

1-1 By: Zaffirini S.B. No. 1326
 1-2 (In the Senate - Filed March 6, 2017; March 14, 2017, read
 1-3 first time and referred to Committee on Criminal Justice;
 1-4 April 18, 2017, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 7, Nays 0; April 18, 2017,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8 Whitmire	X			
1-9 Huffman			X	
1-10 Birdwell	X			
1-11 Burton	X			
1-12 Creighton	X			
1-13 Garcia	X			
1-14 Hughes			X	
1-15 Menéndez	X			
1-16 Perry	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1326 By: Whitmire

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to procedures regarding criminal defendants who are or may
 1-22 be persons with a mental illness or an intellectual disability.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Article 15.17, Code of Criminal Procedure, is
 1-25 amended by adding Subsection (a-1) to read as follows:

1-26 (a-1) If a magistrate is provided written or electronic
 1-27 notice of credible information that may establish reasonable cause
 1-28 to believe that a person brought before the magistrate has a mental
 1-29 illness or is a person with an intellectual disability, the
 1-30 magistrate shall conduct the proceedings described by Article 16.22
 1-31 or 17.032, as appropriate.

1-32 SECTION 2. Article 16.22, Code of Criminal Procedure, is
 1-33 amended to read as follows:

1-34 Art. 16.22. EARLY IDENTIFICATION OF DEFENDANT SUSPECTED OF
 1-35 HAVING MENTAL ILLNESS OR INTELLECTUAL DISABILITY [~~MENTAL~~
 1-36 ~~RETARDATION~~]. (a)(1) Not later than 12 [~~72~~] hours after the
 1-37 sheriff or municipal jailer having custody of a defendant for an
 1-38 offense punishable as a Class B misdemeanor or any higher category
 1-39 of offense receives [~~receiving~~] credible information that may
 1-40 establish reasonable cause to believe that the [~~a~~] defendant
 1-41 [~~committed to the sheriff's custody~~] has a mental illness or is a
 1-42 person with an intellectual disability [~~mental retardation,~~
 1-43 ~~including observation of the defendant's behavior immediately~~
 1-44 ~~before, during, and after the defendant's arrest and the results of~~
 1-45 ~~any previous assessment of the defendant~~], the sheriff or municipal
 1-46 jailer shall provide written or electronic notice [~~of the~~
 1-47 ~~information~~] to the magistrate. The notice must include any
 1-48 information related to the sheriff's or municipal jailer's
 1-49 determination, such as information regarding the defendant's
 1-50 behavior immediately before, during, and after the defendant's
 1-51 arrest and, if applicable, the results of any previous assessment
 1-52 of the defendant. On a determination that there is reasonable cause
 1-53 to believe that the defendant has a mental illness or is a person
 1-54 with an intellectual disability [~~mental retardation~~], the
 1-55 magistrate, except as provided by Subdivision (2), shall order the
 1-56 local mental health [~~or mental retardation~~] authority, local
 1-57 intellectual and developmental disability authority, or another
 1-58 qualified mental health or intellectual disability [~~mental~~
 1-59 ~~retardation~~] expert to:

1-60 (A) collect information regarding whether the

2-1 defendant has a mental illness as defined by Section 571.003,
 2-2 Health and Safety Code, or is a person with an intellectual
 2-3 disability [~~mental retardation~~] as defined by Section 591.003,
 2-4 Health and Safety Code, including, if applicable, information
 2-5 obtained from any previous assessment of the defendant and
 2-6 information regarding any previously recommended treatment; and

2-7 (B) provide to the magistrate a written
 2-8 assessment of the information collected under Paragraph (A) on the
 2-9 form approved by the Texas Correctional Office on Offenders with
 2-10 Medical or Mental Impairments under Section 614.0032(b), Health and
 2-11 Safety Code.

2-12 (2) The magistrate is not required to order the
 2-13 collection of information under Subdivision (1) if the defendant in
 2-14 the year preceding the defendant's applicable date of arrest has
 2-15 been determined to have a mental illness or to be a person with an
 2-16 intellectual disability [~~mental retardation~~] by the local mental
 2-17 health [~~or mental retardation~~] authority, local intellectual and
 2-18 developmental disability authority, or another mental health or
 2-19 intellectual disability [~~mental retardation~~] expert described by
 2-20 Subdivision (1). A court that elects to use the results of that
 2-21 previous determination may proceed under Subsection (c).

2-22 (3) If the defendant fails or refuses to submit to the
 2-23 collection of information regarding the defendant as required under
 2-24 Subdivision (1), the magistrate may order the defendant to submit
 2-25 to an examination in a jail or in another place [~~mental health~~
 2-26 ~~facility~~] determined to be appropriate by the local mental health
 2-27 [~~or mental retardation~~] authority or local intellectual and
 2-28 developmental disability authority for a reasonable period not to
 2-29 exceed 72 hours [~~21 days~~]. If applicable, the [~~The magistrate may~~
 2-30 ~~order a defendant to a facility operated by the Department of State~~
 2-31 ~~Health Services or the Department of Aging and Disability Services~~
 2-32 ~~for examination only on request of the local mental health or mental~~
 2-33 ~~retardation authority and with the consent of the head of the~~
 2-34 ~~facility. If a defendant who has been ordered to a facility~~
 2-35 ~~operated by the Department of State Health Services or the~~
 2-36 ~~Department of Aging and Disability Services for examination remains~~
 2-37 ~~in the facility for a period exceeding 21 days, the head of that~~
 2-38 ~~facility shall cause the defendant to be immediately transported to~~
 2-39 ~~the committing court and placed in the custody of the sheriff of the~~
 2-40 ~~county in which the committing court is located. That~~] county in
 2-41 which the committing court is located shall reimburse the local
 2-42 mental health authority or local intellectual and developmental
 2-43 disability authority [~~facility~~] for the mileage and per diem
 2-44 expenses of the personnel required to transport the defendant,
 2-45 calculated in accordance with the state travel regulations in
 2-46 effect at the time.

2-47 (b) Except as otherwise permitted by the magistrate for good
 2-48 cause shown, a [A] written assessment of the information collected
 2-49 under Subsection (a)(1)(A) shall be provided to the magistrate:

2-50 (1) for a defendant held in custody, not later than 96
 2-51 hours after the time an order was issued under Subsection (a); or

2-52 (2) for a defendant released from custody, not later
 2-53 than the 30th day after the date an [of any] order was issued under
 2-54 Subsection (a).

2-55 (b-1) The [~~in a felony case and not later than the 10th day~~
 2-56 ~~after the date of any order issued under that subsection in a~~
 2-57 ~~misdemeanor case, and the~~] magistrate shall provide copies of the
 2-58 written assessment to the defense counsel, the [~~prosecuting~~]
 2-59 attorney representing the state, and the trial court. The written
 2-60 assessment must include a description of the procedures used in the
 2-61 collection of information under Subsection (a)(1)(A) and the
 2-62 applicable expert's observations and findings pertaining to:

2-63 (1) whether the defendant is a person who has a mental
 2-64 illness or is a person with an intellectual disability [~~mental~~
 2-65 ~~retardation~~];

2-66 (2) whether there is clinical evidence to support a
 2-67 belief that the defendant may be incompetent to stand trial and
 2-68 should undergo a complete competency examination under Subchapter
 2-69 B, Chapter 46B; and

3-1 (3) any appropriate or recommended treatment or
 3-2 service.

