

By: Zaffirini

S.B. No. 1326

A BILL TO BE ENTITLED

AN ACT

relating to procedures regarding criminal defendants who are or may be persons with a mental illness or an intellectual disability.

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

SECTION 1. Article 15.17, Code of Criminal Procedure, is amended by adding Subsection (a-1) to read as follows:

(a-1) If a magistrate is provided written or electronic notice of credible information that may establish reasonable cause to believe that a person brought before the magistrate has a mental illness or is a person with an intellectual disability, the magistrate shall conduct the proceedings described by Article 16.22 or 17.032, as appropriate.

SECTION 2. Article 16.22, Code of Criminal Procedure, is amended to read as follows:

Art. 16.22. EARLY IDENTIFICATION OF DEFENDANT SUSPECTED OF HAVING MENTAL ILLNESS OR INTELLECTUAL DISABILITY [~~MENTAL RETARDATION~~]. (a)(1) Not later than four [~~72~~] hours after the sheriff or other person having custody of a defendant for an offense punishable as a Class B misdemeanor or any higher category of offense determines that [~~receiving credible information that may establish~~] reasonable cause may exist to believe that the [~~a~~] defendant [~~committed to the sheriff's custody~~] has a mental illness or is a person with an intellectual disability [~~mental retardation, including observation of the defendant's behavior immediately~~

1 ~~before, during, and after the defendant's arrest and the results of~~
2 ~~any previous assessment of the defendant],~~ the sheriff or other
3 person shall provide written or electronic notice [~~of the~~
4 ~~information]~~ to the magistrate. The notice must include any
5 information related to the sheriff's or other person's
6 determination, such as information regarding the defendant's
7 behavior immediately before, during, and after the defendant's
8 arrest and, if applicable, the results of any previous assessment
9 of the defendant. On a determination that there is reasonable cause
10 to believe that the defendant has a mental illness or is a person
11 with an intellectual disability [~~mental retardation~~], the
12 magistrate, except as provided by Subdivision (2), shall order the
13 local mental health [~~or mental retardation]~~ authority, local
14 intellectual and developmental disability authority, or another
15 qualified mental health or intellectual disability [~~mental~~
16 ~~retardation]~~ expert to:

17 (A) collect information regarding whether the
18 defendant has a mental illness as defined by Section 571.003,
19 Health and Safety Code, or is a person with an intellectual
20 disability [~~mental retardation~~] as defined by Section 591.003,
21 Health and Safety Code, including, if applicable, information
22 obtained from any previous assessment of the defendant and
23 information regarding any previously recommended treatment; and

24 (B) provide to the magistrate a written
25 assessment of the information collected under Paragraph (A) on the
26 form approved by the Texas Correctional Office on Offenders with
27 Medical or Mental Impairments under Section 614.0032(b)(3), Health

1 and Safety Code.

2 (2) The magistrate is not required to order the
3 collection of information under Subdivision (1) if the defendant in
4 the year preceding the defendant's applicable date of arrest has
5 been determined to have a mental illness or to be a person with an
6 intellectual disability [~~mental retardation~~] by the local mental
7 health [~~or mental retardation~~] authority, local intellectual and
8 developmental disability authority, or another mental health or
9 intellectual disability [~~mental retardation~~] expert described by
10 Subdivision (1). A court that elects to use the results of that
11 previous determination may proceed under Subsection (c).

12 (3) If the defendant fails or refuses to submit to the
13 collection of information regarding the defendant as required under
14 Subdivision (1), the magistrate may order the defendant to submit
15 to an examination in a jail or in another place [~~mental health~~
16 ~~facility~~] determined to be appropriate by the local mental health
17 [~~or mental retardation~~] authority or local intellectual and
18 developmental disability authority for a reasonable period not to
19 exceed 48 hours [~~21 days~~]. If applicable, the [~~The magistrate may~~
20 ~~order a defendant to a facility operated by the Department of State~~
21 ~~Health Services or the Department of Aging and Disability Services~~
22 ~~for examination only on request of the local mental health or mental~~
23 ~~retardation authority and with the consent of the head of the~~
24 ~~facility. If a defendant who has been ordered to a facility~~
25 ~~operated by the Department of State Health Services or the~~
26 ~~Department of Aging and Disability Services for examination remains~~
27 ~~in the facility for a period exceeding 21 days, the head of that~~

1 ~~facility shall cause the defendant to be immediately transported to~~
2 ~~the committing court and placed in the custody of the sheriff of the~~
3 ~~county in which the committing court is located. That]~~ county in
4 which the committing court is located shall reimburse the local
5 mental health authority or local intellectual and developmental
6 disability authority [~~facility~~] for the mileage and per diem
7 expenses of the personnel required to transport the defendant,
8 calculated in accordance with the state travel regulations in
9 effect at the time.

10 (b) Except as otherwise permitted by the magistrate for good
11 cause shown, a [A] written assessment of the information collected
12 under Subsection (a)(1)(A) shall be provided to the magistrate:

13 (1) for a defendant held in custody, not later than 72
14 hours after the time an order was issued under Subsection (a); or

15 (2) for a defendant released from custody, not later
16 than the 30th day after the date an [~~of any~~] order was issued under
17 Subsection (a).

18 (b-1) The [~~in a felony case and not later than the 10th day~~
19 ~~after the date of any order issued under that subsection in a~~
20 ~~misdemeanor case, and the]~~ magistrate shall provide copies of the
21 written assessment to the defense counsel, the [~~prosecuting~~]
22 attorney representing the state, and the trial court. The written
23 assessment must include a description of the procedures used in the
24 collection of information under Subsection (a)(1)(A) and the
25 applicable expert's observations and findings pertaining to:

26 (1) whether the defendant is a person who has a mental
27 illness or is a person with an intellectual disability [~~mental~~

1 ~~retardation~~];

2 (2) whether there is clinical evidence to support a
3 belief that the defendant may be incompetent to stand trial and
4 should undergo a complete competency examination under Subchapter
5 B, Chapter 46B; and

6 (3) any appropriate or recommended treatment or
7 service.

8 (c) After the trial court receives the applicable expert's
9 written assessment relating to the defendant under Subsection (b-1)
10 [~~(b)~~] or elects to use the results of a previous determination as
11 described by Subsection (a)(2), the trial court may, as applicable:

12 (1) resume criminal proceedings against the
13 defendant, including any appropriate proceedings related to the
14 defendant's release on personal bond under Article 17.032 if the
15 defendant is being held in custody;

16 (2) resume or initiate competency proceedings, if
17 required, as provided by Chapter 46B or other proceedings affecting
18 the defendant's receipt of appropriate court-ordered mental health
19 or intellectual disability [~~mental retardation~~] services,
20 including proceedings related to the defendant's receipt of
21 outpatient mental health services under Section 574.034, Health and
22 Safety Code; [~~or~~]

23 (3) consider the written assessment during the
24 punishment phase after a conviction of the offense for which the
25 defendant was arrested, as part of a presentence investigation
26 report, or in connection with the impositions of conditions
27 following placement on community supervision, including deferred

1 adjudication community supervision; or

2 (4) refer the defendant to an appropriate specialty
3 court established or operated under Subtitle K, Title 2, Government
4 Code.

