

BILL ANALYSIS

Senate Research Center

S.B. 1326
By: Menéndez
Criminal Justice
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current statute requires a court to commit a defendant determined incompetent to stand trial to a mental health facility or a residential care facility for further examination and treatment toward the specific objective of attaining competency to stand trial. The commitment is for a period not to exceed 120 days and can be extended one time for an additional 60-day period. Currently, such a committed defendant does not receive any time credits against any subsequent sentence and judgment that may result from the ultimate adjudication of the charge for the time committed for competency restoration, regardless of the outcome of the competency restoration program. In the 82nd Legislature, two bills were passed affecting Article 46B.0095(d), Code of Criminal Procedure. Currently, the statute creates two alternatives to Article 46B.0095(d) and no direction to the courts as to which section applies to a particular case or circumstance.

S.B. 1326 seeks to resolve the discrepancies between H.B. 748, 82nd Legislature, Regular Session, 2011 and H.B. 2725, 82nd Legislature, Regular Session, 2011. S.B. 1326 creates Subsection (e) to allow a judge to grant an inmate good conduct time for a period of confinement described in Subsection (d).

S.B. 1326 amends current law relating to the maximum cumulative period allowed for restoration of a defendant's competency to stand trial and to certain time credits awarded against that cumulative period.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 46B.0095, Code of Criminal Procedure, by adding Subsection (e), as follows:

(e) Authorizes the court, in addition to the time credit awarded under Subsection (d), to credit to the cumulative period described by Subsection (a) (prohibiting a defendant from being committed to a mental health facility or ordered to participate in a treatment program for a cumulative period that exceeds the maximum term provided by law for the offense for which the defendant was to be tried) any good conduct time the defendant may have been granted under Article 42.032 (Good Conduct) in relation to the defendant's confinement as described by Subsection (d) (authorizing the court to credit the cumulative period described by Subsection (a) under certain conditions set forth).

SECTION 2. Reenacts Article 46B.010, Code of Criminal Procedure, as amended by Chapters 718 (H.B. 748) and 822 (H.B. 2725), Acts of the 82nd Legislature, Regular Session, 2011, and amends it to make a nonsubstantive change.

SECTION 3. Repealer: Article 46B.0095(d) (requiring the court to credit to the cumulative period described by Subsection (a) any time that a defendant, following arrest for the offense for which the defendant was to be tried, is confined in a correctional facility, as defined by Section

1.07, Penal Code, before the initial order of commitment or initial order for outpatient treatment program participation is entered under this chapter), Code of Criminal Procedure.

SECTION 4. Provides that the change in law made by this Act applies only to a defendant with respect to whom any proceeding under Chapter 46B (Incompetency to Stand Trial), Code of Criminal Procedure, is conducted on or after the effective date of this Act.

SECTION 5. Effective date: September 1, 2015.