3-3 (c) After the trial court receives the applicable expert's
 3-4 written assessment relating to the defendant under Subsection (b-1)
 3-5 [~~(b)~~] or elects to use the results of a previous determination as
 3-6 described by Subsection (a)(2), the trial court may, as applicable:

3-7 (1) resume criminal proceedings against the
 3-8 defendant, including any appropriate proceedings related to the
 3-9 defendant's release on personal bond under Article 17.032 if the
 3-10 defendant is being held in custody;

3-11 (2) resume or initiate competency proceedings, if
 3-12 required, as provided by Chapter 46B or other proceedings affecting
 3-13 the defendant's receipt of appropriate court-ordered mental health
 3-14 or intellectual disability [~~mental retardation~~] services,
 3-15 including proceedings related to the defendant's receipt of
 3-16 outpatient mental health services under Section 574.034, Health and
 3-17 Safety Code; [~~or~~]

3-18 (3) consider the written assessment during the
 3-19 punishment phase after a conviction of the offense for which the
 3-20 defendant was arrested, as part of a presentence investigation
 3-21 report, or in connection with the impositions of conditions
 3-22 following placement on community supervision, including deferred
 3-23 adjudication community supervision; or

3-24 (4) refer the defendant to an appropriate specialty
 3-25 court established or operated under Subtitle K, Title 2, Government
 3-26 Code.

3-27 (d) This article does not prevent the applicable court from,
 3-28 before, during, or after the collection of information regarding
 3-29 the defendant as described by this article:

3-30 (1) releasing a defendant who has a mental illness
 3-31 [~~mentally ill~~] or is a person with an intellectual disability
 3-32 [~~mentally retarded defendant~~] from custody on personal or surety
 3-33 bond, including imposing as a condition of release that the
 3-34 defendant submit to an examination or other assessment; or

3-35 (2) ordering an examination regarding the defendant's
 3-36 competency to stand trial.

3-37 (e) The magistrate shall submit to the Office of Court
 3-38 Administration of the Texas Judicial System on a monthly basis the
 3-39 number of written assessments provided to the court under
 3-40 Subsection (a)(1)(B).

3-41 SECTION 3. Articles 17.032(a), (b), (c), and (d), Code of
 3-42 Criminal Procedure, are amended to read as follows:

3-43 (a) In this article, "violent offense" means an offense
 3-44 under the following sections of the Penal Code:

3-45 (1) Section 19.02 (murder);

3-46 (2) Section 19.03 (capital murder);

3-47 (3) Section 20.03 (kidnapping);

3-48 (4) Section 20.04 (aggravated kidnapping);

3-49 (5) Section 21.11 (indecent with a child);

3-50 (6) Section 22.01(a)(1) (assault), if the offense
 3-51 involved family violence as defined by Section 71.004, Family Code;

3-52 (7) Section 22.011 (sexual assault);

3-53 (8) Section 22.02 (aggravated assault);

3-54 (9) Section 22.021 (aggravated sexual assault);

3-55 (10) Section 22.04 (injury to a child, elderly
 3-56 individual, or disabled individual);

3-57 (11) Section 29.03 (aggravated robbery);

3-58 (12) Section 21.02 (continuous sexual abuse of young
 3-59 child or children); or

3-60 (13) Section 20A.03 (continuous trafficking of
 3-61 persons).

3-62 (b) Notwithstanding Article 17.03(b), or a bond schedule
 3-63 adopted or a standing order entered by a judge, a [A] magistrate
 3-64 shall release a defendant on personal bond unless good cause is
 3-65 shown otherwise if [the]:

3-66 (1) the defendant is not charged with and has not been
 3-67 previously convicted of a violent offense;

3-68 (2) the defendant is examined by the local mental
 3-69 health [~~or mental retardation~~] authority, local intellectual and

4-1 developmental disability authority, or another qualified mental
 4-2 health or intellectual disability expert under Article 16.22 [of
 4-3 this code];

4-4 (3) the applicable expert, in a written assessment
 4-5 submitted to the magistrate under Article 16.22:

4-6 (A) concludes that the defendant has a mental
 4-7 illness or is a person with an intellectual disability [mental
 4-8 retardation] and is nonetheless competent to stand trial; and

4-9 (B) recommends mental health treatment or
 4-10 intellectual disability treatment for the defendant, as
 4-11 applicable; [and]

4-12 (4) the magistrate determines, in consultation with
 4-13 the local mental health [or mental retardation] authority or local
 4-14 intellectual and developmental disability authority, that
 4-15 appropriate community-based mental health or intellectual
 4-16 disability [mental retardation] services for the defendant are
 4-17 available in accordance with [through the Texas Department of
 4-18 Mental Health and Mental Retardation under] Section 534.053 or
 4-19 534.103, Health and Safety Code, or through another mental health
 4-20 or intellectual disability [mental retardation] services provider;
 4-21 and

4-22 (5) the magistrate finds, after considering all the
 4-23 circumstances, a pretrial risk assessment, if applicable, and any
 4-24 other credible information provided by the attorney representing
 4-25 the state or the defendant, that release on personal bond would
 4-26 reasonably ensure the defendant's appearance in court as required
 4-27 and the safety of the community and the victim of the alleged
 4-28 offense.

4-29 (c) The magistrate, unless good cause is shown for not
 4-30 requiring treatment, shall require as a condition of release on
 4-31 personal bond under this article that the defendant submit to
 4-32 outpatient or inpatient mental health or intellectual disability
 4-33 [mental retardation] treatment as recommended by the local mental
 4-34 health [or mental retardation] authority, local intellectual and
 4-35 developmental disability authority, or another qualified mental
 4-36 health or intellectual disability expert if the defendant's:

4-37 (1) mental illness or intellectual disability [mental
 4-38 retardation] is chronic in nature; or

4-39 (2) ability to function independently will continue to
 4-40 deteriorate if the defendant is not treated.

4-41 (d) In addition to a condition of release imposed under
 4-42 Subsection (c) [of this article], the magistrate may require the
 4-43 defendant to comply with other conditions that are reasonably
 4-44 necessary to ensure the defendant's appearance in court as required
 4-45 and the safety of [protect] the community and the victim of the
 4-46 alleged offense.

4-47 SECTION 4. Article 32A.01, Code of Criminal Procedure, is
 4-48 amended by amending Subsection (a) and adding Subsection (c) to
 4-49 read as follows:

4-50 (a) Insofar as is practicable, the trial of a criminal
 4-51 action shall be given preference over trials of civil cases, and the
 4-52 trial of a criminal action against a defendant who is detained in
 4-53 jail pending trial of the action shall be given preference over
 4-54 trials of other criminal actions not described by Subsection (b) or
 4-55 (c).

4-56 (c) Except as provided by Subsection (b), the trial of a
 4-57 criminal action against a defendant who has been determined to be
 4-58 restored to competency under Article 46B.084 shall be given
 4-59 preference over other matters before the court, whether civil or
 4-60 criminal.

4-61 SECTION 5. Article 46B.001, Code of Criminal Procedure, is
 4-62 amended by adding Subdivision (9) to read as follows:

4-63 (9) "Competency restoration" means the treatment or
 4-64 education process for restoring a person's ability to consult with
 4-65 the person's attorney with a reasonable degree of rational
 4-66 understanding, including a rational and factual understanding of
 4-67 the court proceedings and charges against the person.

4-68 SECTION 6. The heading to Article 46B.0095, Code of
 4-69 Criminal Procedure, is amended to read as follows:

5-1 Art. 46B.0095. MAXIMUM PERIOD OF COMMITMENT OR ~~[OUTPATIENT~~
5-2 ~~TREATMENT]~~ PROGRAM PARTICIPATION DETERMINED BY MAXIMUM TERM FOR
5-3 OFFENSE.

5-4 SECTION 7. Articles 46B.0095(a), (b), (c), and (d), Code of
5-5 Criminal Procedure, are amended to read as follows:

5-6 (a) A defendant may not, under Subchapter D or E or any other
5-7 provision of this chapter, be committed to a mental hospital or
5-8 other inpatient or residential facility or to a jail-based
5-9 competency restoration program, ordered to participate in an
5-10 outpatient competency restoration or treatment program, or
5-11 subjected to any combination of [both] inpatient treatment, [and]
5-12 outpatient competency restoration or treatment program
5-13 participation, or jail-based competency restoration under this
5-14 chapter for a cumulative period that exceeds the maximum term
5-15 provided by law for the offense for which the defendant was to be
5-16 tried, except that if the defendant is charged with a misdemeanor
5-17 and has been ordered only to participate in an outpatient
5-18 competency restoration or treatment program under Subchapter D or
5-19 E, the maximum period of restoration is two years.