5 (d) This article does not prevent the applicable court from,
6 before, during, or after the collection of information regarding
7 the defendant as described by this article:

8 (1) releasing a defendant who has a mental illness
9 [mentally ill] or is a person with an intellectual disability
10 [mentally retarded defendant] from custody on personal or surety
11 bond, including imposing as a condition of release that the
12 defendant submit to an examination or other assessment; or

13 (2) ordering an examination regarding the defendant's
14 competency to stand trial.

15 (e) The magistrate shall submit to the Office of Court
16 Administration of the Texas Judicial System on a monthly basis the
17 number of written assessments provided to the court under
18 Subsection (a)(1)(B).

19 SECTION 3. Articles 17.032(a), (b), (c), and (d), Code of
20 Criminal Procedure, are amended to read as follows:

21 (a) In this article, "violent offense" means an offense
22 under the following sections of the Penal Code:

- 23 (1) Section 19.02 (murder);
24 (2) Section 19.03 (capital murder);
25 (3) Section 20.03 (kidnapping);
26 (4) Section 20.04 (aggravated kidnapping);
27 (5) Section 21.11 (indecent with a child);

1 (6) Section 22.01(a)(1) (assault), if the offense
2 involved family violence as defined by Section 71.004, Family Code;

3 (7) Section 22.011 (sexual assault);

4 (8) Section 22.02 (aggravated assault);

5 (9) Section 22.021 (aggravated sexual assault);

6 (10) Section 22.04 (injury to a child, elderly
7 individual, or disabled individual);

8 (11) Section 29.03 (aggravated robbery);

9 (12) Section 21.02 (continuous sexual abuse of young
10 child or children); or

11 (13) Section 20A.03 (continuous trafficking of
12 persons).

13 (b) Notwithstanding Article 17.03(b), or a bond schedule
14 adopted or a standing order entered by a judge, a [A] magistrate
15 shall release a defendant on personal bond unless good cause is
16 shown otherwise if ~~the~~:

17 (1) the defendant is not charged with and has not been
18 previously convicted of a violent offense;

19 (2) the defendant is examined by the local mental
20 health ~~[or mental retardation]~~ authority, local intellectual and
21 developmental disability authority, or another qualified mental
22 health or intellectual disability expert under Article 16.22 ~~[of~~
23 ~~this code]~~;

24 (3) the applicable expert, in a written assessment
25 submitted to the magistrate under Article 16.22, ~~[+~~

26 ~~[A)]~~ concludes that the defendant has a mental
27 illness or is a person with an intellectual disability ~~[mental~~

1 ~~retardation]~~ and requires treatment not available in jail [~~is~~
2 ~~nonetheless competent to stand trial]~~; [and

3 [~~(B) recommends mental health treatment for the~~
4 ~~defendant, and]~~

5 (4) the magistrate determines, in consultation with
6 the local mental health [~~or mental retardation]~~ authority or local
7 intellectual and developmental disability authority, that
8 appropriate community-based mental health or intellectual
9 disability [~~mental retardation]~~ services for the defendant are
10 available in accordance with [~~through the Texas Department of~~
11 ~~Mental Health and Mental Retardation under]~~ Section 534.053 or
12 534.103, Health and Safety Code, or through another mental health
13 or intellectual disability [~~mental retardation]~~ services provider;
14 and

15 (5) the magistrate finds, after considering all the
16 circumstances, a pretrial risk assessment, if applicable, and any
17 other credible information provided by the attorney representing
18 the state or the defendant, that release on personal bond would
19 reasonably ensure the defendant's appearance in court as required
20 and the safety of the community and the victim of the alleged
21 offense.

22 (c) The magistrate, unless good cause is shown for not
23 requiring treatment, shall require as a condition of release on
24 personal bond under this article that the defendant submit to
25 outpatient or inpatient mental health or intellectual disability
26 [~~mental retardation]~~ treatment as recommended by the local mental
27 health [~~or mental retardation]~~ authority, local intellectual and

1 developmental disability authority, or another qualified mental
2 health or intellectual disability expert if the defendant's:

3 (1) mental illness or intellectual disability [~~mental~~
4 ~~retardation~~] is chronic in nature; or

5 (2) ability to function independently will continue to
6 deteriorate if the defendant is not treated.

7 (d) In addition to a condition of release imposed under
8 Subsection (c) [~~of this article~~], the magistrate may require the
9 defendant to comply with other conditions that are reasonably
10 necessary to ensure the defendant's appearance in court as required
11 and the safety of [~~protect~~] the community and the victim of the
12 alleged offense.

13 SECTION 4. Article [32A.01](#), Code of Criminal Procedure, is
14 amended by amending Subsection (a) and adding Subsection (c) to
15 read as follows:

16 (a) Insofar as is practicable, the trial of a criminal
17 action shall be given preference over trials of civil cases, and the
18 trial of a criminal action against a defendant who is detained in
19 jail pending trial of the action shall be given preference over
20 trials of other criminal actions not described by Subsection (b) or
21 (c).

22 (c) Except as provided by Subsection (b), the trial of a
23 criminal action against a defendant who has been determined to be
24 restored to competency under Article [46B.084](#) shall be given
25 preference over other matters before the court, whether civil or
26 criminal.

27 SECTION 5. The heading to Article [46B.0095](#), Code of

1 Criminal Procedure, is amended to read as follows:

2 Art. 46B.0095. MAXIMUM PERIOD OF COMMITMENT OR [~~OUTPATIENT~~
3 ~~TREATMENT~~] PROGRAM PARTICIPATION DETERMINED BY MAXIMUM TERM FOR
4 OFFENSE.

5 SECTION 6. Articles 46B.0095(a), (b), (c), and (d), Code of
6 Criminal Procedure, are amended to read as follows:

7 (a) A defendant may not, under Subchapter D or E or any other
8 provision of this chapter, be committed to a mental hospital or
9 other inpatient or residential facility or to a jail-based
10 restoration of competency program, ordered to participate in an
11 outpatient [~~treatment~~] program, or subjected to any combination of
12 [~~both~~] inpatient or [~~and~~] outpatient treatment or program
13 participation for a cumulative period that exceeds the maximum term
14 provided by law for the offense for which the defendant was to be
15 tried, except that if the defendant is charged with a misdemeanor
16 and has been ordered only to participate in an outpatient
17 [~~treatment~~] program under Subchapter D or E, the maximum period of
18 restoration is two years.

