

By: Madden

H.B. No. 2037

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the court-ordered administration of psychoactive
3 medication or other care or treatment with respect to certain
4 criminal defendants determined to be incompetent to stand trial.

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

6 SECTION 1. Article 46B.072(d), Code of Criminal Procedure,
7 is amended to read as follows:

8 (d) An order issued under this article may require the
9 defendant to participate in:

10 (1) as appropriate, an outpatient treatment program
11 administered by a community center or an outpatient treatment
12 program administered by any other entity that provides outpatient
13 competency restoration services; and

14 (2) an appropriate prescribed regimen of medical,
15 psychiatric, or psychological care or treatment, including:

16 (A) care or treatment involving the
17 administration of psychoactive medication, including those
18 required under Article 46B.086; and

19 (B) if applicable, care or treatment
20 administered in a correctional facility pending release to an
21 outpatient treatment program described by Subdivision (1).

22 SECTION 2. Section 574.104, Health and Safety Code, is
23 amended by adding Subsections (a-1) and (a-2) to read as follows:

24 (a-1) A physician who is treating a patient ordered to

1 receive inpatient mental health services after having been
2 determined to be incompetent to stand trial may:

3 (1) proceed under Subsection (a); or

4 (2) file, in the court in which the criminal matter is
5 pending, an application for an order to authorize the
6 administration of a psychoactive medication regardless of the
7 patient's refusal if:

8 (A) the physician believes that the patient lacks
9 the capacity to make a decision regarding the administration of the
10 psychoactive medication;

11 (B) the physician determines that the medication
12 is the proper course of treatment for the patient; and

13 (C) the patient, verbally or by other indication,
14 refuses to take the medication.

15 (a-2) An application filed as described by Subsection
16 (a-1)(2) is subject to the requirements and procedures provided by
17 Article 46B.086, Code of Criminal Procedure. Subsections (b)(3),
18 (c), (d), and (e) do not apply to the application.

19 SECTION 3. Section 574.106(c), Health and Safety Code, is
20 amended to read as follows:

21 (c) Except as provided by Subsection (d), a [A] hearing
22 under this subchapter shall be conducted on the record by the
23 probate judge, a [er] judge with probate jurisdiction, or, if
24 applicable, the judge of a criminal court who ordered the patient to
25 receive inpatient mental health services in accordance with Chapter
26 46B, Code of Criminal Procedure [except as provided by Subsection
27 (d)].

1 SECTION 4. This Act takes effect immediately if it receives
2 a vote of two-thirds of all the members elected to each house, as
3 provided by Section 39, Article III, Texas Constitution. If this
4 Act does not receive the vote necessary for immediate effect, this
5 Act takes effect September 1, 2011.