5-20 (b) On expiration of the maximum restoration period under
5-21 Subsection (a), the mental hospital, ~~[or other inpatient or~~
5-22 ~~residential]~~ facility, or ~~[outpatient treatment]~~ program provider
5-23 identified in the most recent order of commitment or order of
5-24 outpatient competency restoration or treatment program
5-25 participation under this chapter shall assess the defendant to
5-26 determine if civil proceedings under Subtitle C or D, Title 7,
5-27 Health and Safety Code, are appropriate. The defendant may be
5-28 confined for an additional period in a mental hospital or other
5-29 ~~[inpatient or residential]~~ facility or may be ordered to
5-30 participate for an additional period in an outpatient treatment
5-31 program, as appropriate, only pursuant to civil proceedings
5-32 conducted under Subtitle C or D, Title 7, Health and Safety Code, by
5-33 a court with probate jurisdiction.

5-34 (c) The cumulative period described by Subsection (a):
5-35 (1) begins on the date the initial order of commitment
5-36 or initial order for outpatient competency restoration or treatment
5-37 program participation is entered under this chapter; and

5-38 (2) in addition to any inpatient or outpatient
5-39 competency restoration [treatment] periods or program
5-40 participation periods described by Subsection (a), includes any
5-41 time that, following the entry of an order described by Subdivision
5-42 (1), the defendant is confined in a correctional facility, as
5-43 defined by Section 1.07, Penal Code, or is otherwise in the custody
5-44 of the sheriff during or while awaiting, as applicable:

5-45 (A) the defendant's transfer to:
5-46 (i) a mental hospital or other inpatient or
5-47 residential facility; or
5-48 (ii) a jail-based competency restoration
5-49 program;

5-50 (B) the defendant's release on bail to
5-51 participate in an outpatient competency restoration or treatment
5-52 program; or

5-53 (C) a criminal trial following any temporary
5-54 restoration of the defendant's competency to stand trial.

5-55 (d) The court shall credit to the cumulative period
5-56 described by Subsection (a) any time that a defendant, following
5-57 arrest for the offense for which the defendant was to be tried, is
5-58 confined in a correctional facility, as defined by Section 1.07,
5-59 Penal Code, before the initial order of commitment or initial order
5-60 for outpatient competency restoration or treatment program
5-61 participation is entered under this chapter.

5-62 SECTION 8. Article 46B.010, Code of Criminal Procedure, is
5-63 amended to read as follows:

5-64 Art. 46B.010. MANDATORY DISMISSAL OF MISDEMEANOR CHARGES.
5-65 If a court orders that a defendant charged with a misdemeanor
5-66 punishable by confinement be committed to a mental hospital or
5-67 other inpatient or residential facility or to a jail-based
5-68 competency restoration program, participate in an outpatient
5-69 competency restoration or treatment program, or be subjected to any

6-1 combination of ~~both~~ inpatient treatment, ~~and~~ outpatient
6-2 competency restoration or treatment program participation, or
6-3 jail-based competency restoration under this chapter, and the
6-4 defendant is not tried before the expiration of the maximum period
6-5 of restoration described by Article 46B.0095:

6-6 (1) on the motion of the attorney representing the
6-7 state, the court shall dismiss the charge; or

6-8 (2) on the motion of the attorney representing the
6-9 defendant and notice to the attorney representing the state, the
6-10 court:

6-11 (A) shall set the matter to be heard not later
6-12 than the 10th day after the date of filing of the motion; and

6-13 (B) may dismiss the charge on a finding that the
6-14 defendant was not tried before the expiration of the maximum period
6-15 of restoration.

6-16 SECTION 9. Article 46B.026, Code of Criminal Procedure, is
6-17 amended by adding Subsection (d) to read as follows:

6-18 (d) The court shall submit to the Office of Court
6-19 Administration of the Texas Judicial System on a monthly basis the
6-20 number of reports provided to the court under this article.

6-21 SECTION 10. Article 46B.071(a), Code of Criminal Procedure,
6-22 is amended to read as follows:

6-23 (a) Except as provided by Subsection (b), on a determination
6-24 that a defendant is incompetent to stand trial, the court shall:

6-25 (1) if the defendant is charged with an offense
6-26 punishable as a Class B misdemeanor:

6-27 (A) ~~commit the defendant to a facility under~~
6-28 ~~Article 46B.073; or~~

6-29 ~~[(2)]~~ release the defendant on bail under Article
6-30 46B.0711; or

6-31 (B) commit the defendant to:

6-32 (i) a jail-based competency restoration
6-33 program under Article 46B.073(e); or

6-34 (ii) a mental health facility or
6-35 residential care facility under Article 46B.073(f); or

6-36 (2) if the defendant is charged with an offense
6-37 punishable as a Class A misdemeanor or any higher category of
6-38 offense:

6-39 (A) release the defendant on bail under Article
6-40 46B.072; or

6-41 (B) commit the defendant to a facility or a
6-42 jail-based competency restoration program under Article 46B.073(c)
6-43 or (d).

6-44 SECTION 11. Subchapter D, Chapter 46B, Code of Criminal
6-45 Procedure, is amended by adding Article 46B.0711 to read as
6-46 follows:

6-47 Art. 46B.0711. RELEASE ON BAIL FOR CLASS B MISDEMEANOR.

6-48 (a) This article applies only to a defendant who is subject to an
6-49 initial restoration period based on Article 46B.071.

6-50 (b) Subject to conditions reasonably related to ensuring
6-51 public safety and the effectiveness of the defendant's treatment,
6-52 if the court determines that a defendant charged with an offense
6-53 punishable as a Class B misdemeanor and found incompetent to stand
6-54 trial is not a danger to others and may be safely treated on an
6-55 outpatient basis with the specific objective of attaining
6-56 competency to stand trial, and an appropriate outpatient competency
6-57 restoration program is available for the defendant, the court
6-58 shall:

6-59 (1) release the defendant on bail or continue the
6-60 defendant's release on bail; and

6-61 (2) order the defendant to participate in an
6-62 outpatient competency restoration program for a period not to
6-63 exceed 60 days.

6-64 (c) Notwithstanding Subsection (b), the court may order a
6-65 defendant to participate in an outpatient competency restoration
6-66 program under this article only if:

6-67 (1) the court receives and approves a comprehensive
6-68 plan that:

6-69 (A) provides for the treatment of the defendant

7-1 for purposes of competency restoration; and
7-2 (B) identifies the person who will be responsible
7-3 for providing that treatment to the defendant; and

7-4 (2) the court finds that the treatment proposed by the
7-5 plan will be available to and will be provided to the defendant.

7-6 (d) An order issued under this article may require the
7-7 defendant to participate in:

7-8 (1) as appropriate, an outpatient competency
7-9 restoration program administered by a community center or an
7-10 outpatient competency restoration program administered by any
7-11 other entity that provides competency restoration services; and

7-12 (2) an appropriate prescribed regimen of medical,
7-13 psychiatric, or psychological care or treatment, including care or
7-14 treatment involving the administration of psychoactive medication,
7-15 including those required under Article 46B.086.

7-16 SECTION 12. The heading to Article 46B.072, Code of
7-17 Criminal Procedure, is amended to read as follows:

7-18 Art. 46B.072. RELEASE ON BAIL FOR FELONY OR CLASS A
7-19 MISDEMEANOR.

7-20 SECTION 13. Articles 46B.072(a-1), (b), (c), and (d), Code
7-21 of Criminal Procedure, are amended to read as follows:

7-22 (a-1) Subject to conditions reasonably related to ensuring
7-23 [assuring] public safety and the effectiveness of the defendant's
7-24 treatment, if the court determines that a defendant charged with an
7-25 offense punishable as a felony or a Class A misdemeanor and found
7-26 incompetent to stand trial is not a danger to others and may be
7-27 safely treated on an outpatient basis with the specific objective
7-28 of attaining competency to stand trial, and [if] an appropriate
7-29 outpatient competency restoration [treatment] program is available
7-30 for the defendant, the court:

7-31 (1) may release on bail a defendant found incompetent
7-32 to stand trial with respect to an offense punishable as a felony or
7-33 may continue the defendant's release on bail; and

7-34 (2) shall release on bail a defendant found
7-35 incompetent to stand trial with respect to an offense punishable as
7-36 a Class A [a] misdemeanor or shall continue the defendant's release
7-37 on bail.