19 (b) On expiration of the maximum restoration period under
20 Subsection (a), the mental hospital, [~~or other inpatient or~~
21 ~~residential~~] facility, or [~~outpatient treatment~~] program provider
22 identified in the most recent order of commitment or order of
23 outpatient [~~treatment~~] program participation under this chapter
24 shall assess the defendant to determine if civil proceedings under
25 Subtitle C or D, Title 7, Health and Safety Code, are appropriate.
26 The defendant may be confined for an additional period in a mental
27 hospital or other [~~inpatient or residential~~] facility or jail-based

1 program or ordered to participate for an additional period in an
2 outpatient [~~treatment~~] program, as appropriate, only pursuant to
3 civil proceedings conducted under Subtitle C or D, Title 7, Health
4 and Safety Code, by a court with probate jurisdiction.

5 (c) The cumulative period described by Subsection (a):

6 (1) begins on the date the initial order of commitment
7 or initial order for outpatient [~~treatment~~] program participation
8 is entered under this chapter; and

9 (2) in addition to any inpatient or outpatient
10 treatment periods or program participation periods described by
11 Subsection (a), includes any time that, following the entry of an
12 order described by Subdivision (1), the defendant is confined in a
13 correctional facility, as defined by Section 1.07, Penal Code, or
14 is otherwise in the custody of the sheriff during or while awaiting,
15 as applicable:

16 (A) the defendant's transfer to:

17 (i) a mental hospital or other inpatient or
18 residential facility; or

19 (ii) a jail-based restoration of competency
20 program;

21 (B) the defendant's release on bail to
22 participate in an outpatient treatment program; or

23 (C) a criminal trial following any temporary
24 restoration of the defendant's competency to stand trial.

25 (d) The court shall credit to the cumulative period
26 described by Subsection (a) any time that a defendant, following
27 arrest for the offense for which the defendant was to be tried, is

1 confined in a correctional facility, as defined by Section 1.07,
2 Penal Code, before the initial order of commitment or initial order
3 for outpatient [~~treatment~~] program participation is entered under
4 this chapter.

5 SECTION 7. Article 46B.010, Code of Criminal Procedure, is
6 amended to read as follows:

7 Art. 46B.010. MANDATORY DISMISSAL OF MISDEMEANOR CHARGES.
8 If a court orders that a defendant charged with a misdemeanor
9 punishable by confinement be committed to a mental hospital or
10 other inpatient or residential facility or to a jail-based
11 restoration of competency program, participate in an outpatient
12 [~~treatment~~] program, or be subjected to any combination of [both]
13 inpatient or [and] outpatient treatment or program participation,
14 and the defendant is not tried before the expiration of the maximum
15 period of restoration described by Article 46B.0095:

16 (1) on the motion of the attorney representing the
17 state, the court shall dismiss the charge; or

18 (2) on the motion of the attorney representing the
19 defendant and notice to the attorney representing the state, the
20 court:

21 (A) shall set the matter to be heard not later
22 than the 10th day after the date of filing of the motion; and

23 (B) may dismiss the charge on a finding that the
24 defendant was not tried before the expiration of the maximum period
25 of restoration.

26 SECTION 8. Article 46B.026, Code of Criminal Procedure, is
27 amended by adding Subsection (d) to read as follows:

1 (d) The court shall submit to the Office of Court
2 Administration of the Texas Judicial System on a monthly basis the
3 number of reports provided to the court under this article.

4 SECTION 9. Article 46B.071(a), Code of Criminal Procedure,
5 is amended to read as follows:

6 (a) Except as provided by Subsection (b), on a determination
7 that a defendant is incompetent to stand trial and is subject to an
8 initial restoration period, the court shall:

9 (1) if the defendant is charged with an offense
10 punishable as a Class B misdemeanor:

11 (A) commit the defendant to a program [facility]
12 under Article 46B.073; or

13 (B) [~~(2)~~] release the defendant on bail under
14 Article 46B.0711; or

15 (2) if the defendant is charged with an offense
16 punishable as a Class A misdemeanor or any higher category of
17 offense:

18 (A) commit the defendant to a facility or program
19 under Article 46B.073; or

20 (B) release the defendant on bail under Article
21 46B.072.

22 SECTION 10. Subchapter D, Chapter 46B, Code of Criminal
23 Procedure, is amended by adding Article 46B.0711 to read as
24 follows:

25 Art. 46B.0711. RELEASE ON BAIL FOR CLASS B MISDEMEANOR. (a)
26 Subject to conditions reasonably related to ensuring public safety
27 and the effectiveness of the defendant's treatment, if the court

1 determines that a defendant charged with an offense punishable as a
2 Class B misdemeanor and found incompetent to stand trial is not a
3 danger to others and may be safely treated on an outpatient basis
4 with the specific objective of attaining competency to stand trial,
5 the court shall:

6 (1) release the defendant on bail or continue the
7 defendant's release on bail; and

8 (2) order the defendant to participate in an
9 outpatient treatment program for a period not to exceed 90 days.

10 (b) If the defendant successfully completes the outpatient
11 treatment program described by Subsection (a), the court shall:

12 (1) on the motion of the attorney representing the
13 state, dismiss the charge; or

14 (2) proceed as otherwise required by this subchapter.

15 (c) If the defendant does not successfully complete the
16 outpatient treatment program described by Subsection (a), the court
17 may:

18 (1) for the remainder of the 90-day period described
19 by Subsection (a)(2), commit the defendant to a jail-based
20 restoration of competency program under Article 46B.073 if the
21 maximum period of restoration described by Article 46B.0095 has not
22 expired; or

23 (2) on the motion of the attorney representing the
24 state, dismiss the charge.

25 SECTION 11. The heading to Article 46B.072, Code of
26 Criminal Procedure, is amended to read as follows:

27 Art. 46B.072. RELEASE ON BAIL FOR CLASS A MISDEMEANOR OR

1 FELONY.

2 SECTION 12. Article 46B.072, Code of Criminal Procedure, is
3 amended by amending Subsection (a-1) and adding Subsections (e) and
4 (f) to read as follows:

5 (a-1) Subject to conditions reasonably related to ensuring
6 ~~[assuring]~~ public safety and the effectiveness of the defendant's
7 treatment, if the court determines that a defendant found
8 incompetent to stand trial is not a danger to others and may be
9 safely treated on an outpatient basis with the specific objective
10 of attaining competency to stand trial and if an appropriate
11 outpatient treatment program is available for the defendant, the
12 court:

13 (1) may release on bail a defendant found incompetent
14 to stand trial with respect to an offense punishable as a felony or
15 may continue the defendant's release on bail; and

16 (2) shall release on bail a defendant found
17 incompetent to stand trial with respect to an offense punishable as
18 a Class A [a] misdemeanor or shall continue the defendant's release
19 on bail.

