

1-1 By: Deuell S.B. No. 441  
1-2 (In the Senate - Filed February 5, 2007; February 21, 2007,  
1-3 read first time and referred to Committee on Criminal Justice;  
1-4 April 23, 2007, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 6, Nays 0; April 23, 2007,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 441 By: Deuell

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to procedures occurring after a determination of a  
1-11 defendant's incompetency to stand trial.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Article 46B.079, Code of Criminal Procedure, is  
1-14 amended to read as follows:

1-15 Art. 46B.079. RETURN TO COMMITTING COURT. (a) Subject to  
1-16 Article 46B.082(b), a [A] defendant committed under this subchapter  
1-17 shall be returned to the committing court as soon as practicable  
1-18 after notice to the court is provided under Article 46B.080(a), but  
1-19 not later than the date on which the defendant's term of commitment  
1-20 expires.

1-21 (b) Subject to Article 46B.082(b), a [A] defendant  
1-22 committed under this subchapter whose term of commitment has not  
1-23 yet expired shall be returned to the committing court as soon as  
1-24 practicable after the 10th [15th] day following the date on which  
1-25 the parties receive service on any report filed under Article  
1-26 46B.080(c) [46B.080(b)] regarding the defendant's ability to  
1-27 attain competency as described by Article 46B.080(b), except that,  
1-28 if not later than the 10th day after the date of that service a party  
1-29 objects to the findings of the report and the issue is set for a  
1-30 hearing under Article 46B.084, the defendant may not be returned to  
1-31 the committing court earlier than 72 hours before the date the  
1-32 hearing is scheduled.

1-33 SECTION 2. Subsection (b), Article 46B.082, Code of  
1-34 Criminal Procedure, is amended to read as follows:

1-35 (b) If a defendant committed to a ~~[maximum security unit of~~  
1-36 ~~a] facility of the department has not been transported from the~~  
1-37 ~~facility [unit] before the 10th [15th] day after the date on which~~  
1-38 ~~the court received notification under Article 46B.080(a), or if~~  
1-39 ~~with respect to that defendant the court received notification~~  
1-40 ~~under Article 46B.080(b) and neither party objected in a timely~~  
1-41 ~~manner to the findings of the report filed under Article~~  
1-42 ~~46B.080(c), the head of the [that] facility shall cause the~~  
1-43 ~~defendant to be promptly transported to the committing court and~~  
1-44 ~~placed in the custody of the sheriff of the county in which the~~  
1-45 ~~committing court is located. The county in which the committing~~  
1-46 ~~court is located shall reimburse the department for the mileage and~~  
1-47 ~~per diem expenses of the personnel required to transport the~~  
1-48 ~~defendant, calculated in accordance with rates provided in the~~  
1-49 ~~General Appropriations Act for state employees.~~

1-50 SECTION 3. Subsections (a) and (c), Article 46B.084, Code  
1-51 of Criminal Procedure, are amended to read as follows:

1-52 (a) On the return of a defendant to the committing court,  
1-53 the court shall make a determination with regard to the defendant's  
1-54 competency to stand trial. The court may make the determination  
1-55 based solely on the report filed under Article 46B.080(c), unless  
1-56 any party objects in writing or in open court to the findings of the  
1-57 report not later than the 10th [15th] day after the date on which  
1-58 the report is served on the parties.

1-59 (c) The hearing shall be held not later than the 20th day  
1-60 after [within 30 days following] the date of objection unless  
1-61 continued for good cause for a period not to exceed 20 [30] days.

1-62 SECTION 4. The change in law made by this Act applies only  
1-63 to a defendant charged with an offense committed on or after the

2-1 effective date of this Act. A defendant charged with an offense  
2-2 committed before the effective date of this Act is covered by the  
2-3 law in effect when the offense was committed, and the former law is  
2-4 continued in effect for that purpose. For purposes of this section,  
2-5 an offense was committed before the effective date of this Act if  
2-6 any element of the offense was committed before that date.  
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SECTION 5. This Act takes effect September 1, 2007.

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