

BILL ANALYSIS

S.B. 837
By: Wentworth
Criminal Jurisprudence
Committee Report (Amended)

BACKGROUND AND PURPOSE

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

It is the committee's opinion that 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.

ANALYSIS

Senate Bill 837 amends the Code of Criminal Procedure relating to the insanity defense. The bill prohibits a person who was acquitted by reason of insanity (acquitted person) from being committed to a mental hospital or other inpatient or residential care facility (facility) or ordered to receive outpatient or community-based treatment and supervision for a period that exceeds the maximum allowable term for the offense. The person may be confined beyond this limit only pursuant to civil commitment proceedings.

S.B. 837 establishes specific criteria for psychologists or psychiatrists appointed as experts to examine the defendant with regard to the insanity defense. An expert who is appointed to examine the defendant with regard to sanity who is also appointed to determine competency may not proceed with a report regarding sanity if the expert determines the defendant is incompetent to proceed. With the consent of the judge, the prosecution and defense may agree to dismiss the indictment on the grounds of insanity and to the entry of a judgment of dismissal due to that fact.

S.B. 837 provides that an acquitted person may not have their records expunged. If the court determines that the offense for which a defendant was acquitted involved conduct that caused serious bodily injury, placed another in imminent danger of seriously bodily injury, or consisted of a threat of serious bodily injury through the use of a deadly weapon, the court retains jurisdiction over the acquitted person until such time that the court terminates its jurisdiction or jurisdiction is automatically terminated when the term of confinement has reached the maximum allowed term allowed by law.

S.B. 837 places a fourteen day time limit during which an acquitted person may be detained, pending further proceedings. The bill extends the time period, from 90 to 180 days, during which a person may be confined for inpatient treatment. The bill also specifies which proceedings,

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regarding an acquitted person, may be held before a jury and which may only be held before a judge.

S.B. 837 establishes criteria and requirements for the outpatient care or community-based treatment and supervision of an acquitted person. A court that orders an acquitted person to inpatient or outpatient treatment must annually review the order. The bill further allows the acquitted person, the head of the facility, or the prosecution to request that the court modify the order requiring inpatient care to allow for outpatient care. S.B. 837 sets criteria for outpatient care and permits the care to be provided in any county where the necessary resources are available. The court may modify or revoke the order allowing for outpatient care.

S.B. 837 also establishes a process by which the acquitted person may appeal the determination that they committed the offense or a finding that the offense caused serious bodily injury. The acquitted person and the prosecution may appeal an order of confinement, outpatient care, an order renewing or refusing to renew an order for inpatient or outpatient care, an order modifying or revoking outpatient care, or an order discharging or denying discharge of an acquitted person.

S.B. 837 amends the Health and Safety Code to require the executive commissioner of the Health and Human Services Commission by rule to require the Texas Department of Mental Health and Mental Retardation to collect information and maintain records regarding acquitted persons who are required to receive inpatient care, outpatient care, or who have been committed for long-term placement. The information shall be filed annually with both houses of the Legislature.

EFFECTIVE DATE

September 1, 2005.

EXPLANATION OF AMENDMENTS

Committee Amendment 1

The amendment requires the defense to provide to the court and prosecution, notice of the intent to raise the insanity defense within 20 days, rather 10 days, before the date the case is set for trial. The amendment also removes the provision requiring a defendant who, before this notification deadline, raises the issue of competency to simultaneously file the notice of intent to raise the insanity defense.