7-38 (b) The court shall order a defendant released on bail under
7-39 Subsection (a-1) to participate in an outpatient competency
7-40 restoration [treatment] program for a period not to exceed 120
7-41 days.

7-42 (c) Notwithstanding Subsection (a-1), the court may order a
7-43 defendant to participate in an outpatient competency restoration
7-44 [treatment] program under this article only if:

7-45 (1) the court receives and approves a comprehensive
7-46 plan that:

7-47 (A) provides for the treatment of the defendant
7-48 for purposes of competency restoration; and

7-49 (B) identifies the person who will be responsible
7-50 for providing that treatment to the defendant; and

7-51 (2) the court finds that the treatment proposed by the
7-52 plan will be available to and will be provided to the defendant.

7-53 (d) An order issued under this article may require the
7-54 defendant to participate in:

7-55 (1) as appropriate, an outpatient competency
7-56 restoration [treatment] program administered by a community center
7-57 or an outpatient competency restoration [treatment] program
7-58 administered by any other entity that provides outpatient
7-59 competency restoration services; and

7-60 (2) an appropriate prescribed regimen of medical,
7-61 psychiatric, or psychological care or treatment, including care or
7-62 treatment involving the administration of psychoactive medication,
7-63 including those required under Article 46B.086.

7-64 SECTION 14. Article 46B.073, Code of Criminal Procedure, is
7-65 amended by amending Subsections (b), (c), (d), and (e) and adding
7-66 Subsection (f) to read as follows:

7-67 (b) For purposes of further examination and competency
7-68 restoration services with [treatment toward] the specific
7-69 objective of the defendant attaining competency to stand trial, the

8-1 court shall commit a defendant described by Subsection (a) to a
8-2 mental health facility, ~~[or]~~ residential care facility, or
8-3 jail-based competency restoration program for the applicable
8-4 period as follows:

8-5 (1) a period of not more than 60 days, if the defendant
8-6 is charged with an offense punishable as a misdemeanor; or

8-7 (2) a period of not more than 120 days, if the
8-8 defendant is charged with an offense punishable as a felony.

8-9 (c) If the defendant is charged with an offense listed in
8-10 Article 17.032(a), other than an offense under Section 22.01(a)(1),
8-11 Penal Code ~~[listed in Article 17.032(a)(6)]~~, or the indictment
8-12 alleges an affirmative finding under Article 42A.054(c) or (d), the
8-13 court shall enter an order committing the defendant for competency
8-14 restoration services to the maximum security unit of any facility
8-15 designated by the Department of State Health Services, to an agency
8-16 of the United States operating a mental hospital, or to a Department
8-17 of Veterans Affairs hospital.

8-18 (d) If the defendant is not charged with an offense
8-19 described by Subsection (c) and the indictment does not allege an
8-20 affirmative finding under Article 42A.054(c) or (d), the court
8-21 shall enter an order committing the defendant to a mental health
8-22 facility or residential care facility determined to be appropriate
8-23 by the local mental health authority or local intellectual and
8-24 developmental disability authority or to a jail-based competency
8-25 restoration program. A defendant may be committed to a jail-based
8-26 competency restoration program only if the program provider
8-27 determines the defendant will begin to receive competency
8-28 restoration services within 72 hours of arriving at the program.

8-29 (e) Except as provided by Subsection (f), a defendant
8-30 charged with an offense punishable as a Class B misdemeanor may be
8-31 committed under this subchapter only to a jail-based competency
8-32 restoration program.

8-33 (f) A defendant charged with an offense punishable as a
8-34 Class B misdemeanor may be committed to a mental health facility or
8-35 residential care facility described by Subsection (d) only if a
8-36 jail-based competency restoration program is not available
8-37 ~~[Notwithstanding Subsections (b), (c), and (d) and notwithstanding~~
8-38 ~~the contents of the applicable order of commitment, in a county in~~
8-39 ~~which the Department of State Health Services operates a jail-based~~
8-40 ~~restoration of competency pilot program under Article 46B.090, a~~
8-41 ~~defendant for whom an order is issued under this article committing~~
8-42 ~~the defendant to a mental health facility or residential care~~
8-43 ~~facility shall be provided competency restoration services at the~~
8-44 ~~jail under the pilot program if the service provider at the jail~~
8-45 ~~determines the defendant will immediately begin to receive~~
8-46 ~~services. If the service provider at the jail determines the~~
8-47 ~~defendant will not immediately begin to receive competency~~
8-48 ~~restoration services, the defendant shall be transferred to the~~
8-49 ~~appropriate mental health facility or residential care facility as~~
8-50 ~~provided by the court order. This subsection expires September 1,~~
8-51 ~~2019].~~

8-52 SECTION 15. Article 46B.074(a), Code of Criminal Procedure,
8-53 is amended to read as follows:

8-54 (a) A defendant may be committed to a jail-based competency
8-55 restoration program, mental health facility, or residential care
8-56 facility under this subchapter only on competent medical or
8-57 psychiatric testimony provided by an expert qualified under Article
8-58 46B.022.

8-59 SECTION 16. Article 46B.075, Code of Criminal Procedure, is
8-60 amended to read as follows:

8-61 Art. 46B.075. TRANSFER OF DEFENDANT TO FACILITY OR
8-62 ~~[OUTPATIENT TREATMENT]~~ PROGRAM. An order issued under Article
8-63 46B.0711, 46B.072, or 46B.073 must place the defendant in the
8-64 custody of the sheriff for transportation to the facility or
8-65 ~~[outpatient treatment]~~ program, as applicable, in which the
8-66 defendant is to receive ~~[treatment for purposes of]~~ competency
8-67 restoration services.

8-68 SECTION 17. Articles 46B.0755(a), (b), and (d), Code of
8-69 Criminal Procedure, are amended to read as follows:

9-1 (a) Notwithstanding any other provision of this subchapter,
 9-2 if the court receives credible evidence indicating that the
 9-3 defendant has been restored to competency at any time after the
 9-4 defendant's incompetency trial under Subchapter C but before the
 9-5 defendant is transported under Article 46B.075 to the [~~a mental~~
 9-6 ~~health facility, residential care~~] facility[~~,~~] or [~~outpatient~~
 9-7 ~~treatment~~] program, as applicable, the court may appoint
 9-8 disinterested experts to reexamine the defendant in accordance with
 9-9 Subchapter B. The court is not required to appoint the same expert
 9-10 or experts who performed the initial examination of the defendant
 9-11 under that subchapter.

9-12 (b) If after a reexamination of the defendant the applicable
 9-13 expert's report states an opinion that the defendant remains
 9-14 incompetent, the court's order under Article 46B.0711, 46B.072, or
 9-15 46B.073 remains in effect, and the defendant shall be transported
 9-16 to the facility or [~~outpatient treatment~~] program as required by
 9-17 Article 46B.075. If after a reexamination of the defendant the
 9-18 applicable expert's report states an opinion that the defendant has
 9-19 been restored to competency, the court shall withdraw its order
 9-20 under Article 46B.0711, 46B.072, or 46B.073 and proceed under
 9-21 Subsection (c) or (d).

9-22 (d) The court shall hold a hearing to determine whether the
 9-23 defendant has been restored to competency if any party fails to
 9-24 agree or if the court fails to concur that the defendant is
 9-25 competent to stand trial. If a court holds a hearing under this
 9-26 subsection, on the request of the counsel for either party or the
 9-27 motion of the court, a jury shall make the competency
 9-28 determination. For purposes of the hearing, incompetency is
 9-29 presumed, and the defendant's competency must be proved by a
 9-30 preponderance of the evidence. If after the hearing the defendant
 9-31 is again found to be incompetent to stand trial, the court shall
 9-32 issue a new order under Article 46B.0711, 46B.072, or 46B.073, as
 9-33 appropriate based on the defendant's current condition.

