

## **BILL ANALYSIS**

C.S.H.B. 2349  
By: Zerwas  
Corrections  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

By law, all criminal defendants must be competent to stand trial and assist in their defense. Most of the defendants who are found by a court to be incompetent to stand trial are committed to and treated at state mental health hospitals or private mental health facilities, which are regulated by the Texas Department of State Health Services (DSHS), until their competency is restored or for the maximum statutorily prescribed time based on the offense. Interested parties assert that the state mental hospital system has inadequate bed capacity to provide immediate competency restoration treatment to defendants. As a result, there is concern that many defendants must wait weeks, even months, in county jails before receiving the necessary treatment at a state mental health hospital or other facility.

A court recently ruled that it is a violation of the right to due process to keep an incompetent individual in jail for an unreasonable amount of time before being admitted to a state mental health facility or residential mental health facility to receive treatment and, subsequently, required DSHS to make beds available for defendants needing competency restoration within 21 days from the date it receives a criminal court's commitment order. The interested parties have expressed concern that, while DSHS increased bed capacity to accommodate the restoration of competency patients, there is and will continue to be significant costs to the state to pay for additional beds either at state hospitals or by contracting with private facilities. C.S.H.B. 2349 seeks to address these issues by creating a jail-based competency restoration pilot program.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 2 of this bill.

### **ANALYSIS**

Section 531.0055, Government Code, as amended by Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003, expressly grants to the executive commissioner of the Health and Human Services Commission all rulemaking authority for the operation of and provision of services by the health and human services agencies. Similarly, Sections 1.16-1.29, Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003, provide for the transfer of a power, duty, function, program, or activity from a health and human services agency abolished by that act to the corresponding legacy agency. To the extent practical, this bill analysis is written to reflect any transfer of rulemaking authority and to update references as necessary to an agency's authority with respect to a particular health and human services program.

C.S.H.B. 2349 amends the Code of Criminal Procedure to add temporary provisions, set to expire September 1, 2017, to require the Department of State Health Services (DSHS), if the legislature appropriates to DSHS the funding necessary for DSHS to operate a jail-based restoration of competency pilot program, to develop and implement the pilot program in one or two counties in Texas that choose to participate in the pilot program. The bill requires DSHS, in developing the pilot program, to coordinate and allow for input from each participating county.

The bill requires DSHS, if DSHS develops the pilot program, to contract with a provider of jail-based competency restoration services to provide services under the pilot program. The bill requires the executive commissioner of the Health and Human Services Commission, not later than November 1, 2013, and in consultation with a stakeholder workgroup established by DSHS under the bill's provisions for the purpose of such workgroup's participation in developing and establishing rules for the pilot program, to adopt rules as necessary to implement the pilot program and, in adopting those rules, to specify the types of information DSHS must collect during the program's operation for use in evaluating program outcomes. The bill sets out the composition of the stakeholder workgroup and sets the bill's provisions requiring the establishment of the workgroup to expire not later than the 30th day after the date the commissioner's rules are adopted.

C.S.H.B. 2349 requires a provider of jail-based competency restoration services, in order to contract with DSHS to provide services under the pilot program, to demonstrate the provider's qualifications in terms of the provider's experience in providing competency restoration services, including jail-based services; certain characteristics of the provider's program services; the provider's credentials as a certified or accredited health care organization or program provider; and the provider's track record of success with jail-based restoration of competency outcomes. The bill requires a contract entered into by a provider and DSHS to require the designated provider to collect and submit to DSHS the information specified by commissioner rules. The bill requires the designated provider to enter into a contract with the participating county or counties and sets out the county's or counties' program-related duties that must be provided for in the contract.

C.S.H.B. 2349 requires the psychiatrist for the provider to conduct at least two full psychiatric evaluations of a participating defendant during the period the defendant receives competency restoration services in the jail, including one evaluation not later than the 21st day and another evaluation not later than the 55th day after the date the defendant begins to participate in the pilot program, and to submit to the court a report concerning each of those evaluations.

C.S.H.B. 2349 requires the psychiatrist for the provider, if at any time during a defendant's participation in the pilot program the psychiatrist determines that the defendant has attained competency to stand trial, to promptly report that fact to the court and requires the court to consider that report as the report of an expert stating an opinion that the defendant has been restored to competency for purposes of the procedures applicable to a court-ordered reexamination of a defendant on credible evidence of competency restoration. The bill requires the psychiatrist for the provider, if at any times during a defendant's participation in the pilot program the psychiatrist determines that the defendant's competency to stand trial is unlikely to be restored in the foreseeable future, to promptly report that fact to the court and requires the court then to begin civil commitment proceedings and order the transfer of the defendant, without unnecessary delay, to the first available facility that is appropriate for that defendant or release the defendant on bail.