20 (e) If the defendant successfully completes the outpatient
21 treatment program described by Subsection (a-1), the court shall:

22 (1) on the motion of the attorney representing the
23 state, dismiss the charge; or

24 (2) proceed as otherwise required by this subchapter.

25 (f) If the defendant does not successfully complete the
26 outpatient treatment program described by Subsection (a-1), the
27 court may:

1 (1) for the remainder of the 120-day period described
2 by Subsection (b), commit the defendant to a facility or to a
3 jail-based restoration of competency program under Article 46B.073
4 if the maximum period of restoration described by Article 46B.0095
5 has not expired; or

6 (2) on the motion of the attorney representing the
7 state, dismiss the charge.

8 SECTION 13. Article 46B.073, Code of Criminal Procedure, is
9 amended to read as follows:

10 Art. 46B.073. COMMITMENT FOR RESTORATION TO COMPETENCY. (a)
11 This article applies only to a defendant [~~not released on bail~~] who
12 is subject to an initial restoration period based on Article
13 46B.071 and who:

14 (1) was not released on bail; or

15 (2) if released on bail, is made subject to this
16 article by action of the court under Article 46B.0711(c) or
17 46B.072(f).

18 (b) For further examination, psychiatric stabilization, and
19 treatment toward the specific objective of the defendant attaining
20 competency to stand trial, the court shall commit a defendant
21 described by Subsection (a) to a mental health facility, [~~or~~]
22 residential care facility, or jail-based restoration of competency
23 program for the applicable period as follows:

24 (1) a period of not more than 60 days, if the defendant
25 is described by Subsection (a)(1) and charged with an offense
26 punishable as a misdemeanor; [~~or~~]

27 (2) a period of not more than 120 days, if the

1 defendant is described by Subsection (a)(1) and charged with an
2 offense punishable as a felony; or

3 (3) the remainder of the restoration period specified
4 by the court under Article 46B.0711 or 46B.072, as applicable.

5 (b-1) A defendant charged with an offense punishable as a
6 Class B misdemeanor may be committed under this subchapter only to a
7 jail-based restoration of competency program.

8 (c) If the defendant is charged with an offense listed in
9 Article 17.032(a), other than an offense listed in Article
10 17.032(a)(6), or the indictment alleges an affirmative finding
11 under Article 42A.054(c) or (d), the court shall enter an order
12 committing the defendant for psychiatric stabilization to the
13 maximum security unit of any facility designated by the Department
14 of State Health Services, to an agency of the United States
15 operating a mental hospital, ~~or~~ to a Department of Veterans
16 Affairs hospital, or to a jail-based restoration of competency
17 program.

18 (d) If the defendant is not charged with an offense
19 described by Subsection (c) and the indictment does not allege an
20 affirmative finding under Article 42A.054(c) or (d), the court
21 shall enter an order committing the defendant for psychiatric
22 stabilization to a jail-based restoration of competency program or
23 to a mental health facility or residential care facility determined
24 to be appropriate by the local mental health authority or local
25 intellectual and developmental disability authority.

26 (e) On notification from the head of a facility or a program
27 provider under Article 46B.079(b)(1), the court shall order the

1 defendant to receive competency restoration education services in a
2 jail-based restoration of competency program or in an outpatient
3 competency restoration education program, as appropriate.

4 (f) If a defendant for whom an order is entered under
5 Subsection (e) was committed for psychiatric stabilization to a
6 facility other than a jail-based restoration of competency program,
7 the court shall send a copy of that order to:

8 (1) the sheriff of the county in which the court is
9 located; and

10 (2) the head of the facility to which the defendant was
11 committed for psychiatric stabilization [Notwithstanding
12 Subsections (b), (c), and (d) and notwithstanding the contents of
13 the applicable order of commitment, in a county in which the
14 Department of State Health Services operates a jail-based
15 restoration of competency pilot program under Article 46B.090, a
16 defendant for whom an order is issued under this article committing
17 the defendant to a mental health facility or residential care
18 facility shall be provided competency restoration services at the
19 jail under the pilot program if the service provider at the jail
20 determines the defendant will immediately begin to receive
21 services. If the service provider at the jail determines the
22 defendant will not immediately begin to receive competency
23 restoration services, the defendant shall be transferred to the
24 appropriate mental health facility or residential care facility as
25 provided by the court order. This subsection expires September 1,
26 2019].

27 SECTION 14. Article 46B.074(a), Code of Criminal Procedure,

1 is amended to read as follows:

2 (a) A defendant may be committed to a jail-based restoration
3 of competency program, mental health facility, or residential care
4 facility under this subchapter only on competent medical or
5 psychiatric testimony provided by an expert qualified under Article
6 46B.022.

7 SECTION 15. Article 46B.075, Code of Criminal Procedure, is
8 amended to read as follows:

9 Art. 46B.075. TRANSFER OF DEFENDANT TO FACILITY OR
10 [~~OUTPATIENT TREATMENT~~] PROGRAM. An order issued under Article
11 46B.0711, 46B.072, or 46B.073 must place the defendant in the
12 custody of the sheriff for transportation to the facility or
13 [~~outpatient treatment~~] program, as applicable, in which the
14 defendant is to receive treatment for purposes of competency
15 restoration.

16 SECTION 16. Articles 46B.0755(a), (b), and (d), Code of
17 Criminal Procedure, are amended to read as follows:

18 (a) Notwithstanding any other provision of this subchapter,
19 if the court receives credible evidence indicating that the
20 defendant has been restored to competency at any time after the
21 defendant's incompetency trial under Subchapter C but before the
22 defendant is transported under Article 46B.075 to the [~~a mental~~
23 ~~health facility, residential care~~] facility[~~7~~] or [~~outpatient~~
24 ~~treatment~~] program, as applicable, the court may appoint
25 disinterested experts to reexamine the defendant in accordance with
26 Subchapter B. The court is not required to appoint the same expert
27 or experts who performed the initial examination of the defendant

1 under that subchapter.

