

By: Deuell

S.B. No. 441

A BILL TO BE ENTITLED

AN ACT

relating to procedures occurring after a determination of a defendant's incompetency to stand trial.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 46B.079, Code of Criminal Procedure, is amended to read as follows:

Art. 46B.079. RETURN TO COMMITTING COURT. (a) Subject to Article 46B.082(b), a [A] defendant committed under this subchapter shall be returned to the committing court as soon as practicable after notice to the court is provided under Article 46B.080(a), but not later than the date on which the defendant's term of commitment expires.

(b) Subject to Article 46B.082(b), a [A] defendant committed under this subchapter whose term of commitment has not yet expired shall be returned to the committing court as soon as practicable after the 10th [~~15th~~] day following the date on which the parties receive service on any report filed under Article 46B.080(c) [~~46B.080(b)~~] regarding the defendant's ability to attain competency as described by Article 46B.080(b), except that, if not later than the 10th day after the date of that service a party objects to the findings of the report and the issue is set for a hearing under Article 46B.084, the defendant may not be returned to the committing court earlier than 72 hours before the date the hearing is scheduled.

SECTION 2. Subsection (b), Article 46B.082, Code of Criminal Procedure, is amended to read as follows:

(b) If a defendant committed to a ~~[maximum security unit of a]~~ facility of the department has not been transported from the facility [unit] before the 10th ~~[15th]~~ day after the date on which the court received notification under Article 46B.080(a), or if with respect to that defendant the court received notification under Article 46B.080(b) and neither party objected in a timely manner to the findings of the report filed under Article 46B.080(c), the head of the ~~[that]~~ facility shall cause the defendant to be promptly transported to the committing court and placed in the custody of the sheriff of the county in which the committing court is located. The county in which the committing court is located shall reimburse the department for the mileage and per diem expenses of the personnel required to transport the defendant, calculated in accordance with rates provided in the General Appropriations Act for state employees.

SECTION 3. Subsections (a) and (c), Article 46B.084, Code of Criminal Procedure, are amended to read as follows:

(a) On the return of a defendant to the committing court, the court shall make a determination with regard to the defendant's competency to stand trial. The court may make the determination based solely on the report filed under Article 46B.080(c), unless any party objects in writing or in open court to the findings of the report not later than the 10th ~~[15th]~~ day after the date on which the report is served on the parties.

(c) The hearing shall be held not later than the 20th day

1 after [~~within 30 days following~~] the date of objection unless
2 continued for good cause for a period not to exceed 20 [~~30~~] days.

3 SECTION 4. The change in law made by this Act applies only
4 to a defendant charged with an offense committed on or after the
5 effective date of this Act. A defendant charged with an offense
6 committed before the effective date of this Act is covered by the
7 law in effect when the offense was committed, and the former law is
8 continued in effect for that purpose. For purposes of this section,
9 an offense was committed before the effective date of this Act if
10 any element of the offense was committed before that date.

11 SECTION 5. This Act takes effect September 1, 2007.