9-34 SECTION 18. Article 46B.076, Code of Criminal Procedure, is
 9-35 amended to read as follows:

9-36 Art. 46B.076. COURT'S ORDER. (a) If the defendant is
 9-37 found incompetent to stand trial, not later than the date of the
 9-38 order of commitment or of release on bail, as applicable, the court
 9-39 shall send a copy of the order to the applicable facility [~~to which~~
 9-40 ~~the defendant is committed~~] or [~~the outpatient treatment~~
 9-41 ~~to which the defendant is released~~]. The court shall also provide
 9-42 to the facility or [~~outpatient treatment~~] program copies of the
 9-43 following made available to the court during the incompetency
 9-44 trial:

- 9-45 (1) reports of each expert;
 9-46 (2) psychiatric, psychological, or social work
 9-47 reports that relate to the mental condition of the defendant;
 9-48 (3) documents provided by the attorney representing
 9-49 the state or the attorney representing the defendant that relate to
 9-50 the defendant's current or past mental condition;
 9-51 (4) copies of the indictment or information and any
 9-52 supporting documents used to establish probable cause in the case;
 9-53 (5) the defendant's criminal history record; and
 9-54 (6) the addresses of the attorney representing the
 9-55 state and the attorney representing the defendant.

9-56 (b) The court shall order that the transcript of all medical
 9-57 testimony received by the jury or court be promptly prepared by the
 9-58 court reporter and forwarded to the applicable [~~proper~~] facility or
 9-59 [~~outpatient treatment~~] program.

9-60 SECTION 19. Article 46B.077, Code of Criminal Procedure, is
 9-61 amended to read as follows:

9-62 Art. 46B.077. INDIVIDUAL TREATMENT PROGRAM. (a) The
 9-63 facility or jail-based competency restoration program to which the
 9-64 defendant is committed or the outpatient competency restoration
 9-65 [~~treatment~~] program to which the defendant is released on bail
 9-66 shall:

- 9-67 (1) develop an individual program of treatment;
 9-68 (2) assess and evaluate whether the defendant is
 9-69 likely to be restored to competency in the foreseeable future; and

10-1 (3) report to the court and to the local mental health
10-2 authority or to the local intellectual and developmental disability
10-3 authority on the defendant's progress toward achieving competency.

10-4 (b) If the defendant is committed to an inpatient mental
10-5 health facility, ~~[or to a]~~ residential care facility, or jail-based
10-6 competency restoration program, the facility or program shall
10-7 report to the court at least once during the commitment period.

10-8 (c) If the defendant is released to an outpatient competency
10-9 restoration ~~[a treatment]~~ program ~~[not provided by an inpatient~~
10-10 ~~mental health facility or a residential care facility]~~, the
10-11 ~~[treatment]~~ program shall report to the court:

10-12 (1) not later than the 14th day after the date on which
10-13 the defendant's competency restoration services begin ~~[treatment~~
10-14 ~~begins]~~; and

10-15 (2) until the defendant is no longer released to the
10-16 ~~[treatment]~~ program, at least once during each 30-day period
10-17 following the date of the report required by Subdivision (1).

10-18 SECTION 20. Article 46B.078, Code of Criminal Procedure, is
10-19 amended to read as follows:

10-20 Art. 46B.078. CHARGES SUBSEQUENTLY DISMISSED. If the
10-21 charges pending against a defendant are dismissed, the court that
10-22 issued the order under Article 46B.0711, 46B.072, or 46B.073 shall
10-23 send a copy of the order of dismissal to the sheriff of the county in
10-24 which the court is located and to the head of the facility, the
10-25 provider of the jail-based competency restoration program, or the
10-26 provider of the outpatient competency restoration ~~[treatment]~~
10-27 program, as appropriate. On receipt of the copy of the order, the
10-28 facility or ~~[outpatient treatment]~~ program shall discharge the
10-29 defendant into the care of the sheriff for transportation in the
10-30 manner described by Article 46B.082.

10-31 SECTION 21. Article 46B.079, Code of Criminal Procedure, is
10-32 amended to read as follows:

10-33 Art. 46B.079. NOTICE AND REPORT TO COURT. (a) The head of
10-34 the facility, the provider of the jail-based competency restoration
10-35 program, or the provider of the outpatient competency restoration
10-36 ~~[treatment]~~ program, as appropriate, not later than the 15th day
10-37 before the date on which the initial restoration period is to expire
10-38 according to the terms of the order or under Article 46B.0095 or
10-39 other applicable provisions of this chapter, shall notify the
10-40 applicable court that the period is about to expire.

10-41 (b) The head of the facility or jail-based competency
10-42 restoration ~~[or outpatient treatment]~~ program provider shall
10-43 promptly notify the court when the head of the facility or
10-44 ~~[outpatient treatment]~~ program provider believes that:

10-45 (1) the defendant is clinically ready and can be
10-46 safely transferred to a competency restoration program for
10-47 education services but has not yet attained competency to stand
10-48 trial;

10-49 (2) the defendant has attained competency to stand
10-50 trial; or

10-51 (3) ~~[(2)]~~ the defendant is not likely to attain
10-52 competency in the foreseeable future.

10-53 (b-1) The outpatient competency restoration program
10-54 provider shall promptly notify the court when the program provider
10-55 believes that:

10-56 (1) the defendant has attained competency to stand
10-57 trial; or

10-58 (2) the defendant is not likely to attain competency
10-59 in the foreseeable future.

10-60 (c) When the head of the facility or ~~[outpatient treatment]~~
10-61 program provider gives notice to the court under Subsection (a),
10-62 ~~[or]~~ (b), or (b-1), the head of the facility or ~~[outpatient~~
10-63 ~~treatment]~~ program provider also shall file a final report with the
10-64 court stating the reason for the proposed discharge or transfer
10-65 under this chapter and including a list of the types and dosages of
10-66 medications prescribed for the defendant while the defendant was
10-67 receiving competency restoration services in the facility or
10-68 through ~~[participating in]~~ the ~~[outpatient treatment]~~ program. The
10-69 ~~[To enable any objection to the findings of the report to be made in~~

11-1 ~~a timely manner under Article 46B.084(a-1), the] court shall~~
 11-2 ~~provide [copies of the report] to the attorney representing the~~
 11-3 ~~defendant and the attorney representing the state~~ copies of a
 11-4 report based on notice under this article, other than notice under
 11-5 Subsection (b)(1), to enable any objection to the findings of the
 11-6 report to be made in a timely manner as required under Article
 11-7 46B.084(a-1).

11-8 (d) If the head of the facility or ~~[outpatient treatment]~~
 11-9 program provider notifies the court that the initial restoration
 11-10 period is about to expire, the notice may contain a request for an
 11-11 extension of the period for an additional period of 60 days and an
 11-12 explanation for the basis of the request. An explanation provided
 11-13 under this subsection must include a description of any evidence
 11-14 indicating a reduction in the severity of the defendant's symptoms
 11-15 or impairment.

11-16 SECTION 22. Article 46B.080(a), Code of Criminal Procedure,
 11-17 is amended to read as follows:

11-18 (a) On a request of the head of a facility or a ~~[treatment]~~
 11-19 program provider that is made under Article 46B.079(d) and
 11-20 notwithstanding any other provision of this subchapter, the court
 11-21 may enter an order extending the initial restoration period for an
 11-22 additional period of 60 days.

11-23 SECTION 23. Subchapter D, Chapter 46B, Code of Criminal
 11-24 Procedure, is amended by adding Articles 46B.0805 and 46B.0825 to
 11-25 read as follows:

11-26 Art. 46B.0805. COMPETENCY RESTORATION EDUCATION SERVICES.