C.S.H.B. 2349, if the psychiatrist for the provider determines that a defendant who is charged with a felony and ordered to participate in the pilot program has not been restored to competency by the end of the 60th day after the date the defendant began to participate in the program, requires the transfer of the defendant without unnecessary delay for the remainder of the prescribed period for restoring such a defendant to competency to the first available facility that is appropriate for that defendant. The bill authorizes the court, if the psychiatrist for the provider determines that a defendant who is charged with a misdemeanor and ordered to participate in the pilot program has not been restored to competency by the end of the specified 60-day period, to order a single 60-day extension of the competency restoration period and the transfer of the defendant without unnecessary delay to the appropriate mental health facility or residential care facility for the remainder of the period under the extension, to begin civil commitment proceedings, to release the defendant on bail, or to dismiss the charges against the defendant.

C.S.H.B. 2349 specifies that unless otherwise provided by the bill's provisions, the statutory provisions governing proceedings for a defendant who is incompetent to stand trial apply to a defendant receiving competency restoration services under the pilot program in the same manner as those provisions apply to any other defendant who is subject to such proceedings. The bill requires the commissioner of DSHS, if DSHS develops and implements the pilot program, to submit a report concerning the pilot program not later than December 1, 2016, to the presiding officers of the standing committees of the senate and house of representatives having primary jurisdiction over health and human services issues and over criminal justice issues. The bill requires the report to include the information collected by DSHS during the pilot program and the commissioner's evaluation of program outcomes as of the date the report is submitted.

C.S.H.B. 2349 requires, in a county in which DSHS operates a pilot program, a defendant committed to a mental health facility or residential care facility for competency restoration under a court order either to be provided competency restoration services at the jail under the pilot program if the service provider at the jail determines the defendant will immediately begin to receive services or to be transferred to the appropriate mental health facility or residential care facility as provided by the court order if the service provider at the jail determines a defendant will not immediately begin to receive competency restoration services.

### **EFFECTIVE DATE**

September 1, 2013.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 2349 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

#### INTRODUCED

**No equivalent provision.**

#### HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Article 46B.073, Code of Criminal Procedure, is amended by adding Subsection (e) to read as follows:

(e) Notwithstanding Subsections (b), (c), and (d) and notwithstanding the contents of the applicable order of commitment, in a county in which the department operates a jail-based restoration of competency pilot program under Article 46B.090, a defendant for whom an order is issued under this article committing the defendant to a mental health facility or residential care facility shall be provided competency restoration services at the jail under the pilot program if the service provider at the jail determines the defendant will immediately begin to receive services. If the service provider at the jail determines the defendant will not immediately begin to receive competency restoration services, the defendant shall be transferred to the appropriate mental health facility or residential care facility as provided by the court order. This subsection expires September 1, 2017.

SECTION 1. Subchapter D, Chapter 46B, Code of Criminal Procedure, is amended by adding Article 46B.0731 to read as follows:

*See SECTION 2 below.*

Art. 46B.0731. JAIL-BASED COMPETENCY RESTORATION. (a)

Notwithstanding Article 46B.073 or any other provision of this chapter and except as provided by Subsection (b), instead of committing the defendant to a mental health facility or a residential care facility under Article 46B.073, a court may issue an order committing the defendant to the jail in that county for purposes of receiving competency restoration treatment under this subchapter if the department has established a jail-based competency restoration program under Section 1001.078, Health and Safety Code, and if the department has made the program available in that county.

(b) A court may not issue an order of commitment under this article with respect to a defendant who is subject to Article 46B.073(c).

(c) A court's order of commitment under this article has the same effect as an order of commitment issued under Article 46B.073 and, for purposes of the procedures described by this chapter, shall be treated as if it had been issued under that article. The court may extend an initial order of commitment under this article in the same manner as an initial order of commitment may be extended under Article 46B.080.

(d) With respect to each commitment order issued under this article and each extension granted under this article, notwithstanding Article 46B.001 or any other provision of this chapter and solely in the context of a commitment occurring pursuant to an initial order of commitment or an extension of that order:

(1) a reference in this chapter to a facility means a reference to a county jail designated as an appropriate venue for competency restoration treatment under a jail-based competency restoration program established under Section 1001.078, Health and Safety Code; and

(2) a reference in this chapter to the head of that facility means the department.

