

BILL ANALYSIS

S.B. 1326
By: Menéndez
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

In the 82nd Legislature, two bills were passed affecting a provision of law relating to a determination of a criminal defendant's incompetency to stand trial. Informed observers note that there is confusion among the courts as to 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. S.B. 1326 seeks to resolve the reported discrepancies between H.B. 748, Acts of the 82nd Legislature, Regular Session, 2011, and H.B. 2725, Acts of the 82nd Legislature, Regular Session, 2011.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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

S.B. 1326 repeals Article 46B.0095(d), Code of Criminal Procedure, as added by Chapter 718 (H.B. 748), Acts of the 82nd Legislature, Regular Session, 2011, to remove a statutory provision authorizing a court to credit to the maximum cumulative period during which a defendant, for purposes of competency restoration, may be committed to a mental hospital or other inpatient or residential facility, ordered to participate in an outpatient treatment program, or subjected to both inpatient and outpatient treatment, any time that the defendant, following arrest for the offense for which the defendant was to be tried, is confined in a correctional facility before the initial order of commitment or initial order for outpatient treatment program participation is entered in order to clarify that a court is required to credit such time to such maximum cumulative period.

S.B. 1326 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, to remove the requirement that a court, if the court orders a defendant charged with a misdemeanor punishable by confinement to such inpatient or outpatient treatment and the defendant is not tried before the expiration of the maximum period of competency restoration, dismiss the charge on the motion of the attorney representing the defendant, on notice to the attorney representing the state, and on a finding that the defendant was not tried before the expiration of the maximum period of competency restoration in order to specify that a court is authorized to dismiss such charge under such circumstances.

S.B. 1326 repeals Article 46B.0095(d), Code of Criminal Procedure, as added by Chapter 718 (H.B. 748), Acts of the 82nd Legislature, Regular Session, 2011.

EFFECTIVE DATE

September 1, 2015.