11-27 (a) On notification from the head of a facility or a program
 11-28 provider under Article 46B.079(b)(1), the court shall order the
 11-29 defendant to receive competency restoration education services in a
 11-30 jail-based competency restoration program or an outpatient
 11-31 competency restoration program, as appropriate and if available.

11-32 (b) If a defendant for whom an order is entered under
 11-33 Subsection (a) was committed for competency restoration to a
 11-34 facility other than a jail-based competency restoration program,
 11-35 the court shall send a copy of that order to:

11-36 (1) the sheriff of the county in which the court is
 11-37 located;

11-38 (2) the head of the facility to which the defendant was
 11-39 committed for competency restoration; and

11-40 (3) the local mental health authority or local
 11-41 intellectual and developmental disability authority, as
 11-42 appropriate.

11-43 (c) As soon as practicable but not later than the 10th day
 11-44 after the date of receipt of a copy of an order under Subsection
 11-45 (b)(2), the applicable facility shall discharge the defendant into
 11-46 the care of the sheriff of the county in which the court is located.
 11-47 The sheriff shall transport the defendant to the jail-based
 11-48 competency restoration program or outpatient competency
 11-49 restoration program, as appropriate.

11-50 (d) A jail-based competency restoration program or
 11-51 outpatient competency restoration program that receives a
 11-52 defendant under this article shall give to the court:

11-53 (1) notice regarding the defendant's entry into the
 11-54 program for purposes of receiving competency restoration education
 11-55 services; and

11-56 (2) subsequent notice as otherwise required under
 11-57 Article 46B.079.

11-58 Art. 46B.0825. ADMINISTRATION OF MEDICATION WHILE IN
 11-59 CUSTODY OF SHERIFF. (a) A sheriff having custody of a defendant
 11-60 for transportation as required by Article 46B.075, 46B.0805, or
 11-61 46B.082 shall, according to information available at the time and
 11-62 unless directed otherwise by a physician treating the defendant,
 11-63 ensure that the defendant is provided with the types and dosages of
 11-64 medication prescribed for the defendant.

11-65 (b) To the extent funds are appropriated for that purpose, a
 11-66 sheriff is entitled to reimbursement from the state for providing
 11-67 the medication required by Subsection (a).

11-68 (c) If the sheriff determines that funds are not available
 11-69 from the state to reimburse the sheriff as provided by Subsection

12-1 (b), the sheriff is not required to comply with Subsection (a).

12-2 SECTION 24. Article 46B.081, Code of Criminal Procedure, is
12-3 amended to read as follows:

12-4 Art. 46B.081. RETURN TO COURT. Subject to Article
12-5 46B.082(b), a defendant committed or released on bail under this
12-6 subchapter shall be returned to the applicable court as soon as
12-7 practicable after notice to the court is provided under Article
12-8 46B.079(a), (b)(2), (b)(3), or (b-1) [46B.079], but not later than
12-9 the date of expiration of the period for restoration specified by
12-10 the court under Article 46B.0711, 46B.072, or 46B.073.

12-11 SECTION 25. The heading to Article 46B.082, Code of
12-12 Criminal Procedure, is amended to read as follows:

12-13 Art. 46B.082. TRANSPORTATION OF DEFENDANT TO COURT.

12-14 SECTION 26. Article 46B.082(b), Code of Criminal Procedure,
12-15 is amended to read as follows:

12-16 (b) If before the 15th day after the date on which the court
12-17 received notification under Article 46B.079(a), (b)(2), (b)(3), or
12-18 (b-1) [46B.079] a defendant committed to a facility or jail-based
12-19 competency restoration program or ordered to participate in an
12-20 outpatient competency restoration [treatment] program has not been
12-21 transported to the court that issued the order under Article
12-22 46B.0711, 46B.072, or 46B.073, as applicable, the head of the
12-23 facility or provider of the jail-based competency restoration
12-24 program to which the defendant is committed or the provider of the
12-25 outpatient competency restoration [treatment] program in which the
12-26 defendant is participating shall cause the defendant to be promptly
12-27 transported to the court and placed in the custody of the sheriff of
12-28 the county in which the court is located. The county in which the
12-29 court is located shall reimburse [the Department of State Health
12-30 Services or] the Health and Human [Department of Aging and
12-31 Disability] Services Commission or program provider, as
12-32 appropriate, for the mileage and per diem expenses of the personnel
12-33 required to transport the defendant, calculated in accordance with
12-34 rates provided in the General Appropriations Act for state
12-35 employees.

12-36 SECTION 27. Article 46B.083, Code of Criminal Procedure, is
12-37 amended to read as follows:

12-38 Art. 46B.083. SUPPORTING COMMITMENT INFORMATION PROVIDED
12-39 BY FACILITY [HEAD] OR [OUTPATIENT TREATMENT] PROGRAM [PROVIDER].

12-40 (a) If the head of the facility, the jail-based competency
12-41 restoration program provider, or the outpatient competency
12-42 restoration [treatment] program provider believes that the
12-43 defendant is a person with mental illness and meets the criteria for
12-44 court-ordered mental health services under Subtitle C, Title 7,
12-45 Health and Safety Code, the head of the facility or the [outpatient
12-46 treatment] program provider shall have submitted to the court a
12-47 certificate of medical examination for mental illness.

12-48 (b) If the head of the facility, the jail-based competency
12-49 restoration program provider, or the outpatient competency
12-50 restoration [treatment] program provider believes that the
12-51 defendant is a person with an intellectual disability, the head of
12-52 the facility or the [outpatient treatment] program provider shall
12-53 have submitted to the court an affidavit stating the conclusions
12-54 reached as a result of the examination.

12-55 SECTION 28. Article 46B.084(a-1)(1), Code of Criminal
12-56 Procedure, is amended to read as follows:

12-57 (1) Following the defendant's return to the court, the
12-58 court shall make a determination with regard to the defendant's
12-59 competency to stand trial. The court may make the determination
12-60 based only on the most recent report that is filed under Article
12-61 46B.079(c) and based on notice under that article, other than
12-62 notice under Subsection (b)(1) of that article, and on other
12-63 medical information or personal history information relating to the
12-64 defendant. A party may object in writing or in open court to the
12-65 findings of the most recent report not later than the 15th day after
12-66 the date on which the court received the applicable notice
12-67 [notification] under Article 46B.079. The court shall make the
12-68 determination not later than the 20th day after the date on which
12-69 the court received the applicable notice [notification] under

13-1 Article [46B.079](#), or not later than the fifth day after the date of
 13-2 the defendant's return to court, whichever occurs first, regardless
 13-3 of whether a party objects to the report as described by this
 13-4 subsection and the issue is set for hearing under Subsection (b).

13-5 SECTION 29. Articles [46B.086](#)(a), (b), (c), and (d), Code of
 13-6 Criminal Procedure, are amended to read as follows:

13-7 (a) This article applies only to a defendant:
 13-8 (1) who is determined under this chapter to be
 13-9 incompetent to stand trial;

13-10 (2) who either:
 13-11 (A) remains confined in a correctional facility,
 13-12 as defined by Section [1.07](#), Penal Code, for a period exceeding 72
 13-13 hours while awaiting transfer to an inpatient mental health
 13-14 facility, a residential care facility, a jail-based competency
 13-15 restoration program, or an outpatient competency restoration
 13-16 [treatment] program;

13-17 (B) is committed to an inpatient mental health
 13-18 facility, ~~[or]~~ a residential care facility, or a jail-based
 13-19 competency restoration program for the purpose of competency
 13-20 restoration;

13-21 (C) is confined in a correctional facility while
 13-22 awaiting further criminal proceedings following competency
 13-23 restoration ~~[treatment]~~;

13-24 (D) is subject to Article [46B.0711](#), if the court
 13-25 has made the determinations required by Subsection (b) of that
 13-26 article; or

13-27 (E) ~~[(D)]~~ is subject to Article [46B.072](#), if the
 13-28 court has made the determinations required by Subsection (a-1) of
 13-29 that article;

13-30 (3) for whom a correctional facility or jail-based
 13-31 competency restoration program that employs or contracts with a
 13-32 licensed psychiatrist, an inpatient mental health facility, a
 13-33 residential care facility, or an outpatient competency restoration
 13-34 [treatment] program provider has prepared a continuity of care plan
 13-35 that requires the defendant to take psychoactive medications; and

13-36 (4) who, after a hearing held under Section [574.106](#) or
 13-37 [592.156](#), Health and Safety Code, if applicable, has been found to
 13-38 not meet the criteria prescribed by Sections [574.106](#)(a) and (a-1)
 13-39 or [592.156](#)(a) and (b), Health and Safety Code, for court-ordered
 13-40 administration of psychoactive medications.

