ISSUE BY JURY. (a) Authorizes the issue of the defendant's sanity, in a jury trial, to be submitted to the jury only if the issue is supported by competent evidence. Requires the jury to determine the issue.

(b) Requires the jury, if the issue of the defendant's sanity is submitted to the jury, to determine and specify in the verdict whether the defendant is guilty, not guilty, or not guilty by reason of insanity.

Art. 46C.152. DETERMINATION OF SANITY ISSUE BY JUDGE. (a) Requires the judge, if a jury trial is waived and if the issue is supported by competent evidence, as the trier of fact to determine the issue of the defendant's sanity.

(b) Authorizes the parties, with the consent of the judge, to agree to have the judge determine the issue of the defendant's sanity on the basis of introduced or stipulated competent evidence, or both.

(c) Requires the judge, if the judge determines the issue of the defendant's sanity, to enter a finding of guilty, not guilty, or not guilty by reason of insanity.

Art. 46C.153. GENERAL PROVISIONS RELATING TO DETERMINATION OF SANITY ISSUE BY JUDGE OR JURY. (a) Requires the judge or jury to determine that a defendant is not guilty by reason of insanity if the prosecution has established beyond a reasonable doubt that the alleged conduct constituting the offense was committed and the defense has established by a preponderance of the evidence that the defendant was insane at the time of the alleged conduct.

(b) Authorizes the parties, with the consent of the judge, to agree to both dismissal of the indictment or information on the ground that the defendant was insane and entry of a judgment of dismissal due to the defendant's insanity.

(c) Provides that an entry of judgment of dismissal due to the defendant's insanity has the same effect as a judgment stating that the defendant has been found not guilty by reason of insanity.

Art. 46C.154. INFORMING JURY REGARDING CONSEQUENCES OF ACQUITTAL. Prohibits the court, the attorney representing the state, or the attorney for the defendant from informing a juror or prospective juror of the consequences to the defendant if a verdict of not guilty by reason of insanity is returned.

Art. 46C.155. FINDING OF NOT GUILTY BY REASON OF INSANITY CONSIDERED ACQUITTAL. (a) Provides that except as provided by Subsection (b), a defendant who is found not guilty by reason of insanity stands acquitted of the offense charged and is prohibited from being considered a person charged with an offense.

(b) Provides that a defendant who is found not guilty by reason of insanity is not considered to be acquitted for purposes of Chapter 55 (Expunction of Criminal Records).

Art. 46C.156. JUDGMENT. (a) Requires the judgment, in each case in which the insanity defense is raised, to reflect whether the defendant was found guilty, not guilty, or not guilty by reason of insanity.

(b) Requires the judgment, if the defendant is found not guilty by reason of insanity, to specify the offense for which the defendant was found not guilty.

(c) Requires the judgment, if the defendant was found not guilty by reason of insanity, to reflect the finding made under Article 46C.157.

Art. 46C.157. DETERMINATION REGARDING DANGEROUS CONDUCT OF ACQUITTED PERSON. Requires the court, if the defendant is found not guilty by reason of insanity, to determine immediately whether the offense of which the person was acquitted involved certain dangerous conduct.

Art. 46C.158. CONTINUING JURISDICTION OF DANGEROUS ACQUITTED PERSON. Provides that if the court finds that the offense involved certain dangerous conduct, the court retains jurisdiction over the acquitted person until either the court discharges the person or the cumulative total period of institutionalization and outpatient or community-based treatment and supervision equals the maximum term provided by law for the offense.

Art. 46C.159. PROCEEDINGS REGARDING NONDANGEROUS ACQUITTED PERSON. Requires the court, if the court finds that the offense of which the person was acquitted did not involve certain dangerous conduct, to proceed under Subchapter E.

Art. 46C.160. DETENTION PENDING FURTHER PROCEEDINGS. (a) Authorizes the court, on determination of the judge or jury that the defendant is not guilty by reason of insanity, pending further proceedings under this chapter, to order the defendant detained in jail or any other suitable place for a period not to exceed 14 days.

(b) Authorizes the court to order the defendant detained in a facility of the department or a facility of the Department of Aging and Disability Services under this article only with the consent of the head of the facility.

[Reserves Articles 46C.161-46C.200 for expansion.]

#### SUBCHAPTER E. DISPOSITION FOLLOWING ACQUITTAL BY REASON OF INSANITY: NO FINDING OF DANGEROUS CONDUCT

Art. 46C.201. DISPOSITION: NONDANGEROUS CONDUCT. (a) Requires the court, if the court determines that the offense did not involve certain dangerous conduct, to

determine whether there is evidence to support a finding that the person is a person with a mental illness or with mental retardation.

