

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 19, 2011

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

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

IN RE: HB748 by Menendez (Relating to a criminal defendant's incompetency to stand trial, to certain related time credits, and to the maximum period allowed for restoration of the defendant to competency.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure to authorize the judge of a court to give a criminal defendant credit for time spent in a mental health facility or a residential care facility depending on determination of competency to stand trial. The bill also would include maximum terms of confinement, the period of commitment or treatment program participation, and restoration periods as defined by the provisions of the bill.

The bill would require a mental hospital or other inpatient or residential facility or outpatient treatment program provider when the maximum restoration period expires to assess a defendant's competency for civil proceedings.

The bill would amend the Health and Safety Code to limit a court order authorizing psychoactive medication to a patient returned to a correctional facility to await trial in a criminal proceeding to expire the earlier of the 180th day after the date the defendant was returned to the correctional facility, the date the defendant is acquitted, convicted, or enters a plea of guilty, or the date on which charges in the case are dismissed.

According to the Commission on Jail Standards, there could be a savings if a defendant was required to serve a commitment by confinement in a mental health or other facility to restore competency which would be credited toward the discharge of a potential sentence; however, it is not anticipated to be significant.

According to the Department of State Health Services, the fiscal impact to a state hospital or a mental health facility to perform competency assessments could be absorbed within existing resources.

According to the Office of Court Administration, the provisions of the bill will not result in any significant change in the workload of the court system; therefore, no significant fiscal impact to the Texas court system is anticipated.

The bill would take effect September 1, 2011.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, ESi, JB