(e) Notwithstanding Subsection (c), a duty imposed by this subchapter to transport a defendant to or from the county jail,

including the duties described by Articles 46B.075 and 46B.0755(b), does not apply to a defendant who has been committed to that jail under this article.

(f) For purposes of Article 46B.009(2), the period of confinement for which the defendant may receive a time credit on the defendant's sentence ends on the date of the final judicial determination that the defendant has been restored to competency.

(g) A defendant who is committed to a county jail under this article may not be committed to the jail or any other correctional facility using civil commitment proceedings under Subtitle C or D, Title 7, Health and Safety Code.

SECTION 2. Article 46B.086(g), Code of Criminal Procedure, is amended to read as follows:

(g) For a defendant described by Subsection (a)(2)(A), an order issued under this article[: ~~(+)~~] authorizes the initiation of any appropriate mental health treatment for the defendant awaiting transfer. ~~The order[: and~~ ~~(-)~~] does not in itself constitute authorization to retain the defendant in a correctional facility for competency restoration treatment, but authorization to retain the defendant in such a manner may be available with respect to a defendant ordered to receive competency restoration treatment under Article 46B.0731 through a program established by the department under Section 1001.078, Health and Safety Code.

No equivalent provision.

SECTION 3. Subchapter C, Chapter 574, Health and Safety Code, is amended by adding Section 574.038 to read as follows:

Sec. 574.038. CONDITIONAL RELEASE PILOT PROGRAM. (a) In this section:

(1) "Program" means the conditional release pilot program established under Section 1001.079.

(2) "Provider" means a community-based mental health services provider designated by the department to provide mental health services through the program in the county in which the provider is located.

(b) A patient is eligible to participate in the program if the patient:

No equivalent provision.

No equivalent provision.

No equivalent provision.

- (1) is a person:  
(A) acquitted by reason of insanity under Chapter 46C, Code of Criminal Procedure, and subsequently:  
(i) committed for inpatient treatment at a mental health facility under Article 46C.256, Code of Criminal Procedure; or  
(ii) ordered to receive extended inpatient mental health services under Section 574.035; or  
(B) found incompetent to stand trial and subsequently committed to a mental health facility under Subchapter E, Chapter 46B, Code of Criminal Procedure;  
(2) for a period of more than one year, has remained in residence in a mental health facility to which the patient is committed;  
(3) has a documented history of taking medications prescribed under the treatment plan administered to patients at the mental health facility;  
(4) has not recently been restrained, secluded, or ordered to take emergency medication at the mental health facility to which the patient is committed;  
(5) was assessed as stable or declining in severity in the two most recent assessments of the patient conducted; and  
(6) has the capacity to reliably participate in a conditional release program.

(c) A director of a mental health facility located in a county selected by the department under Section 1001.079(a), in consultation with the local mental health authority, shall identify patients committed to the facility who are eligible to participate in the program. The facility shall provide to each identified patient care and treatment to prepare the patient to participate in the program. If the facility determines an identified patient is likely to receive adequate treatment under the program and comply with conditions of release imposed by a court, the facility shall prepare and submit to the department a conditional release treatment plan for the patient indicating community-based mental health services to be administered to the patient through the program, including, if applicable to the patient, services appropriate to prevent a patient from engaging in acts of violence.

(d) If the department determines, based on

No equivalent provision.

No equivalent provision.

the department's psychiatric security review process described by Section 1001.079(c), that the patient is not likely to be a danger to the community, the department shall:

(1) approve a patient's participation in the program; and

(2) subject to available resources of the program and the applicable provider, recommend the patient's participation in the program to a court in the county having jurisdiction over civil commitment proceedings conducted under this subtitle.

(e) On a recommendation of the department, a court may order a patient to participate in the program if:

(1) a provider certifies to the court that the provider is capable of providing the mental health services indicated for the patient in the patient's conditional release treatment plan; and

(2) the patient agrees in a signed writing to participate in the program by:

(A) following the course of treatment indicated for the patient in the patient's conditional release treatment plan; and

(B) complying with any other condition imposed by the court as a condition of the patient's release.

No equivalent provision.

(f) A court order issued under Subsection (e) must impose on the patient minimum treatment and supervision requirements as conditions of release, including a condition that the patient must abstain from consuming alcohol or illicit drugs and a condition that the patient must comply with random alcohol and drug testing administered by the provider.

