

1-1 By: Rose (Senate Sponsor - Rodríguez) H.B. No. 211
1-2 (In the Senate - Received from the House May 18, 2015;
1-3 May 19, 2015, read first time and referred to Committee on Criminal
1-4 Justice; May 22, 2015, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 7, Nays 0;
1-6 May 22, 2015, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	Whitmire	X		
1-10	Huffman	X		
1-11	Burton	X		
1-12	Creighton	X		
1-13	Hinojosa	X		
1-14	Menéndez	X		
1-15	Perry	X		

1-16 COMMITTEE SUBSTITUTE FOR H.B. No. 211 By: Whitmire

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to resuming a criminal case after a defendant is
1-20 determined to be competent to stand trial.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Article 46B.079(c), Code of Criminal Procedure,
1-23 is amended to read as follows:

1-24 (c) When the head of the facility or outpatient treatment
1-25 program provider gives notice to the court under Subsection (a) or
1-26 (b), the head of the facility or outpatient treatment program
1-27 provider also shall file a final report with the court stating the
1-28 reason for the proposed discharge under this chapter and including
1-29 a list of the types and dosages of medications prescribed for the
1-30 defendant while the defendant was in the facility or participating
1-31 in the outpatient treatment program. To enable any objection to
1-32 the findings of the report to be made in a timely manner under
1-33 Article 46B.084(a-1) [~~46B.084(a)~~], the court shall provide copies
1-34 of the report to the attorney representing the defendant and the
1-35 attorney representing the state.

1-36 SECTION 2. Article 46B.084, Code of Criminal Procedure, is
1-37 amended by amending Subsections (a), (b), and (d) and adding
1-38 Subsections (a-1) and (d-1) to read as follows:

1-39 (a)(1) Not later than the next business day following the
1-40 return of a defendant to the court, the court shall notify the
1-41 attorney representing the state and the attorney for the defendant
1-42 regarding the return. Within three business days of the date that
1-43 notice is received under this subsection or, on a showing of good
1-44 cause, a later date specified by the court, the attorney for the
1-45 defendant shall meet and confer with the defendant to evaluate
1-46 whether there is any suggestion that the defendant has not yet
1-47 regained competency.

1-48 (2) Notwithstanding Subdivision (1), in a county with
1-49 a population of less than one million or in a county with a
1-50 population of four million or more, as soon as practicable
1-51 following the date of the defendant's return to the court, the court
1-52 shall provide the notice required by that subdivision to the
1-53 attorney representing the state and the attorney for the defendant,
1-54 and the attorney for the defendant shall meet and confer with the
1-55 defendant as soon as practicable after the date of receipt of that
1-56 notice.

1-57 (a-1)(1) Following the defendant's [On the] return [of a
1-58 defendant] to the court, the court shall make a determination with
1-59 regard to the defendant's competency to stand trial. The court may
1-60 make the determination based on the report filed under Article

2-1 46B.079(c) and on other medical information or personal history
2-2 information relating to the defendant. A party may object in
2-3 writing or in open court to the findings of the report not later
2-4 than the 15th day after the date on which the court received
2-5 notification under Article 46B.079. The court shall make the
2-6 determination not later than the 20th day after the date on which
2-7 the court received notification under Article 46B.079, or not later
2-8 than the fifth day after the date of the defendant's return to
2-9 court, whichever occurs first, regardless of whether a party
2-10 objects to the report as described by this subsection and the issue
2-11 is set for hearing under Subsection (b).

2-12 (2) Notwithstanding Subdivision (1), in a county with
2-13 a population of less than one million or in a county with a
2-14 population of four million or more, the court shall make the
2-15 determination described by that subdivision not later than the 20th
2-16 day after the date on which the court received notification under
2-17 Article 46B.079, regardless of whether a party objects to the
2-18 report as described by that subdivision and the issue is set for a
2-19 hearing under Subsection (b).

2-20 (b) If a party objects under Subsection (a-1) [~~(a)~~], the
2-21 issue shall be set for a hearing. The hearing is before the court,
2-22 except that on motion by the defendant, the defense counsel, the
2-23 prosecuting attorney, or the court, the hearing shall be held
2-24 before a jury.

2-25 (d)(1) If the defendant is found competent to stand trial,
2-26 on the court's own motion criminal proceedings in the case against
2-27 the defendant shall [~~may~~] be resumed not later than the 14th day
2-28 after the date of the court's determination under this article that
2-29 the defendant's competency has been restored.

2-30 (2) Notwithstanding Subdivision (1), in a county with
2-31 a population of less than one million or in a county with a
2-32 population of four million or more, on the court's own motion
2-33 criminal proceedings in the case against the defendant shall be
2-34 resumed as soon as practicable after the date of the court's
2-35 determination under this article that the defendant's competency
2-36 has been restored.

2-37 (d-1) This article does not require the criminal case to be
2-38 finally resolved within any specific period.

2-39 SECTION 3. The change in law made by this Act applies only
2-40 to a proceeding under Chapter 46B, Code of Criminal Procedure, that
2-41 commences on or after the effective date of this Act, regardless of
2-42 when the defendant may have committed the underlying offense for
2-43 which the defendant became subject to the proceeding.

2-44 SECTION 4. This Act takes effect immediately if it receives
2-45 a vote of two-thirds of all the members elected to each house, as
2-46 provided by Section 39, Article III, Texas Constitution. If this
2-47 Act does not receive the vote necessary for immediate effect, this
2-48 Act takes effect September 1, 2015.

2-49 * * * * *