2 (b) If after a reexamination of the defendant the applicable
3 expert's report states an opinion that the defendant remains
4 incompetent, the court's order under Article 46B.0711, 46B.072, or
5 46B.073 remains in effect, and the defendant shall be transported
6 to the facility or [~~outpatient treatment~~] program as required by
7 Article 46B.075. If after a reexamination of the defendant the
8 applicable expert's report states an opinion that the defendant has
9 been restored to competency, the court shall withdraw its order
10 under Article 46B.0711, 46B.072, or 46B.073 and proceed under
11 Subsection (c) or (d).

12 (d) The court shall hold a hearing to determine whether the
13 defendant has been restored to competency if any party fails to
14 agree or if the court fails to concur that the defendant is
15 competent to stand trial. If a court holds a hearing under this
16 subsection, on the request of the counsel for either party or the
17 motion of the court, a jury shall make the competency
18 determination. For purposes of the hearing, incompetency is
19 presumed, and the defendant's competency must be proved by a
20 preponderance of the evidence. If after the hearing the defendant
21 is again found to be incompetent to stand trial, the court shall
22 issue a new order under Article 46B.0711, 46B.072, or 46B.073, as
23 appropriate based on the defendant's current condition.

24 SECTION 17. Article 46B.076, Code of Criminal Procedure, is
25 amended to read as follows:

26 Art. 46B.076. COURT'S ORDER. (a) If the defendant is found
27 incompetent to stand trial, not later than the date of the order of

1 commitment or of release on bail, as applicable, the court shall
2 send a copy of the order to the applicable facility [~~to which the~~
3 ~~defendant is committed~~] or [~~the outpatient treatment~~] program [~~to~~
4 ~~which the defendant is released~~]. The court shall also provide to
5 the facility or [~~outpatient treatment~~] program copies of the
6 following made available to the court during the incompetency
7 trial:

- 8 (1) reports of each expert;
- 9 (2) psychiatric, psychological, or social work
10 reports that relate to the mental condition of the defendant;
- 11 (3) documents provided by the attorney representing
12 the state or the attorney representing the defendant that relate to
13 the defendant's current or past mental condition;
- 14 (4) copies of the indictment or information and any
15 supporting documents used to establish probable cause in the case;
- 16 (5) the defendant's criminal history record; and
- 17 (6) the addresses of the attorney representing the
18 state and the attorney representing the defendant.

19 (b) The court shall order that the transcript of all medical
20 testimony received by the jury or court be promptly prepared by the
21 court reporter and forwarded to the applicable [~~proper~~] facility or
22 [~~outpatient treatment~~] program.

23 SECTION 18. Article 46B.077, Code of Criminal Procedure, is
24 amended to read as follows:

25 Art. 46B.077. INDIVIDUAL TREATMENT PROGRAM. (a) The
26 facility or jail-based program to which the defendant is committed
27 or the outpatient treatment program to which the defendant is

1 released on bail shall:

2 (1) develop an individual program of treatment;

3 (2) assess and evaluate whether the defendant is
4 likely to be restored to competency in the foreseeable future; and

5 (3) report to the court and to the local mental health
6 authority or to the local intellectual and developmental disability
7 authority on the defendant's progress toward achieving competency.

8 (b) If the defendant is committed to an inpatient mental
9 health facility, ~~or to a~~ residential care facility, or jail-based
10 restoration of competency program, the facility or program shall
11 report to the court at least once during the commitment period. If
12 the defendant is released to a treatment program not provided by an
13 inpatient mental health facility, ~~or a~~ residential care facility,
14 or jail-based restoration of competency program, the treatment
15 program shall report to the court:

16 (1) not later than the 14th day after the date on which
17 the defendant's treatment begins; and

18 (2) until the defendant is no longer released to the
19 treatment program, at least once during each 30-day period
20 following the date of the report required by Subdivision (1).

21 SECTION 19. Article 46B.078, Code of Criminal Procedure, is
22 amended to read as follows:

23 Art. 46B.078. CHARGES SUBSEQUENTLY DISMISSED. If the
24 charges pending against a defendant are dismissed, the court that
25 issued the order under Article 46B.0711, 46B.072, or 46B.073 shall
26 send a copy of the order of dismissal to the sheriff of the county in
27 which the court is located and to the head of the facility, the

1 provider of the jail-based restoration of competency program, or
2 the provider of the outpatient [~~treatment~~] program, as appropriate.
3 On receipt of the copy of the order, the facility or [~~outpatient~~
4 ~~treatment~~] program shall discharge the defendant into the care of
5 the sheriff for transportation in the manner described by Article
6 46B.082.

7 SECTION 20. Article 46B.079, Code of Criminal Procedure, is
8 amended to read as follows:

9 Art. 46B.079. NOTICE AND REPORT TO COURT. (a) The head of
10 the facility, the provider of the jail-based restoration of
11 competency program, or the provider of the outpatient [~~treatment~~]
12 program, as appropriate, not later than the 15th day before the date
13 on which the initial restoration period is to expire according to
14 the terms of the order or under Article 46B.0095 or other applicable
15 provisions of this chapter, shall notify the applicable court that
16 the period is about to expire.

17 (b) The head of the facility, jail-based restoration of
18 competency program provider, or outpatient [~~treatment~~] program
19 provider shall promptly notify the court when the head of the
20 facility or [~~outpatient treatment~~] program provider believes that:

21 (1) the defendant has attained psychiatric
22 stabilization but has not attained competency to stand trial;

23 (2) the defendant has attained competency to stand
24 trial; or

25 (3) [~~(2)~~] the defendant is not likely to attain
26 competency in the foreseeable future.

27 (c) When the head of the facility or [~~outpatient treatment~~]

1 program provider gives notice to the court under Subsection (a),
2 (b)(2), or (b)(3) [~~(b)~~], the head of the facility or [~~outpatient~~
3 ~~treatment~~] program provider also shall file a final report with the
4 court stating the reason for the proposed discharge under this
5 chapter and including a list of the types and dosages of medications
6 prescribed for the defendant while the defendant was in the
7 facility or participating in the [~~outpatient treatment~~] program.
8 To enable any objection to the findings of the report to be made in a
9 timely manner under Article [46B.084\(a-1\)](#), the court shall provide
10 copies of the report to the attorney representing the defendant and
11 the attorney representing the state.

12 (d) If the head of the facility or [~~outpatient treatment~~]
13 program provider notifies the court that the initial restoration
14 period is about to expire, the notice may contain a request for an
15 extension of the period for an additional period of 60 days and an
16 explanation for the basis of the request. An explanation provided
17 under this subsection must include a description of any evidence
18 indicating a reduction in the severity of the defendant's symptoms
19 or impairment.

20 SECTION 21. Article [46B.080\(a\)](#), Code of Criminal Procedure,
21 is amended to read as follows:

22 (a) On a request of the head of a facility or a [~~treatment~~]
23 program provider that is made under Article [46B.079\(d\)](#) and
24 notwithstanding any other provision of this subchapter, the court
25 may enter an order extending the initial restoration period for an
26 additional period of 60 days.

