

BILL ANALYSIS

C.S.H.B. 3532
By: Rose
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Current law does not provide a time frame as to when criminal proceedings may be resumed after a defendant who was determined to be incompetent to stand trial has subsequently been found competent to stand trial. To facilitate efficiency within the criminal justice system, C.S.H.B. 3532 establishes a time frame during which a court must resume proceedings after a defendant has been found competent 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. 3532 amends the Code of Criminal Procedure to require a court, not later than the next business day following the return of a defendant to the court after a previous determination of incompetency to stand trial, to notify the attorney representing the state and the attorney for the defendant regarding the return. The bill requires the attorney for the defendant, within three business days of receiving that notice, to meet and confer with the defendant to evaluate whether there is any suggestion that the defendant has not yet regained competency. The bill changes the deadline by which the court must make a determination following the defendant's return to court with regard to the defendant's competency to stand trial from not later than the 20th day after the date the court received notification from the facility or outpatient treatment program provider, as appropriate, that the defendant's initial restoration period will soon expire, to the earlier of that deadline or not later than the fifth day after the date of the defendant's return to court.

C.S.H.B. 3532 requires, rather than authorizes, the criminal proceedings in a case against a defendant who is determined to be incompetent to stand trial, returned to the court, and subsequently found competent to stand trial, to be resumed; requires the court to resume the proceedings on the court's own motion; and requires the proceedings to be resumed not later than the 14th day after the date of the court's determination that the defendant's competency has been restored. The bill establishes that statutory provisions regarding such a defendant's return to court do not require the criminal case to be finally resolved within any specific period.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3532 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.

SECTION 1. Article 46B.084(d), Code of Criminal Procedure, is amended to read as follows:

No equivalent provision.

No equivalent provision.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Article 46B.079(c), Code of Criminal Procedure, is amended to read as follows:

(c) When the head of the facility or outpatient treatment program provider gives notice to the court under Subsection (a) or (b), the head of the facility or outpatient treatment program provider also shall file a final report with the court stating the reason for the proposed discharge under this chapter and including a list of the types and dosages of medications prescribed for the defendant while the defendant was in the facility or participating in the outpatient treatment program. To enable any objection to the findings of the report to be made in a timely manner under Article 46B.084(a-1) [~~46B.084(a)~~], the court shall provide copies of the report to the attorney representing the defendant and the attorney representing the state.

SECTION 2. Article 46B.084, Code of Criminal Procedure, is amended by amending Subsections (a), (b), and (d) and adding Subsection (a-1) to read as follows:

(a) Not later than the next business day following the return of a defendant to the court, the court shall notify the attorney representing the state and the attorney for the defendant regarding the return. Within three business days of receiving notice under this subsection, the attorney for the defendant shall meet and confer with the defendant to evaluate whether there is any suggestion that the defendant has not yet regained competency.

(a-1) Following the defendant's [On the] return [of a defendant] to the court, the court shall make a determination with regard to the defendant's competency to stand trial. The court may make the determination based on the report filed under Article 46B.079(c) and on other medical information or personal history information relating to the defendant. A party may object in writing or in open court to the findings of the report not later than the 15th day after the date on which the court received notification under Article 46B.079. The court shall make the determination not later than the 20th day after the date on which the court received

No equivalent provision.

(d) If the defendant is found competent to stand trial, criminal proceedings against the defendant may be resumed. The court, on its own motion, shall resume the proceedings in the case not later than the 14th day after the date of a competency determination under this subsection. And after the defendant returns to the jail or other correctional facility.

SECTION 2. The change in law made by this Act applies only to a proceeding under Chapter 46B, Code of Criminal Procedure, 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. 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.

notification under Article 46B.079, or not later than the fifth day after the date of the defendant's return to court, whichever occurs first, regardless of whether a party objects to the report as described by this subsection and the issue is set for hearing under Subsection (b).

(b) If a party objects under Subsection (a-1) [~~(a)~~], the issue shall be set for a hearing. The hearing is before the court, except that on motion by the defendant, the defense counsel, the prosecuting attorney, or the court, the hearing shall be held before a jury.

(d) If the defendant is found competent to stand trial, on the court's own motion criminal proceedings in the case against the defendant shall [may] be resumed not later than the 14th day after the date of the court's determination under this article that the defendant's competency has been restored. This article does not require the criminal case to be finally resolved within any specific period.

SECTION 3. Same as introduced version.

SECTION 4. Same as introduced version.