(b) Sets forth the required and authorized actions of the court to detain or place the defendant upon determining that there is evidence to support a finding of mental illness or mental retardation.

Art. 46C.202. DETENTION OR RELEASE. (a) Authorizes, notwithstanding Article 46C.201(b), a person placed in a department facility or a facility of the Department of Aging and Disability Services pending civil hearing to be detained only under certain circumstances.

(b) Requires the court to release the person if the court does not detain or place the person.

[Reserves Articles 46C.203-46C.250 for expansion.]

#### SUBCHAPTER F. DISPOSITION FOLLOWING ACQUITTAL BY REASON OF INSANITY: FINDING OF DANGEROUS CONDUCT

Art. 46C.251. COMMITMENT FOR EVALUATION AND TREATMENT; REPORT.

(a) Requires the court to order the acquitted person to be committed for evaluation of the person's present mental condition and for treatment to the maximum security unit of any facility designated by the department. Prohibits the period of commitment from exceeding 30 days.

(b) Requires the court to order that a transcript of all medical testimony received in the criminal proceeding be prepared as soon as possible by the court reporter and that the transcript be forwarded to the facility to which the acquitted person is committed, and certain information be forwarded to the facility and, as applicable, to the department or the Department of Aging and Disability Services.

(c) Requires the court to order that a report be filed with the court under Article 46C.252.

(d) Requires the court to hold a hearing on disposition not later than the 30th day after the date of acquittal to determine the proper disposition of the acquitted person.

Art. 46C.252. REPORT AFTER EVALUATION. (a) Requires the report ordered by Article 46C.251 to be filed with the court as soon as practicable before the hearing on disposition but not later than the fourth day before that hearing.

(b) Requires the report to describe and explain in general terms the procedure, techniques, and tests used in examination of the person.

(c) Sets forth the issues the report is required to address.

Art. 46C.253. HEARING ON DISPOSITION. (a) Requires the hearing on the disposition to be conducted in a certain manner.

(b) Sets forth the issues the court is required to address at the hearing.

(c) Requires the court to order the acquitted person committed for inpatient treatment or residential care under Article 46C.256 if the grounds required for that order are established.

(d) Requires the court to order the acquitted person to receive outpatient or community-based treatment and supervision under Article 46C.257 if the grounds required for that order are established.

(e) Requires the court to order the acquitted person transferred to an appropriate court for proceedings under Subtitle C (Texas Mental Health Code) or D (Persons with Mental Retardation Act), Title 7, Health and Safety Code, if the state fails to establish the grounds required for an order under Article 46C.256 or 46C.257, but the evidence provides a reasonable basis for believing the acquitted person is a proper subject for those proceedings.

(f) Requires the court to order the acquitted person discharged and immediately released if the evidence fails to establish that disposition under Subsection (c), (d), or (e) is appropriate.

Art. 46C.254. EFFECT OF STABILIZATION ON TREATMENT REGIMEN. Sets forth the circumstances under which inpatient treatment or residential care may be found necessary to protect others if an acquitted person is stabilized on a treatment regimen and the person is no longer likely to cause serious harm to another.

Art. 46C.255. TRIAL BY JURY. (a) Sets forth the proceedings under this chapter which are required to be before the court and the underlying matter determined by the court unless the acquitted person or the state requests a jury trial or the court on its own motion sets the matter for jury trial.

(b) Sets forth the proceedings that may not be held before a jury.

(c) Requires the court, if a hearing is held before a jury and the jury determines that the person has a mental illness or mental retardation and is likely to cause serious harm to another, to determine whether inpatient treatment or residential care is necessary to protect the safety of others.

Art. 46C.256. ORDER OF COMMITMENT TO INPATIENT TREATMENT OR RESIDENTIAL CARE. (a) Requires the court to order the acquitted person committed to a mental hospital or other appropriate facility for inpatient treatment or residential care if the state establishes certain elements by clear and convincing evidence.

(b) Requires the court to consider certain factors in determining whether inpatient treatment or residential care has been proved necessary.

(c) Provides that the order of commitment to inpatient treatment or residential care expires on the 181st day following the date the order is issued but is subject to renewal as provided by Article 46C.261.

Art. 46C.257. ORDER TO RECEIVE OUTPATIENT OR COMMUNITY-BASED TREATMENT AND SUPERVISION. (a) Requires the court to order the acquitted person to receive outpatient or community-based treatment and supervision in certain circumstances.