No equivalent provision.

(g) On an order issued by the court pursuant to Subsection (e), a mental health facility shall:

(1) release a patient to the care of the provider; and

(2) transport the patient to the location designated by the provider.

No equivalent provision.

(h) For purposes of the application of this subtitle and any order for court-ordered mental health services, a patient conditionally released under this section remains committed to the mental health facility from which the patient was conditionally released under this section. If

No equivalent provision.

a court sets aside the order for court-ordered mental health services under which the patient was initially committed at a hearing held for that purpose, or if the order for court-ordered mental health services expires, as provided by Section 574.110, the patient is released from commitment to the facility and is no longer a patient receiving mental health services through the program.

(i) If the provider or the local mental health authority certifies to the court that the patient has violated a condition imposed by the court, the patient's condition has deteriorated, or, in the opinion of a mental health professional, the patient is a danger to self or others, the court, within 24 hours of receiving the certification, shall revoke the order for conditional release.

No equivalent provision.

(j) The court shall order the patient transported to and returned to the care of the applicable mental health facility not later than 24 hours after:

No equivalent provision.

(1) as described by Subsection (i), the court revokes the order for conditional release on certification from the provider or the local mental health authority that:

(A) the patient has violated a condition imposed by the court;

(B) the patient's condition has deteriorated;  
or

(C) in the opinion of a mental health professional, the patient is a danger to self or others;

(2) the court order for conditional release to participate in the program expires; or

(3) the program expires.

(k) A patient ordered to receive mental health services through the program is not eligible for a pass or furlough under Section 574.082.

No equivalent provision.

(l) This section expires September 1, 2017. An order issued under this section authorizing the conditional release of a patient must expire before that date.

No equivalent provision.

SECTION 4. Subchapter D, Chapter 1001, Health and Safety Code, is amended by adding Sections 1001.078 and 1001.079 to read as follows:

No equivalent provision.

Sec. 1001.078. JAIL-BASED

*See SECTION 2 below.*



COMPETENCY RESTORATION PROGRAM; WORK GROUP. (a) The executive commissioner by rule may establish a jail-based competency restoration program to be operated by the department if the work group formed under this subsection recommends the program's establishment. The department shall form a work group to determine whether a jail-based competency restoration program to provide competency restoration treatment in county jails to defendants who are subject to competency restoration under Subchapter D, Chapter 46B, Code of Criminal Procedure, may be operated by the department without any increase in state spending on mental health treatment. The work group shall make a recommendation to the executive commissioner regarding the establishment of a program under this section.

No equivalent provision.

(b) A program established under this section must provide for a partnership between a county and the department through which the department provides competency restoration treatment to each defendant who is subject to competency restoration under Subchapter D, Chapter 46B, Code of Criminal Procedure, and is ordered to receive competency restoration treatment under Article 46B.0731 of that code in the county jail for the county in which the applicable criminal case is pending. The department may enter into multiple partnerships under this section.

No equivalent provision.

(c) A program established under this section must include a quality review process designed to ensure that competency restoration treatment provided to a defendant through the program in a county jail is equivalent to the treatment that would be provided to the defendant if the defendant were committed to a mental health facility operated by the department.

No equivalent provision.

Sec. 1001.079. CONDITIONAL RELEASE PILOT PROGRAM. (a) The executive commissioner by rule shall establish a conditional release pilot program for eligible patients under Section 574.038(b), to be operated by the department in one or more counties selected by the department.

(b) The department, in consultation with the

No equivalent provision.

local mental health authority, shall designate a community-based mental health services provider to provide mental health services in each county in which the pilot program operates.

(c) The department shall solicit input from appropriate local mental health authorities, community-based mental health services providers, and mental health facilities in designing a psychiatric security review process to evaluate whether a patient would likely be a danger to the community if released from the mental health facility to which the patient would be committed under an order for conditional release to participate in the pilot program.

No equivalent provision.

(d) In adopting rules under this section, the executive commissioner shall ensure that the pilot program provides patients opportunities to be employed in the community, such as through a supported work program, or to participate in community-based vocational training.

No equivalent provision.

(e) In adopting rules under this section, the executive commissioner must specify what information the department must collect during the operation of the pilot program for use in evaluating the outcome of the program.

No equivalent provision.

(f) The local mental health authority in a county in which the pilot program operates, the community-based mental health services provider designated by the department to provide mental health services through the pilot program in that county, and the mental health facility from which the patient is conditionally released shall schedule regular meetings for the purpose of evaluating the patient's mental health and the patient's adherence to the conditions of the release imposed on the patient by the court.