27 SECTION 22. Article [46B.081](#), Code of Criminal Procedure, is

1 amended to read as follows:

2 Art. 46B.081. RETURN TO COURT. Subject to Article
3 46B.082(b), a defendant committed or released on bail under this
4 subchapter shall be returned to the applicable court as soon as
5 practicable after notice to the court is provided under Article
6 46B.079(a), (b)(2), or (b)(3) [~~46B.079~~], but not later than the
7 date of expiration of the period for restoration specified by the
8 court under Article 46B.0711, 46B.072, or 46B.073.

9 SECTION 23. The heading to Article 46B.082, Code of
10 Criminal Procedure, is amended to read as follows:

11 Art. 46B.082. TRANSPORTATION OF DEFENDANT TO COURT.

12 SECTION 24. Article 46B.082(b), Code of Criminal Procedure,
13 is amended to read as follows:

14 (b) If before the 15th day after the date on which the court
15 received notification under Article 46B.079(a), (b)(2), or (b)(3),
16 [~~46B.079~~] a defendant committed to a facility or jail-based program
17 or ordered to participate in an outpatient [~~treatment~~] program has
18 not been transported to the court that issued the order under
19 Article 46B.0711, 46B.072, or 46B.073, as applicable, the head of
20 the facility or provider of the jail-based program to which the
21 defendant is committed or the provider of the outpatient
22 [~~treatment~~] program in which the defendant is participating shall
23 cause the defendant to be promptly transported to the court and
24 placed in the custody of the sheriff of the county in which the
25 court is located. The county in which the court is located shall
26 reimburse the Department of State Health Services or the Health and
27 Human [~~Department of Aging and Disability~~] Services Commission, as

1 appropriate, for the mileage and per diem expenses of the personnel
2 required to transport the defendant, calculated in accordance with
3 rates provided in the General Appropriations Act for state
4 employees.

5 SECTION 25. Subchapter D, Chapter 46B, Code of Criminal
6 Procedure, is amended by adding Articles 46B.0825 and 46B.0826 to
7 read as follows:

8 Art. 46B.0825. DISCHARGE AND TRANSPORTATION OF DEFENDANT
9 AFTER PSYCHIATRIC STABILIZATION. (a) As soon as practicable after
10 receiving a copy of an order under Article 46B.073(f)(2), the
11 applicable facility shall discharge the defendant into the care of
12 the sheriff of the county in which the court is located, and the
13 sheriff or the sheriff's designee shall transport the defendant to
14 the jail-based restoration of competency program or outpatient
15 competency restoration education program, as appropriate.

16 (b) A jail-based restoration of competency program or
17 outpatient competency restoration education program that receives
18 a defendant under this article shall give to the court:

19 (1) notice regarding the defendant's entry into the
20 program for purposes of receiving competency restoration education
21 services; and

22 (2) subsequent notice as otherwise required under
23 Article 46B.079.

24 Art. 46B.0826. ADMINISTRATION OF MEDICATION WHILE IN
25 CUSTODY OF SHERIFF. A sheriff or other person having custody of a
26 defendant for transportation as required by Article 46B.075,
27 46B.082, or 46B.0825 shall, according to information available at

1 the time and unless directed otherwise by a physician treating the
2 defendant, ensure that the defendant is provided with the types and
3 dosages of medication prescribed for the defendant.

4 SECTION 26. Article 46B.083, Code of Criminal Procedure, is
5 amended to read as follows:

6 Art. 46B.083. SUPPORTING COMMITMENT INFORMATION PROVIDED
7 BY FACILITY [~~HEAD~~] OR [~~OUTPATIENT TREATMENT~~] PROGRAM [~~PROVIDER~~].

8 (a) If the head of the facility, the jail-based restoration of
9 competency program provider, or the outpatient [~~treatment~~] program
10 provider believes that the defendant is a person with mental
11 illness and meets the criteria for court-ordered mental health
12 services under Subtitle C, Title 7, Health and Safety Code, the head
13 of the facility or the [~~outpatient treatment~~] program provider
14 shall have submitted to the court a certificate of medical
15 examination for mental illness.

16 (b) If the head of the facility, the jail-based restoration
17 of competency program provider, or the outpatient [~~treatment~~]
18 program provider believes that the defendant is a person with an
19 intellectual disability, the head of the facility or the
20 [~~outpatient treatment~~] program provider shall have submitted to the
21 court an affidavit stating the conclusions reached as a result of
22 the examination.

23 SECTION 27. Articles 46B.086(a), (b), (c), and (d), Code of
24 Criminal Procedure, are amended to read as follows:

25 (a) This article applies only to a defendant:

26 (1) who is determined under this chapter to be
27 incompetent to stand trial;

1 (2) who either:

2 (A) remains confined in a correctional facility,
3 as defined by Section 1.07, Penal Code, for a period exceeding 72
4 hours while awaiting transfer to an inpatient mental health
5 facility, a residential care facility, a jail-based restoration of
6 competency program, or an outpatient [~~treatment~~] program;

7 (B) is committed to an inpatient mental health
8 facility, ~~or~~ a residential care facility, or a jail-based
9 restoration of competency program for the purpose of competency
10 restoration;

11 (C) is confined in a correctional facility while
12 awaiting further criminal proceedings following competency
13 restoration treatment;

14 (D) is subject to Article 46B.0711, if the court
15 has made the determinations required by Subsection (a) of that
16 article; or

17 (E) [~~(D)~~] is subject to Article 46B.072, if the
18 court has made the determinations required by Subsection (a-1) of
19 that article;

20 (3) for whom a correctional facility that employs or
21 contracts with a licensed psychiatrist, an inpatient mental health
22 facility, a residential care facility, a jail-based restoration of
23 competency program, or an outpatient [~~treatment~~] program provider
24 has prepared a continuity of care plan that requires the defendant
25 to take psychoactive medications; and

26 (4) who, after a hearing held under Section 574.106 or
27 592.156, Health and Safety Code, if applicable, has been found to

1 not meet the criteria prescribed by Sections 574.106(a) and (a-1)
2 or 592.156(a) and (b), Health and Safety Code, for court-ordered
3 administration of psychoactive medications.

