

BILL ANALYSIS

C.S.H.B. 3692
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Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Peace officers often respond to emergency calls made by family members and friends of a person with a severe mental illness. If the person with mental illness appears to be a danger to the person or others, a peace officer may institute emergency detention procedures and take the person to a hospital. Many peace officers in different jurisdictions have reported that they believe their authority is limited to delivering the person to the local jail if the officer has cause to believe the person with mental illness has also committed an offense.

Interested parties note that legislation may be required to ensure that a peace officer who responds to an emergency call involving a person with mental illness has a range of options when deciding on further action in the situation, including taking the person into custody without a warrant or issuing a citation in place of arresting the person for a certain misdemeanor offense. It has been suggested that such legislation should require certain peace officer education courses and programs to include training on the investigation and documentation of cases that involve mental illness and should clarify the threshold requirement for an informal inquiry into the issue of incompetency to stand trial. C.S.H.B. 3692 seeks to address these issues relating to peace officer interaction with a person with mental illness and to a person's incompetency to stand trial.

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. 3692 amends the Code of Criminal Procedure to require a peace officer answering an emergency call to attempt to determine whether any person involved in the emergency call is a person with a mental illness. The bill requires the peace officer, if the officer reasonably believes that a person involved in the emergency call is a person with a mental illness and does not have reason to believe that the person has committed an offense, to notify the local mental health authorities, and authorizes the peace officer under those same circumstances to provide any appropriate assistance to the person and take the person into custody under provisions of law relating to apprehension by a peace officer without a warrant. The bill authorizes a peace officer who reasonably believes that a person involved in an emergency call is a person with a mental illness and who has probable cause to believe that the person has committed a misdemeanor offense to issue a citation in lieu of arresting the person if authorized under provisions of law relating to issuing a citation in lieu of taking an arrested person before a magistrate or to take the person into custody without a warrant. The bill provides for the meaning of "mental illness" by reference to the Health and Safety Code for the purpose of these provisions.

C.S.H.B. 3692 establishes that a suggestion of a defendant's incompetency to stand trial is the threshold requirement for an informal inquiry by the court into whether there is some evidence from any source that would support a finding of the defendant's incompetency to stand trial. The

bill authorizes this requirement to be satisfied solely by a representation from any source that the defendant may be incompetent. The bill specifies that a further evidentiary showing is not required to initiate the inquiry and that the court is not required to have a bona fide doubt about the competency of the defendant. The bill authorizes the evidence suggesting the need for an informal inquiry to be based on observations made in relation to one or more of the factors required by law to be considered and reported by an expert during an examination of the defendant regarding competency or incompetency or on any other indication that the defendant is incompetent within the meaning set out in provisions of law relating to incompetency.

C.S.H.B. 3692 amends the Occupations Code to require the Commission on Law Enforcement Officer Standards and Education (TCLEOSE), in establishing minimum curriculum requirements for law enforcement officer training programs and schools, to require courses and programs to provide training in the investigation and documentation of cases that involve mental illness. The bill requires TCLEOSE to modify the training in that manner and ensure that the modified training is available not later than January 1, 2012.

EFFECTIVE DATE

September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 3692 differs from the original by authorizing a peace officer answering an emergency call who believes that a person involved in the call is a person with a mental illness and does not have reason to believe the person has committed an offense to provide appropriate assistance to the person, whereas the original requires the peace officer to provide the assistance under those circumstances. The substitute differs from the original in nonsubstantive ways.