(b) Provides that the order of commitment to outpatient or community-based treatment and supervision expires on the first anniversary of the date the order is issued, but is subject to renewal as provided by Article 46C.261.

Art. 46C.258. RESPONSIBILITY OF INPATIENT OR RESIDENTIAL CARE FACILITY. (a) Provides that the head of the facility to which a committed person is committed has a continuing responsibility during the commitment period to make certain evaluations regarding the person's continued mental illness or mental retardation, the person's dangerousness, and the effectiveness of treatment and supervision as outpatient or community-based treatment and supervision.

(b) Requires the head of the facility to notify the committing court and seek modification of the order of commitment if the head of the facility determines that an acquitted person no longer has a severe mental illness or mental retardation, is no longer likely to cause serious harm to another, or that treatment and

supervision can be safely and effectively provided as outpatient or community-based treatment and supervision.

(c) Requires the head of the facility, not later than the 60th day before the date of expiration of the order, to transmit to the committing court a psychological evaluation of the acquitted person, a certificate of medical examination of the person, and any recommendation for further treatment of the person. Requires the committing court to make the documents available to the attorneys representing the state and the acquitted person.

Art. 46C.259. STATUS OF COMMITTED PERSON. Provides that if an acquitted person is committed under this subchapter, the person's status as a patient or resident is governed by Subtitle C or D, Title 7, Health and Safety Code, with certain exceptions.

Art. 46C.260. TRANSFER OF COMMITTED PERSON TO NONSECURE FACILITY.

(a) Requires a person committed to a facility under this subchapter to be committed to the maximum security unit of any facility designated by the department.

(b) Requires a person committed under this subchapter to be transferred to the maximum security unit immediately on entry of the order of commitment.

(c) Requires the person, unless the person is determined to be manifestly dangerous by a review board within the department, not later than the 60th day following the date of the person's arrival at the maximum security unit, to be transferred to a nonsecure unit of a facility.

(d) Requires the commissioner of state health services (commissioner) to appoint a review board of five members, including certain persons, to determine whether the person is manifestly dangerous and requires continued placement in a maximum security unit.

(e) Requires the matter to be referred to the commissioner if the head of the facility disagrees with the determination. Requires the commissioner to decide whether the person is manifestly dangerous.

Art. 46C.261. RENEWAL OF ORDERS FOR INPATIENT COMMITMENT OR OUTPATIENT OR COMMUNITY-BASED TREATMENT AND SUPERVISION. (a) Requires a court that orders an acquitted person committed to inpatient treatment or orders outpatient or community-based treatment and supervision annually to determine whether to renew the order.

(b) Requires certain persons or entities to file a request that the order be renewed not later than the 30th day before the date an order is scheduled to expire. Requires the request to renew an order committing the person to inpatient treatment to explain in detail why outpatient or community-based treatment and supervision is not appropriate.

(c) Requires the request for renewal to be accompanied by a certificate of medical examination for mental illness signed by a physician who examined the person during the 30-day period preceding the date on which the request is filed.

(d) Requires the court, on filing the request for renewal, to set the matter for hearing and appoint an attorney to represent the person.

(e) Requires the court to act on the request for renewal before the order expires.

(f) Authorizes the person to be transferred from the facility to a jail for purposes of participating in the hearing, subject to certain limitations. Requires the person to be transferred back to the facility immediately on the renewal of the order.

(g) Authorizes the court, if no objection is made, to admit into evidence the certificate of medical examination for mental illness. Provides that admitted certificates constitute competent medical or psychiatric testimony. Authorizes the court to make its finding solely from the certificate and the detailed request for renewal.

(h) Requires a court to renew the order only if the court finds that the party who requested the order has established by clear and convincing evidence that the continued mandatory supervision and treatment are appropriate. Provides that a renewed order authorizes continued inpatient commitment or outpatient or community-based treatment and supervision for not more than one year.

(i) Requires the court, on application of renewal of an order for inpatient or residential care services, to modify the order to provide for outpatient or community-based treatment and supervision if the court finds the acquitted person has established by a preponderance of the evidence that treatment and supervision can be safely and effectively provided as outpatient or community-based treatment and supervision.

Art. 46C.262. COURT-ORDERED OUTPATIENT OR COMMUNITY-BASED TREATMENT AND SUPERVISION AFTER INPATIENT COMMITMENT. (a) Authorizes certain persons to request that the court modify an order for inpatient treatment or residential care to order outpatient or community-based treatment and supervision.