4 (b) If a defendant described by Subsection (a) refuses to
5 take psychoactive medications as required by the defendant's
6 continuity of care plan, the director of the [~~correctional~~]
7 facility or [~~outpatient—treatment~~] program provider, as
8 applicable, shall notify the court in which the criminal
9 proceedings are pending of that fact not later than the end of the
10 next business day following the refusal. The court shall promptly
11 notify the attorney representing the state and the attorney
12 representing the defendant of the defendant's refusal. The
13 attorney representing the state may file a written motion to compel
14 medication. The motion to compel medication must be filed not later
15 than the 15th day after the date a judge issues an order stating
16 that the defendant does not meet the criteria for court-ordered
17 administration of psychoactive medications under Section 574.106
18 or 592.156, Health and Safety Code, except that, for a defendant in
19 an outpatient [~~treatment~~] program, the motion may be filed at any
20 time.

21 (c) The court, after notice and after a hearing held not
22 later than the 10th day after the motion to compel medication is
23 filed, may authorize the director of the [~~correctional~~] facility or
24 the program provider, as applicable, to have the medication
25 administered to the defendant, by reasonable force if necessary. A
26 hearing under this subsection may be conducted using an electronic
27 broadcast system as provided by Article 46B.013.

1 (d) The court may issue an order under this article only if
2 the order is supported by the testimony of two physicians, one of
3 whom is the physician at or with the applicable [~~correctional~~]
4 facility or [~~outpatient treatment~~] program who is prescribing the
5 medication as a component of the defendant's continuity of care
6 plan and another who is not otherwise involved in proceedings
7 against the defendant. The court may require either or both
8 physicians to examine the defendant and report on the examination
9 to the court.

10 SECTION 28. The heading to Article 46B.090, Code of
11 Criminal Procedure, is amended to read as follows:

12 Art. 46B.090. JAIL-BASED RESTORATION OF COMPETENCY [~~PILOT~~]
13 PROGRAM IMPLEMENTED BY COMMISSION.

14 SECTION 29. Articles 46B.090(a), (a-1), (b), (c), (f), (g),
15 (i), (j), (k), (l), and (m), Code of Criminal Procedure, are amended
16 to read as follows:

17 (a) In this article:

18 (1) "Commission" [~~,"department"~~] means the Health and
19 Human Services Commission [~~Department of State Health Services~~].

20 (2) "Executive commissioner" means the executive
21 commissioner of the Health and Human Services Commission.

22 (a-1) The commission may [~~If the legislature appropriates~~
23 ~~to the department the funding necessary for the department to~~
24 ~~operate a jail-based restoration of competency pilot program as~~
25 ~~described by this article, the department shall~~] develop and
26 implement a jail-based restoration of competency [~~the pilot~~]
27 program in any county [~~one or two counties~~] in this state that

1 chooses [~~choose~~] to participate in the [~~pilot~~] program. In
2 developing the [~~pilot~~] program, the commission [~~department~~] shall
3 coordinate and allow for input from a [~~each~~] participating county.

4 (b) The commission [~~department~~] shall contract with a
5 provider of jail-based competency restoration services to provide
6 services under a [~~the pilot~~] program implemented [~~if the department~~
7 ~~develops a pilot program~~] under this article. The commission may
8 contract with a different provider for each program.

9 (c) The executive [~~Not later than November 1, 2013, the~~]
10 commissioner [~~of the department~~] shall adopt rules as necessary to
11 implement a [~~the pilot~~] program[~~. In adopting rules~~] under this
12 article, including rules that [~~the commissioner shall~~] specify the
13 types of information the commission [~~department~~] must collect
14 [~~during the operation of the pilot program~~] for use in evaluating a
15 [~~the outcome of the pilot~~] program.

16 (f) To contract with the commission [~~department~~] under
17 Subsection (b), a provider of jail-based competency restoration
18 services must demonstrate to the commission [~~department~~] that:

19 (1) the provider:

20 (A) has previously provided jail-based
21 competency restoration services for one or more years and is
22 certified by a nationwide nonprofit organization that accredits
23 behavioral health care organizations and programs; [or]

24 (B) is a local mental health authority in good
25 standing with the commission [~~that has previously provided~~
26 ~~competency restoration services~~]; or

27 (C) operates under a contract with a local mental

1 health authority in good standing with the commission; and

2 (2) the provider's jail-based restoration of
3 competency [~~restoration~~] program:

4 (A) provides clinical treatment and competency
5 restoration through the use of [~~uses~~] a multidisciplinary treatment
6 team [~~to provide clinical treatment that is:~~

7 [~~(i) directed toward the specific objective~~
8 ~~of restoring the defendant's competency to stand trial; and~~

9 [~~(ii) similar to the clinical treatment~~
10 ~~provided as part of a competency restoration program at an~~
11 ~~inpatient mental health facility];~~

12 (B) employs or contracts for the services of at
13 least one psychiatrist or psychologist;

14 (C) provides jail-based competency restoration
15 services through trained and experienced staff [~~assigns staff~~
16 ~~members to defendants participating in the program at an average~~
17 ~~ratio not lower than 3.7 to 1]; [and]~~

18 (D) ensures the safety of participants [~~provides~~
19 ~~weekly treatment hours commensurate to the treatment hours provided~~
20 ~~as part of a competency restoration program at an inpatient mental~~
21 ~~health facility];~~

22 (E) operates in the jail in a designated space
23 that is separate from the space used for the general population of
24 the jail;

25 (F) provides general health care, mental health
26 treatment, and substance use disorder treatment to participants, as
27 necessary, for restoration of competency; and

1 (G) supplies clinically appropriate psychoactive
2 medications for purposes of administering court-ordered medication
3 to participants as applicable and in accordance with Article
4 46B.086 of this code and Section 574.106, Health and Safety Code

5 ~~[(3) the provider is certified by a nationwide~~
6 ~~nonprofit organization that accredits health care organizations~~
7 ~~and programs, such as the Joint Commission on Health Care Staffing~~
8 ~~Services, or the provider is a local mental health authority in good~~
9 ~~standing with the department; and~~

10 ~~[(4) the provider has a demonstrated history of~~
11 ~~successful jail-based competency restoration outcomes or, if the~~
12 ~~provider is a local mental health authority, a demonstrated history~~
13 ~~of successful competency restoration outcomes].~~

14 (g) A contract under Subsection (b) must require a ~~[the]~~
15 designated provider to collect and submit to the commission
16 ~~[department]~~ the information specified by rules adopted under
17 Subsection (c).

18 (i) The psychiatrist or psychologist for the provider shall
19 conduct at least two full psychiatric or psychological evaluations
20 of the defendant during the period the defendant receives
21 competency restoration services in the jail. The psychiatrist or
22 psychologist must conduct one evaluation not later than the 21st
23 day and one evaluation not later than the 55th day after the date
24 the defendant begins to participate in the ~~[pilot]~~ program. The
25 psychiatrist or psychologist shall submit to the court a report
26 concerning each evaluation required under this subsection.

