

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 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

1 regarding the return. Within three business days of receiving
2 notice under this subsection, the attorney for the defendant shall
3 meet and confer with the defendant to evaluate whether there is any
4 suggestion that the defendant has not yet regained competency.

5 (a-1) Following the defendant's [On the] return [of a
6 defendant] to the court, the court shall make a determination with
7 regard to the defendant's competency to stand trial. The court may
8 make the determination based on the report filed under Article
9 46B.079(c) and on other medical information or personal history
10 information relating to the defendant. A party may object in
11 writing or in open court to the findings of the report not later
12 than the 15th day after the date on which the court received
13 notification under Article 46B.079. The court shall make the
14 determination not later than the 20th day after the date on which
15 the court received notification under Article 46B.079, or not later
16 than the fifth day after the date of the defendant's return to
17 court, whichever occurs first, regardless of whether a party
18 objects to the report as described by this subsection and the issue
19 is set for hearing under Subsection (b).

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

25 (d) If the defendant is found competent to stand trial, on
26 the court's own motion criminal proceedings in the case against the
27 defendant shall [~~may~~] be resumed not later than the 14th day after

1 the date of the court's determination under this article that the
2 defendant's competency has been restored. This article does not
3 require the criminal case to be finally resolved within any
4 specific period.

5 SECTION 3. The change in law made by this Act applies only
6 to a proceeding under Chapter 46B, Code of Criminal Procedure, that
7 commences on or after the effective date of this Act, regardless of
8 when the defendant may have committed the underlying offense for
9 which the defendant became subject to the proceeding.

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