(b) Requires the court to hold a hearing on a request made by the head of the facility to which the acquitted person is committed. Requires a hearing under this subsection to be held not later than the 14th day after the date of the request.

(c) Requires the court, if a request is made by the acquitted person or the attorney representing the state, to act on the request not later than the 14th day after the date of the request. Provides that a hearing under this subsection is at the discretion of the court, with certain exceptions.

(d) Provides that if a request is made by an acquitted person not later than the 90th day after the date of a hearing on a previous request, the court is not required to act on the request, with certain exceptions.

(e) Requires the court to rule on the request during or as soon as practicable after any hearing on the request, but not later than the 14th day after the date of the request.

(f) Requires the court to modify the commitment order to direct outpatient or community-based treatment and supervision if at the hearing the acquitted person establishes by preponderance of the evidence that treatment and supervision can be safely and effectively provided as outpatient or community-based treatment and supervision.

Art. 46C.263. COURT-ORDERED OUTPATIENT OR COMMUNITY-BASED TREATMENT AND SUPERVISION. (a) Authorizes the court to order an acquitted person to participate in an outpatient or community-based regimen of treatment and supervision under certain circumstances.

(b) Authorizes an acquitted person to be ordered to participate in an outpatient or community-based regimen of treatment and supervision only if certain conditions apply.

(c) Authorizes the order to require the person to participate in a prescribed regimen of medical, psychiatric, or psychological care, which may include treatment with psychoactive medication.



(d) Authorizes the court to order that supervision of the acquitted person be provided by the appropriate community supervision and corrections department or the facility administrator of a community center that provides mental health or mental retardation services.

(e) Authorizes the court to order the acquitted person to participate in a supervision program funded by the Texas Correctional Office on Offenders with Medical or Mental Impairments.

(f) Requires an order under this article to identify the person responsible for administering an ordered regimen of outpatient or community-based treatment and supervision.

(g) Requires the court to have as its primary concern the protection of society in determining whether to order outpatient or community-based treatment rather than inpatient care or residential treatment.

Art. 46C.264. LOCATION OF COURT-ORDERED OUTPATIENT OR COMMUNITY-BASED TREATMENT AND SUPERVISION. (a) Authorizes the court to order the outpatient or community-based treatment and supervision to be provided in any appropriate county where the necessary resources are available.

(b) Provides that this article does not supersede any requirement under the other provisions of this subchapter to obtain the consent of a treatment and supervision provider to administer the court-ordered outpatient or community-based treatment and supervision.

Art. 46C.265. SUPERVISORY RESPONSIBILITY FOR OUTPATIENT OR COMMUNITY-BASED TREATMENT AND SUPERVISION. (a) Sets forth the duties of a person responsible for administering a regimen of outpatient or community-based treatment and supervision.

(b) Requires the person responsible for administering a regimen of outpatient or community-based treatment and supervision to notify the court and the attorney representing the state if the person fails to comply with the regimen and becomes likely to cause serious harm to another.

Art. 46C.266. MODIFICATION OR REVOCATION OF ORDER FOR OUTPATIENT OR COMMUNITY-BASED TREATMENT AND SUPERVISION. (a) Authorizes the court, on its own motion or the motion of any interested person and after notice to the acquitted person and a hearing, to modify or revoke court-ordered outpatient or community-based treatment and supervision.

(b) Requires the court without a jury to determine at the hearing whether the state has established clear and convincing evidence that the acquitted person failed to comply with the regimen in a manner or under circumstances indicating the person will become likely to cause serious harm to another if the person is provided continued outpatient or community-based treatment and supervision, or the acquitted person has become likely to cause serious harm to another if provided continued outpatient or community-based treatment and supervision.

(c) Authorizes the court to take appropriate action on a determination under Subsection (b), including certain specified actions.

(d) Entitles an acquitted person who is the subject of a proceeding under this article to representation by counsel in the proceeding.

(e) Requires the court to set a date for a hearing under this article that is not later than the seventh day after the applicable motion was filed. Authorizes the court to grant one or more continuances of the hearing on the motion of a party or of the court and for good cause shown.

Art. 46C.267. DETENTION PENDING PROCEEDINGS TO MODIFY OR REVOKE ORDER FOR OUTPATIENT OR COMMUNITY-BASED TREATMENT AND SUPERVISION. (a) Authorizes certain persons or entities responsible for administering a regimen of outpatient or community-based treatment and supervision to file a sworn application with the court for the detention of an acquitted person receiving court-ordered outpatient or community-based treatment and supervision. Requires the application to state that the person meets the criteria of Article 46C.266 and provide a detailed explanation of that statement.

