

## **BILL ANALYSIS**

S.B. 925  
By: Duncan  
Criminal Jurisprudence  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Under current Texas law, the procedures for courts to consider claims that death row inmates are considered incompetent for the purposes of execution are governed by Article 46.05, Code of Criminal Procedure. Article 46.05 provides that an inmate making a "substantial showing" of incompetence is afforded a hearing before the district court and two experts are appointed to evaluate the inmate's mental status. After the hearing, the district court determines the inmate's competency for the purpose of execution.

Furthermore, Article 46.05 is currently interpreted to contain only a one-way appeal, allowing the prosecution to appeal a court finding that an inmate is incompetent to be executed, while not providing the same ability to appeal to the inmate. Senate Bill 925 equalizes the appellate rights for the prosecution and the defense and shifts the method of district court determinations to a process similar to that adopted in habeas corpus proceedings. It does not create any mandatory stay for execution for inmates to appeal a district court's finding of competence to be executed. Rather, it permits the court to authorize, at its discretion, a stay of execution.

### **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 925 amends the Code of Criminal Procedure to equalize the appellate rights for the prosecution and the defense and to shift the method of district court determinations to a process similar to that adopted in habeas corpus proceedings. It does not create any mandatory stay for execution for inmates to appeal a district court's finding of competence to be executed. Rather, it permits the court to authorize, at its discretion, a stay of execution.

### **EFFECTIVE DATE**

September 1, 2005.