No equivalent provision.

(g) During the operation of the pilot program, the commissioner of state health services shall submit biennial reports concerning the pilot program to the governor, the legislative budget director of the Legislative Budget Board, and the presiding officers of the standing committees of the senate and house of representatives having primary jurisdiction

No equivalent provision.

over health and human services issues and over criminal justice issues. The commissioner shall submit the first report not later than December 1, 2014, and the second report not later than December 1, 2016. Each report must contain the information collected by the department during the operation of the pilot program, the commissioner's evaluation of the outcome of the program as of the date of the report, the commissioner's recommendation as to whether to expand the operation of the program, and the commissioner's determination of whether the program has resulted in an increase in state spending on mental health treatment.

(h) The conditional release pilot program established under this section concludes and this section expires September 1, 2017.

No equivalent provision.

No equivalent provision.

No equivalent provision.

No equivalent provision.

SECTION 2. Subchapter D, Chapter 46B, Code of Criminal Procedure, is amended by adding Article 46B.090 to read as follows:

Art. 46B.090. JAIL-BASED RESTORATION OF COMPETENCY PILOT PROGRAM. (a) If the legislature appropriates to the department the funding necessary for the department to operate a jail-based restoration of competency pilot program as described by this article, the department shall develop and implement the pilot program in one or two counties in this state that choose to participate in the pilot program. In developing the pilot program, the department shall coordinate and allow for input from each participating county.

(b) The department shall contract with a provider of jail-based competency restoration services to provide services under the pilot program if the department develops a pilot program under this article.

(c) Not later than November 1, 2013, the commissioner of the department, in consultation with a stakeholder workgroup established by the department as provided by Subsection (d), shall adopt rules as necessary to implement the pilot program. In adopting rules under this article, the commissioner shall specify the types of information the department must collect during the operation of the pilot program for

use in evaluating the outcome of the pilot program.

No equivalent provision.

(d) The commissioner of the department shall establish a stakeholder workgroup to participate in developing and establishing rules for the pilot program. The stakeholder workgroup must be composed of:

- (1) one member who is a sheriff;
- (2) one member who represents a local mental health authority;
- (3) one member who is a county commissioner, county judge, or elected county officer;
- (4) one member who is a district attorney or county attorney with criminal jurisdiction;
- (5) one member who is a defense attorney;
- (6) one member who is a judge of a district criminal court or county criminal court;
- (7) two members who are mental health advocates; and
- (8) any other member the department considers appropriate to appoint to the stakeholder workgroup.

No equivalent provision.

(e) This subsection and Subsection (d) expire not later than the 30th day after the date rules are adopted under Subsection (c).

No equivalent provision.

(f) To contract with the department under Subsection (b), a provider of jail-based competency restoration services must demonstrate to the department that:

- (1) the provider:
  - (A) has previously provided jail-based competency restoration services for one or more years; or
  - (B) is a local mental health authority that has previously provided competency restoration services;
- (2) the provider's jail-based competency restoration program:
  - (A) uses a multidisciplinary treatment team to provide clinical treatment that is:
    - (i) directed toward the specific objective of restoring the defendant's competency to stand trial; and
    - (ii) similar to the clinical treatment provided as part of a competency restoration program at an inpatient mental health facility;
  - (B) employs or contracts for the services of at least one psychiatrist;
  - (C) assigns staff members to defendants

participating in the program at an average ratio not lower than 3.7 to 1; and

(D) provides weekly treatment hours commensurate to the treatment hours provided as part of a competency restoration program at an inpatient mental health facility;

(3) the provider is certified by a nationwide nonprofit organization that accredits health care organizations and programs, such as the Joint Commission on Health Care Staffing Services; and

(4) the provider has a demonstrated history of successful jail-based restoration of competency outcomes.

No equivalent provision.

(g) A contract under Subsection (b) must require the designated provider to collect and submit to the department the information specified by rules adopted under Subsection (c).

No equivalent provision.

(h) The designated provider shall enter into a contract with the participating county or counties. The contract must require the participating county or counties to:

(1) ensure the safety of defendants who participate in the jail-based restoration of competency pilot program;

(2) designate a separate space in the jail for the provider to conduct the pilot program;

(3) provide the same basic care to the participants as is provided to other inmates of a jail; and

(4) supply clinically appropriate psychoactive medications to the mental health service provider for purposes of administering court-ordered medication to the participants in accordance with Article 46B.086 of this code and Section 574.106, Health and Safety Code.