(b) Requires the court, if the court determines that the application establishes probable cause to believe the order for outpatient or community-based treatment and supervision should be revoked, to issue an order to an on-duty peace officer authorizing the acquitted person to be taken into custody and brought before the court.

(c) Requires the acquitted person taken into custody under an order of detention to be brought before the court without unnecessary delay.

(d) Requires the court, when the acquitted person is brought before the court, to determine whether there is probable cause to believe that the order for outpatient or community-based treatment and supervision should be revoked. Requires the court, on a finding that probable cause for revocation exists, to order the person held in protective custody pending a determination of whether the order should be revoked.

(e) Authorizes an acquitted person to be detained under an order for protective custody for a period not to exceed 72 hours, excluding certain days, for an extreme emergency.

(f) Provides that this subchapter does not affect the power of a peace officer to take an acquitted person into custody under Section 573.001 (Apprehension by Peace Officer Without Warrant), Health and Safety Code.

Art. 46C.268. ADVANCE DISCHARGE OF ACQUITTED PERSON AND TERMINATION OF JURISDICTION. (a) Authorizes certain persons or entities to request that the court discharge an acquitted person from inpatient commitment or outpatient or community-based treatment and supervision.

(b) Requires the court to hold a hearing on a request made by the head of the facility to which the acquitted person is committed or on request by the person responsible for providing the outpatient or community-based treatment and supervision. Requires a hearing under this subsection to be held not later than the 14th day after the date of the request.

(c) Requires the court, if a request is made by the acquitted person, to act on the request not later than the 14th day after the date of the request. Provides that a hearing under this subsection is at the discretion of the court, with certain exceptions.

(d) Provides that if a request is made by an acquitted person not later than the 90th day after the date of a hearing on a previous request, the court is not required to act on the request, with certain exceptions.

(e) Requires the court to rule on the request during or as shortly after any hearing on the request, but not later than the 14th day after the date of the request.

(f) Requires the court to discharge the acquitted person from all court-ordered commitment, treatment, and supervision, and terminate the court's jurisdiction over the person if the court finds that the acquitted person has established by a preponderance of the evidence that the acquitted person does not have a severe

mental illness or mental retardation or the acquitted person is not likely to cause serious harm to another because of any severe mental illness or mental retardation.

Art. 46C.269. TERMINATION OF COURT'S JURISDICTION. (a) Sets forth when the jurisdiction of the court over a person covered by this subchapter automatically terminates.

(b) Requires the person to be discharged on termination of the court's jurisdiction.

(c) Requires an inpatient or residential care facility to which a person has been committed under this subchapter or a person responsible for administering a regimen of outpatient or community-based treatment and supervision under this subchapter to notify the court not later than the 30th day before the court's jurisdiction over the person ends under this article.

(d) Provides that this subchapter does not affect whether a person may be ordered to receive care or treatment under Subtitle C or D, Title 7, Health and Safety Code.

Art. 46C.270. APPEALS. (a) Authorizes an acquitted person to appeal a judgment reflecting an acquittal by reason of insanity on the basis of certain specified findings.

(b) Sets forth the orders from which the acquitted person or the state are authorized to appeal.

(c) Prohibits an appeal under this subchapter from being considered moot solely due to the expiration of an order on which the appeal is based.

SECTION 3. Amends Subchapter A, Chapter 533, Health and Safety Code, by adding Section 533.0095, as follows:

[While the statutory reference in this bill is to the Department of Mental Health and Mental Retardation, the following amendments may affect the Department of State Health Services and/or the Department of Aging and Disability Services, as the successor agencies to the Department of Mental Health and Mental Retardation.]

Sec. 533.0095. COLLECTION AND MAINTENANCE OF INFORMATION REGARDING PERSONS FOUND NOT GUILTY BY REASON OF INSANITY. (a) Requires the executive commissioner of the Health and Human Services Commission by rule to require the Department of Mental Health and Mental Retardation (department) to collect information and maintain current records regarding certain persons found not guilty of an offense by reason of insanity.

(b) Requires information maintained by the department under this section to include the name and address of the facility to which the defendant is committed, the length of the person's commitment to the facility, and any post-release outcome.

(c) Requires the department to file annually with the presiding officer of each house of the legislature a written report containing certain information.

SECTION 4. Amends Section 576.025(a) , Health and Safety Code, to make a conforming change.

SECTION 5. Makes application of this Act prospective.

SECTION 6. Effective date: September 1, 2005.