

BILL ANALYSIS

C.S.H.B. 1233
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Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, the Health and Safety Code provides that psychoactive medication may be compelled during an involuntary mental health civil commitment if, among other requirements, the "patient lacks the capacity to make a decision regarding the administration of the proposed medication and treatment with the proposed medication is in the best interest of the patient. . . ." However, if the patient was ordered to receive treatment from a criminal court with the goal of restoring competency, the probate court must additionally find that "the patient presents a danger to the patient or others in the inpatient mental health facility in which the patient is being treated. . . ." Many individuals suffering from uncontrollable mental illness are not a danger to themselves or to others. In such cases, a second hearing occurs before a criminal court where the issues revolve around restoration of competency and a "compelling state's interest."

Additionally, current law authorizes a criminal court to compel the administration of psychoactive medication when an individual has been found incompetent to stand trial and refuses medication as prescribed under a continuity of care plan. Due to the limited availability of inpatient competency restoration beds, many individuals who do not otherwise qualify for outpatient release remain housed in correctional facilities for extended periods of time while awaiting transfer to an inpatient competency restoration facility or residential care facility. Many of these individuals continue to suffer from the effects of their mental illnesses without the benefit of psychoactive medication. The courts have no jurisdiction to intercede, as these inmates neither reside at an inpatient facility nor have a continuity of care plan.

C.S.H.B. 1233 expands the application of provisions regarding court-ordered medications after a determination of incompetency to stand trial to include a defendant confined in a correctional facility, committed to a facility for the purpose of competency restoration, or who has been released on bail because of such a determination.

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

C.S.H.B. 1233 amends the Health and Safety Code to specify that the limitation on an order for the administration of psychoactive medication being issued by a court only after certain findings by the court applies to a patient that was ordered to receive inpatient mental health services by a criminal court with jurisdiction over the patient and who has remained confined in a correctional facility for a period exceeding 72 hours while awaiting transfer for competency restoration treatment and presents a danger to the patient or others in the correctional facility as a result of a mental disorder or mental defect as determined by the court. The bill establishes that an order authorizing psychoactive drugs for such a patient authorizes the initiation of any appropriate mental health treatment for the patient awaiting transfer and does not constitute authorization to retain the patient in a correctional facility for competency restoration treatment.

C.S.H.B. 1233 amends the Code of Criminal Procedure to expand the application of provisions regarding court-ordered medications after a determination of incompetency to stand trial to include a defendant who either remains confined in a correctional facility for a period exceeding 72 hours while awaiting transfer to an inpatient mental health facility, a residential care facility, or an outpatient treatment program; is committed to an inpatient mental health facility or a residential care facility for the purpose of competency restoration; is confined in a correctional facility while awaiting further criminal proceedings following competency restoration treatment; or is released on bail because the court has made the determination that the defendant is incompetent to stand trial. The bill clarifies that those provisions apply to a defendant for whom a correctional facility that employs or contracts with a licensed psychiatrist has prepared a continuity of care plan that requires the defendant to take psychoactive medications. The bill authorizes a motion to compel medication for a defendant in an outpatient treatment program to be filed at any time.

C.S.H.B. 1233 establishes that an order authorizing psychoactive medication for a defendant who remains confined in a correctional facility for a period exceeding 72 hours while awaiting transfer to an inpatient mental health facility, a residential care facility, or an outpatient treatment program authorizes the initiation of any appropriate mental health treatment for the defendant awaiting transfer and does not constitute authorization to retain the defendant in a correctional facility for competency restoration treatment.

C.S.H.B. 1233 makes conforming changes relating to a finding that a patient presents a danger to the patient or others in a correctional facility.

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 1233 omits a provision included in the original adding a patient who has been released on bail under a court order to receive treatment on an outpatient basis for the specific objective of obtaining competency to stand trial after a determination that the patient is not a danger to others to the patients for whom a court is authorized to issue an order for the administration of psychoactive medication. The substitute omits a provision included in the original specifying that the limitation on an order for the administration of psychoactive medication being issued by a court only after certain findings by the court applies to any patient, including a patient who has been determined to be incompetent to stand trial or who has been acquitted of an offense by reason of insanity.

C.S.H.B. 1233 adds a provision not included in the original applying the limitation on an order for the administration of psychoactive medication being issued by a court only after certain findings by the court to a patient who has remained confined in a correctional facility for a period exceeding 72 hours while awaiting transfer for competency restoration treatment and presents a danger to the patient or others in the correctional facility as a result of a mental disorder or mental defect as determined by the court. The substitute adds a provision not included in the original establishing that an order authorizing psychoactive drugs for such a patient authorizes the initiation of any appropriate mental health treatment for the patient awaiting transfer and does not constitute authorization to retain the patient in a correctional facility for competency restoration treatment.

C.S.H.B. 1233 differs from the original by expanding the application of provisions regarding court-ordered medications after a determination of incompetency to stand trial to include a defendant who either remains confined in a correctional facility for a period exceeding 72 hours while awaiting transfer to an inpatient mental health facility or a residential care facility or an

outpatient treatment program; is committed to an inpatient mental health facility or a residential care facility for the purpose of competency restoration; is confined in a correctional facility while awaiting further criminal proceedings following competency restoration treatment; or is released on bail because the court has made the determination that the defendant is incompetent to stand trial, whereas the original expands application of those provisions to include a defendant confined in a correctional facility awaiting transfer to an inpatient mental health facility or residential care facility or who has been released on bail.

C.S.H.B. 1233 differs from the original by clarifying that provisions regarding court-ordered medication after a determination of incompetency apply to a defendant for whom a correctional facility that employs or contracts with a licensed psychiatrist has prepared a continuity of care plan that requires the defendant to take psychoactive medications, whereas the original clarifies that those provisions apply to a defendant for whom a correctional facility with licensed physicians providing psychiatric services has prepared such a plan. The substitute differs from the original by authorizing a motion to compel medication for a defendant in an outpatient treatment program to be filed at any time, whereas the original authorizes such a motion to be filed any time after the date a judge issues an order stating that the defendant does not meet the criteria for court-ordered administration of psychoactive medication. The substitute adds a provision not included in the original establishing that an order authorizing psychoactive medication for a defendant who remains confined in a correctional facility for a period exceeding 72 hours while awaiting transfer to an inpatient mental health facility, a residential health facility, or an outpatient treatment program authorizes the initiation of any appropriate mental health treatment for the defendant awaiting transfer and does not constitute authorization to retain the defendant in a correctional facility for competency restoration treatment.