No equivalent provision.

(i) The psychiatrist for the provider shall conduct at least two full psychiatric evaluations of the defendant during the period the defendant receives competency restoration services in the jail. The psychiatrist must conduct one evaluation not later than the 21st day and one evaluation not later than the 55th day after the date the defendant begins to participate in the pilot program. The psychiatrist shall submit to the court a report concerning each evaluation required under this subsection.

No equivalent provision.

(j) If at any time during a defendant's participation in the jail-based restoration of competency pilot program the psychiatrist for the provider determines that the defendant has attained competency to stand trial:

(1) the psychiatrist for the provider shall promptly issue and send to the court a report demonstrating that fact; and

(2) the court shall consider that report as the report of an expert stating an opinion that the defendant has been restored to competency for purposes of Article 46B.0755(a) or (b).

No equivalent provision.

(k) If at any time during a defendant's participation in the jail-based restoration of competency pilot program the psychiatrist for the provider determines that the defendant's competency to stand trial is unlikely to be restored in the foreseeable future:

(1) the psychiatrist for the provider shall promptly issue and send to the court a report demonstrating that fact; and

(2) the court shall:

(A) proceed under Subchapter E or F and order the transfer of the defendant, without unnecessary delay, to the first available facility that is appropriate for that defendant, as provided under Subchapter E or F, as applicable; or

(B) release the defendant on bail as permitted under Chapter 17.

No equivalent provision.

(l) If the psychiatrist for the provider determines that a defendant ordered to participate in the pilot program has not been restored to competency by the end of the 60th day after the date the defendant began to participate in the pilot program:

(1) for a defendant charged with a felony, the defendant shall be transferred, without unnecessary delay and for the remainder of the period prescribed by Article 46B.073(b), to the first available facility that is appropriate for that defendant as provided by Article 46B.073(c) or (d); and

(2) for a defendant charged with a misdemeanor, the court may:

(A) order a single extension under Article 46B.080 and the transfer of the defendant without unnecessary delay to the appropriate mental health facility or residential care facility as provided by

Article 46B.073(d) for the remainder of the period under the extension;  
(B) proceed under Subchapter E or F;  
(C) release the defendant on bail as permitted under Chapter 17; or  
(D) dismiss the charges in accordance with Article 46B.010.

No equivalent provision.

(m) Unless otherwise provided by this article, the provisions of this chapter, including the maximum periods prescribed by Article 46B.0095, apply to a defendant receiving competency restoration services under the pilot program in the same manner as those provisions apply to any other defendant who is subject to proceedings under this chapter.

No equivalent provision.

(n) If the department develops and implements a jail-based restoration of competency pilot program under this article, not later than December 1, 2016, the commissioner of the department shall submit a report concerning the pilot program to the presiding officers of the standing committees of the senate and house of representatives having primary jurisdiction over health and human services issues and over criminal justice issues. The report must include the information collected by the department during the pilot program and the commissioner's evaluation of the outcome of the program as of the date the report is submitted.

No equivalent provision.

(o) This article expires September 1, 2017.

SECTION 5. The change in law made by this Act to Chapter 46B, Code of Criminal Procedure, applies only to a proceeding under that chapter that commences on or after the effective date of this Act, regardless of when the defendant may have committed the underlying offense for which the defendant became subject to the proceeding.

SECTION 3. The change in law made by this Act applies only to a defendant against whom proceedings have not been initiated under Chapter 46B, Code of Criminal Procedure, as amended by this Act, before the effective date of this Act. The determination of incompetency for a defendant against whom proceedings have been initiated under Chapter 46B, Code of Criminal Procedure, before the effective date of this Act is covered by the law in effect when the proceedings were initiated, and the former law is continued in effect for that purpose.

SECTION 6. (a) The Department of State Health Services shall form the work group

No equivalent provision.

as required by Section 1001.078, Health and Safety Code, as added by this Act, as soon as practicable after the effective date of this Act, and the work group shall make a recommendation regarding the establishment of a jail-based competency restoration program to the executive commissioner of the Health and Human Services Commission not later than February 1, 2014.

(b) The executive commissioner of the Health and Human Services Commission shall establish the pilot program required under Section 1001.079, Health and Safety Code, as added by this Act, not later than February 1, 2014.

SECTION 7. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

SECTION 4. This Act takes effect September 1, 2013.