13-41 (b) If a defendant described by Subsection (a) refuses to
 13-42 take psychoactive medications as required by the defendant's
 13-43 continuity of care plan, the director of the ~~[correctional]~~
 13-44 facility or the ~~[outpatient treatment]~~ program provider, as
 13-45 applicable, shall notify the court in which the criminal
 13-46 proceedings are pending of that fact not later than the end of the
 13-47 next business day following the refusal. The court shall promptly
 13-48 notify the attorney representing the state and the attorney
 13-49 representing the defendant of the defendant's refusal. The
 13-50 attorney representing the state may file a written motion to compel
 13-51 medication. The motion to compel medication must be filed not later
 13-52 than the 15th day after the date a judge issues an order stating
 13-53 that the defendant does not meet the criteria for court-ordered
 13-54 administration of psychoactive medications under Section [574.106](#)
 13-55 or [592.156](#), Health and Safety Code, except that, for a defendant in
 13-56 an outpatient competency restoration ~~[treatment]~~ program, the
 13-57 motion may be filed at any time.

13-58 (c) The court, after notice and after a hearing held not
 13-59 later than the 10th day after the motion to compel medication is
 13-60 filed, may authorize the director of the ~~[correctional]~~ facility or
 13-61 the program provider, as applicable, to have the medication
 13-62 administered to the defendant, by reasonable force if necessary. A
 13-63 hearing under this subsection may be conducted using an electronic
 13-64 broadcast system as provided by Article [46B.013](#).

13-65 (d) The court may issue an order under this article only if
 13-66 the order is supported by the testimony of two physicians, one of
 13-67 whom is the physician at or with the applicable ~~[correctional]~~
 13-68 facility or ~~[outpatient treatment]~~ program who is prescribing the
 13-69 medication as a component of the defendant's continuity of care

14-1 plan and another who is not otherwise involved in proceedings
14-2 against the defendant. The court may require either or both
14-3 physicians to examine the defendant and report on the examination
14-4 to the court.

14-5 SECTION 30. The heading to Article 46B.090, Code of
14-6 Criminal Procedure, is amended to read as follows:

14-7 Art. 46B.090. JAIL-BASED COMPETENCY RESTORATION [~~OF~~
14-8 ~~COMPETENCY PILOT~~] PROGRAM IMPLEMENTED BY COMMISSION.

14-9 SECTION 31. Article 46B.090, Code of Criminal Procedure, is
14-10 amended by amending Subsections (a), (a-1), (b), (c), (f), (g),
14-11 (i), (j), (k), (l), and (m) and adding Subsection (p) to read as
14-12 follows:

14-13 (a) In this article:

14-14 (1) "Commission" [~~,"department"~~] means the Health and
14-15 Human Services Commission [~~Department of State Health Services~~].

14-16 (2) "Executive commissioner" means the executive
14-17 commissioner of the Health and Human Services Commission.

14-18 (a-1) The commission may, with the agreement of a county
14-19 seeking to participate in the program, [If the legislature
14-20 appropriates to the department the funding necessary for the
14-21 department to operate a jail-based restoration of competency pilot
14-22 program as described by this article, the department shall] develop
14-23 and implement a jail-based competency restoration [the pilot]
14-24 program in that county [one or two counties in this state that
14-25 choose to participate in the pilot program]. In developing a [the
14-26 pilot] program, the commission [department] shall coordinate and
14-27 allow for input from the [each] participating county.

14-28 (b) If the commission implements a program under this
14-29 article, the commission [The department] shall contract with a
14-30 provider of jail-based competency restoration services to provide
14-31 services under the [pilot] program [if the department develops a
14-32 pilot program under this article]. The commission may contract
14-33 with a different provider for each program.

14-34 (c) The executive [Not later than November 1, 2013, the]
14-35 commissioner [of the department] shall adopt rules as necessary to
14-36 implement a [the pilot] program[. In adopting rules] under this
14-37 article, including rules that [the commissioner shall] specify the
14-38 types of information the commission [department] must collect
14-39 [during the operation of the pilot program] for use in evaluating a
14-40 [the outcome of the pilot] program.

14-41 (f) To contract with the commission [department] under
14-42 Subsection (b), a provider of jail-based competency restoration
14-43 services must demonstrate to the commission [department] that:

14-44 (1) the provider:

14-45 (A) has previously provided jail-based
14-46 competency restoration services for one or more years and is
14-47 certified by a nationwide nonprofit organization that accredits
14-48 behavioral health care organizations and programs; or

14-49 (B) is a local mental health authority or local
14-50 behavioral health authority that is in good standing with the
14-51 commission, which may include an authority that is in good standing
14-52 with the commission and subcontracts with a provider of jail-based
14-53 [that has previously provided] competency restoration services;
14-54 and

14-55 (2) the provider's jail-based competency restoration
14-56 program:

14-57 (A) provides jail-based competency restoration
14-58 services through the use of [uses] a multidisciplinary treatment
14-59 team [to provide clinical treatment] that is:

14-60 (i) directed toward the specific objective
14-61 of restoring the defendant's competency to stand trial; and

14-62 (ii) similar to other [the clinical
14-63 treatment provided as part of a] competency restoration programs
14-64 [program at an inpatient mental health facility];

14-65 (B) employs or contracts for the services of at
14-66 least one psychiatrist;

14-67 (C) provides jail-based competency restoration
14-68 services through licensed or qualified mental health professionals
14-69 [assigns staff members to defendants participating in the program

15-1 ~~at an average ratio not lower than 3.7 to 1]; [and]~~

15-2 (D) provides weekly competency restoration
15-3 ~~[treatment]~~ hours commensurate to the ~~[treatment]~~ hours provided as
15-4 part of a competency restoration program at an inpatient mental
15-5 health facility;

15-6 (E) operates in the jail in a designated space
15-7 that is separate from the space used for the general population of
15-8 the jail;

15-9 (F) ensures coordination of general health care;

15-10 (G) provides mental health treatment and
15-11 substance use disorder treatment to defendants, as necessary, for
15-12 competency restoration; and

15-13 (H) supplies clinically appropriate psychoactive
15-14 medications for purposes of administering court-ordered medication
15-15 to defendants as applicable and in accordance with Article 46B.086
15-16 of this code or Section 574.106, Health and Safety Code

15-17 ~~[(3) the provider is certified by a nationwide~~
15-18 ~~nonprofit organization that accredits health care organizations~~
15-19 ~~and programs, such as the Joint Commission on Health Care Staffing~~
15-20 ~~Services, or the provider is a local mental health authority in good~~
15-21 ~~standing with the department; and~~

15-22 ~~[(4) the provider has a demonstrated history of~~
15-23 ~~successful jail-based competency restoration outcomes or, if the~~
15-24 ~~provider is a local mental health authority, a demonstrated history of~~
15-25 ~~successful competency restoration outcomes].~~

15-26 (g) A contract under Subsection (b) must require a ~~[the]~~
15-27 designated provider to collect and submit to the commission
15-28 ~~[department]~~ the information specified by rules adopted under
15-29 Subsection (c).

15-30 (i) A [The] psychiatrist or psychologist for the provider
15-31 shall conduct at least two full psychiatric or psychological
15-32 evaluations of the defendant during the period the defendant
15-33 receives competency restoration services in the jail. The
15-34 psychiatrist or psychologist must conduct one evaluation not later
15-35 than the 21st day and one evaluation not later than the 55th day
15-36 after the date the defendant is committed to [begins to participate
15-37 in] the [pilot] program. The psychiatrist or psychologist shall
15-38 submit to the court a report concerning each evaluation required
15-39 under this subsection.

