

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**May 20, 2009**

**TO:** Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB3907** by Madden (Relating to the court-ordered administration of psychoactive medication to certain criminal defendants and to the release of those defendants from certain facilities.), **As Engrossed**

**No fiscal implication to the State is anticipated.**

The bill would amend Article 16.22, Code of Criminal Procedure, to establish procedures a sheriff must follow when releasing a defendant who is a person with mental illness or mental retardation from custody, except on final disposition of the criminal proceedings.

The bill would amend Article 46B.086, Code of Criminal Procedure, to authorize actions for obtaining a court-order to require a person to take psychoactive medications if: 1) the person has been determined incompetent to stand trial; 2) if the person is either: a) confined to a correctional facility while awaiting transfer to an inpatient mental health or a residential care facility; b) committed to an inpatient or residential care facility for the purpose of competency restoration; c) confined to a correctional facility following competency restoration treatment; or d) been released on bail; and 3) a continuity of care plan for that person requires they take psychoactive medications.

The bill would amend Section 574.106 of the Health and Safety Code to authorize a court to issue an order authorizing the administration of one or more classes of psychoactive medications to a patient who has been confined in a correctional facility for more than 72 hours while awaiting transfer for competency restoration treatment and who presents a danger to themselves or others in the facility due to a mental disorder.

The bill would amend Section 574.107 of the Health and Safety Code to include in required costs to be paid by the county in which applicable criminal charges are pending or were adjudicated, the costs of a competency hearing held to evaluate the court-ordered administration of psychoactive medication to a patient ordered to receive mental health services, whether inpatient or not. Under current statute, the requirement applies only to inpatient mental health services.

Although the Department of State Health Services (DSHS) assumes the provisions of the bill could decrease the number of "incompetent to stand trial" patients who are returned to DSHS mental health facilities, the agency does not anticipate a direct fiscal impact.

**Local Government Impact**

Procedures would affect courts, sheriffs, and local mental health or mental retardation authorities.

No significant fiscal implications to units of local government are anticipated unless a local government entity would be responsible for costs of the required court-ordered outpatient mental health services.

**Source Agencies:** 537 State Health Services, Department of

**LBB Staff:** JOB, DB, ESi, CL, JB, JF