

By: Rose

H.B. No. 211

A BILL TO BE ENTITLED

AN ACT

relating to resuming a criminal case after a defendant is determined to be competent to stand trial.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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 Subsections (a-1) and (d-1) to read as follows:

(a)(1) 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

1 regarding the return. Within three business days of receiving
2 notice under this subsection or, on a showing of good cause, a later
3 date specified by the court, the attorney for the defendant shall
4 meet and confer with the defendant to evaluate whether there is any
5 suggestion that the defendant has not yet regained competency.

6 (2) Notwithstanding Subdivision (1), in a county with
7 a population of 125,000 or less, as soon as practicable following
8 the date of the defendant's return to the court, the court shall
9 provide the notice required by that subdivision to the attorney
10 representing the state and the attorney for the defendant, and the
11 attorney for the defendant shall meet and confer with the defendant
12 as soon as practicable after the date of receipt of that notice.

13 (a-1)(1) Following the defendant's [On the] return [of a
14 defendant] to the court, the court shall make a determination with
15 regard to the defendant's competency to stand trial. The court may
16 make the determination based on the report filed under Article
17 46B.079(c) and on other medical information or personal history
18 information relating to the defendant. A party may object in
19 writing or in open court to the findings of the report not later
20 than the 15th day after the date on which the court received
21 notification under Article 46B.079. The court shall make the
22 determination not later than the 20th day after the date on which
23 the court received notification under Article 46B.079, or not later
24 than the fifth day after the date of the defendant's return to
25 court, whichever occurs first, regardless of whether a party
26 objects to the report as described by this subsection and the issue
27 is set for hearing under Subsection (b).

1 (2) Notwithstanding Subdivision (1), in a county with
2 a population of 125,000 or less, the court shall make the
3 determination described by that subdivision not later than the 20th
4 day after the date on which the court received notification under
5 Article 46B.079, regardless of whether a party objects to the
6 report as described by that subdivision and the issue is set for a
7 hearing under Subsection (b).

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

13 (d)(1) If the defendant is found competent to stand trial,
14 on the court's own motion criminal proceedings in the case against
15 the defendant shall [~~may~~] be resumed not later than the 14th day
16 after the date of the court's determination under this article that
17 the defendant's competency has been restored.

18 (2) Notwithstanding Subdivision (1), in a county with
19 a population of 125,000 or less, on the court's own motion criminal
20 proceedings in the case against the defendant shall be resumed as
21 soon as practicable after the date of the court's determination
22 under this article that the defendant's competency has been
23 restored.

24 (d-1) This article does not require the criminal case to be
25 finally resolved within any specific period.

26 SECTION 3. The change in law made by this Act applies only
27 to a proceeding under Chapter 46B, Code of Criminal Procedure, that

1 commences on or after the effective date of this Act, regardless of
2 when the defendant may have committed the underlying offense for
3 which the defendant became subject to the proceeding.

4 SECTION 4. This Act takes effect immediately if it receives
5 a vote of two-thirds of all the members elected to each house, as
6 provided by Section 39, Article III, Texas Constitution. If this
7 Act does not receive the vote necessary for immediate effect, this
8 Act takes effect September 1, 2015.