27 (j) If at any time during a defendant's participation in a

1 ~~[the jail-based restoration of competency pilot]~~ program
2 implemented under this article the psychiatrist or psychologist for
3 the provider determines that the defendant has attained competency
4 to stand trial:

5 (1) the psychiatrist or psychologist for the provider
6 shall promptly issue and send to the court a report demonstrating
7 that fact; and

8 (2) the court shall consider that report as the report
9 of an expert stating an opinion that the defendant has been restored
10 to competency for purposes of Article [46B.0755](#)(a) or (b).

11 (k) If at any time during a defendant's participation in a
12 ~~[the jail-based restoration of competency pilot]~~ program
13 implemented under this article the psychiatrist or psychologist for
14 the provider determines that the defendant's competency to stand
15 trial is unlikely to be restored in the foreseeable future:

16 (1) the psychiatrist or psychologist for the provider
17 shall promptly issue and send to the court a report demonstrating
18 that fact; and

19 (2) the court shall:

20 (A) proceed under Subchapter E or F and order the
21 transfer of the defendant, without unnecessary delay, to the first
22 available facility that is appropriate for that defendant, as
23 provided under Subchapter E or F, as applicable; or

24 (B) release the defendant on bail as permitted
25 under Chapter [17](#).

26 (1) If the psychiatrist or psychologist for the provider
27 determines that a defendant ordered to participate in a ~~[the pilot]~~

1 program implemented under this article has not been restored to
2 competency by the end of the 60th day after the date the defendant
3 began to participate in the [~~pilot~~] program:

4 (1) for a defendant charged with a felony, the
5 defendant shall be transferred, without unnecessary delay and for
6 the remainder of the period prescribed by Article 46B.073(b), to
7 the first available facility that is appropriate for that defendant
8 as provided by Article 46B.073(c) or (d); and

9 (2) for a defendant charged with a misdemeanor, the
10 court may:

11 (A) order a single extension under Article
12 46B.080 and, notwithstanding Article 46B.073(b-1), the transfer of
13 the defendant without unnecessary delay to the appropriate mental
14 health facility or residential care facility as provided by Article
15 46B.073(d) for the remainder of the period under the extension;

16 (B) proceed under Subchapter E or F;

17 (C) release the defendant on bail as permitted
18 under Chapter 17; or

19 (D) dismiss the charges in accordance with
20 Article 46B.010.

21 (m) Unless otherwise provided by this article, the
22 provisions of this chapter, including the maximum periods
23 prescribed by Article 46B.0095, apply to a defendant receiving
24 competency restoration services, including competency restoration
25 education services, under a [~~the pilot~~] program implemented under
26 this article in the same manner as those provisions apply to any
27 other defendant who is subject to proceedings under this chapter.

1 SECTION 30. Subchapter D, Chapter 46B, Code of Criminal
2 Procedure, is amended by adding Article 46B.091 to read as follows:

3 Art. 46B.091. JAIL-BASED RESTORATION OF COMPETENCY PROGRAM
4 IMPLEMENTED BY COUNTY. (a) In this article, "commission" means the
5 Health and Human Services Commission.

6 (b) A county or counties jointly may develop and implement a
7 jail-based restoration of competency program.

8 (c) A county that implements a program under this article
9 shall employ or contract with a provider of jail-based competency
10 restoration services that:

11 (1) is certified by a nationwide nonprofit
12 organization that accredits behavioral health care organizations
13 and programs;

14 (2) is a local mental health authority in good
15 standing with the commission; or

16 (3) provides competency restoration services under a
17 contract with a local mental health authority in good standing with
18 the commission.

19 (d) A jail-based restoration of competency program must:

20 (1) provide jail-based competency restoration
21 services through trained and experienced staff;

22 (2) provide clinical treatment and competency
23 restoration through the use of a multidisciplinary treatment team;

24 (3) ensure the safety of participants;

25 (4) operate in the jail in a designated space that is
26 separate from the space used for the general population of the jail;

27 (5) provide general health care, mental health

1 treatment, and substance use disorder treatment to participants, as
2 necessary for restoration of competency; and

3 (6) supply clinically appropriate psychoactive
4 medications for purposes of administering court-ordered medication
5 to participants as applicable and in accordance with Article
6 46B.086 of this code and Section 574.106, Health and Safety Code.

7 (e) The commission may inspect on behalf of the state any
8 aspect of a jail-based restoration of competency program.

9 (f) If at any time during a defendant's participation in the
10 jail-based restoration of competency program a psychiatrist or
11 psychologist for the provider determines that the defendant has
12 attained competency to stand trial:

13 (1) the psychiatrist or psychologist for the provider
14 shall promptly issue and send to the court a report demonstrating
15 that fact; and

16 (2) the court shall consider that report as the report
17 of an expert stating an opinion that the defendant has been restored
18 to competency for purposes of Article 46B.0755(a) or (b).

19 (g) Unless otherwise provided by this article, the
20 provisions of this chapter, including the maximum periods
21 prescribed by Article 46B.0095, apply to a defendant receiving
22 competency restoration services, including competency restoration
23 education services, under a program implemented under this article
24 in the same manner as those provisions apply to any other defendant
25 who is subject to proceedings under this chapter.

26 SECTION 31. Section 614.0032(b), Health and Safety Code, is
27 amended to read as follows:

1 (b) The office shall:

2 (1) with the special assistance of committee members
3 appointed under Section 614.002(b)(1):

4 (A) review examinations to determine the
5 competency of defendants in criminal cases to stand trial and
6 examinations to determine the fitness of children to proceed with
7 respect to adjudications of delinquent conduct or conduct
8 indicating a need for supervision; and

9 (B) periodically report to the legislature and
10 the court of criminal appeals findings made as a result of the
11 review described by Paragraph (A); ~~and~~

12 (2) approve and make generally available in electronic
13 format a standard form for use by experts in reporting competency
14 examination results under Chapter 46B, Code of Criminal Procedure;
15 and

16 (3) approve and make generally available in electronic
17 format a standard form for use by experts in reporting mental health
18 assessment results under Article 16.22, Code of Criminal Procedure.

19 SECTION 32. Articles 46B.090(h), (n), and (o), Code of
20 Criminal Procedure, are repealed.

21 SECTION 33. The changes in law made by this Act apply only
22 to a defendant charged with an offense committed on or after the
23 effective date of this Act. A defendant charged with an offense
24 committed before the effective date of this Act is governed by the
25 law in effect on the date the offense was committed, and the former
26 law is continued in effect for that purpose. For purposes of this
27 section, an offense was committed before the effective date of this

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1 Act if any element of the offense occurred before that date.

2 SECTION 34. This Act takes effect September 1, 2017.