15-40 (j) If at any time during a defendant's commitment to a
15-41 [participation in the jail-based restoration of competency pilot]
15-42 program implemented under this article the psychiatrist or
15-43 psychologist for the provider determines that the defendant has
15-44 attained competency to stand trial:

15-45 (1) the psychiatrist or psychologist for the provider
15-46 shall promptly issue and send to the court a report demonstrating
15-47 that fact; and

15-48 (2) the court shall consider that report as the report
15-49 of an expert stating an opinion that the defendant has been restored
15-50 to competency for purposes of Article 46B.0755(a) or (b).

15-51 (k) If at any time during a defendant's commitment to a
15-52 [participation in the jail-based restoration of competency pilot]
15-53 program implemented under this article the psychiatrist or
15-54 psychologist for the provider determines that the defendant's
15-55 competency to stand trial is unlikely to be restored in the
15-56 foreseeable future:

15-57 (1) the psychiatrist or psychologist for the provider
15-58 shall promptly issue and send to the court a report demonstrating
15-59 that fact; and

15-60 (2) the court shall:

15-61 (A) proceed under Subchapter E or F and order the
15-62 transfer of the defendant, without unnecessary delay, to the first
15-63 available facility that is appropriate for that defendant, as
15-64 provided under Subchapter E or F, as applicable; or

15-65 (B) release the defendant on bail as permitted
15-66 under Chapter 17.

15-67 (l) If the psychiatrist or psychologist for the provider
15-68 determines that a defendant committed [ordered] to a [participate
15-69 in the pilot] program implemented under this article has not been

16-1 restored to competency by the end of the 60th day after the date the
16-2 defendant was committed to [~~began to participate in~~] the [~~pilot~~]
16-3 program:

16-4 (1) for a defendant charged with a felony, the
16-5 defendant shall be transferred, without unnecessary delay and for
16-6 the remainder of the period prescribed by Article 46B.073(b), to
16-7 the first available facility that is appropriate for that defendant
16-8 as provided by Article 46B.073(c) or (d); and

16-9 (2) for a defendant charged with a misdemeanor, the
16-10 court may:

16-11 (A) order a single extension under Article
16-12 46B.080 and, notwithstanding Articles 46B.073(e) and (f), the
16-13 transfer of the defendant without unnecessary delay to the
16-14 appropriate mental health facility or residential care facility as
16-15 provided by Article 46B.073(d) for the remainder of the period
16-16 under the extension;

16-17 (B) proceed under Subchapter E or F;

16-18 (C) release the defendant on bail as permitted
16-19 under Chapter 17; or

16-20 (D) dismiss the charges in accordance with
16-21 Article 46B.010.

16-22 (m) Unless otherwise provided by this article, the
16-23 provisions of this chapter, including the maximum periods
16-24 prescribed by Article 46B.0095, apply to a defendant receiving
16-25 competency restoration services, including competency restoration
16-26 education services, under a [~~the pilot~~] program implemented under
16-27 this article in the same manner as those provisions apply to any
16-28 other defendant who is subject to proceedings under this chapter.

16-29 (p) This article does not affect the responsibility of a
16-30 county to ensure the safety of a defendant who is committed to the
16-31 program and to provide the same adequate care to the defendant as is
16-32 provided to other inmates of the jail in which the defendant is
16-33 located.

16-34 SECTION 32. Subchapter D, Chapter 46B, Code of Criminal
16-35 Procedure, is amended by adding Article 46B.091 to read as follows:

16-36 Art. 46B.091. JAIL-BASED COMPETENCY RESTORATION PROGRAM
16-37 IMPLEMENTED BY COUNTY. (a) In this article:

16-38 (1) "Commission" means the Health and Human Services
16-39 Commission.

16-40 (2) "Executive commissioner" means the executive
16-41 commissioner of the Health and Human Services Commission.

16-42 (b) A county or counties jointly may develop and implement a
16-43 jail-based competency restoration program.

16-44 (c) A county that implements a program under this article
16-45 shall contract with a provider of jail-based competency restoration
16-46 services that is a local mental health authority or local
16-47 behavioral health authority that is in good standing with the
16-48 commission, which may include an authority that is in good standing
16-49 with the commission and subcontracts with a provider of jail-based
16-50 competency restoration services.

16-51 (d) A jail-based competency restoration program must:

16-52 (1) provide jail-based competency restoration
16-53 services through the use of a multidisciplinary treatment team that
16-54 are:

16-55 (A) directed toward the specific objective of
16-56 restoring the defendant's competency to stand trial; and

16-57 (B) similar to other competency restoration
16-58 programs;

16-59 (2) employ or contract for the services of at least one
16-60 psychiatrist;

16-61 (3) provide jail-based competency restoration
16-62 services through licensed or qualified mental health
16-63 professionals;

16-64 (4) provide weekly competency restoration hours
16-65 commensurate to the hours provided as part of a competency
16-66 restoration program at an inpatient mental health facility;

16-67 (5) operate in the jail in a designated space that is
16-68 separate from the space used for the general population of the jail;

16-69 (6) ensure coordination of general health care;

17-1 (7) provide mental health treatment and substance use
 17-2 disorder treatment to defendants, as necessary, for competency
 17-3 restoration; and

17-4 (8) supply clinically appropriate psychoactive
 17-5 medications for purposes of administering court-ordered medication
 17-6 to defendants as applicable and in accordance with Article 46B.086
 17-7 of this code or Section 574.106, Health and Safety Code.

17-8 (e) The executive commissioner shall adopt rules as
 17-9 necessary for a county to develop and implement a program under this
 17-10 article. The commission shall, as part of the rulemaking process,
 17-11 establish contract monitoring and oversight requirements for a
 17-12 local mental health authority or local behavioral health authority
 17-13 that contracts with a county to provide jail-based competency
 17-14 restoration services under this article. The contract monitoring
 17-15 and oversight requirements must be consistent with local mental
 17-16 health authority or local behavioral health authority performance
 17-17 contract monitoring and oversight requirements, as applicable.

17-18 (f) The commission may inspect on behalf of the state any
 17-19 aspect of a program implemented under this article.

17-20 (g) A psychiatrist or psychologist for the provider shall
 17-21 conduct at least two full psychiatric or psychological evaluations
 17-22 of the defendant during the period the defendant receives
 17-23 competency restoration services in the jail. The psychiatrist or
 17-24 psychologist must conduct one evaluation not later than the 21st
 17-25 day and one evaluation not later than the 55th day after the date
 17-26 the defendant is committed to the program. The psychiatrist or
 17-27 psychologist shall submit to the court a report concerning each
 17-28 evaluation required under this subsection.

17-29 (h) If at any time during a defendant's commitment to a
 17-30 program implemented under this article the psychiatrist or
 17-31 psychologist for the provider determines that the defendant has
 17-32 attained competency to stand trial:

17-33 (1) the psychiatrist or psychologist for the provider
 17-34 shall promptly issue and send to the court a report demonstrating
 17-35 that fact; and

17-36 (2) the court shall consider that report as the report
 17-37 of an expert stating an opinion that the defendant has been restored
 17-38 to competency for purposes of Article 46B.0755(a) or (b).

17-39 (i) If at any time during a defendant's commitment to a
 17-40 program implemented under this article the psychiatrist or
 17-41 psychologist for the provider determines that the defendant's
 17-42 competency to stand trial is unlikely to be restored in the
 17-43 foreseeable future:

17-44 (1) the psychiatrist or psychologist for the provider
 17-45 shall promptly issue and send to the court a report demonstrating
 17-46 that fact; and

17-47 (2) the court shall:
 17-48 (A) proceed under Subchapter E or F and order the
 17-49 transfer of the defendant, without unnecessary delay, to the first
 17-50 available facility that is appropriate for that defendant, as
 17-51 provided under Subchapter E or F, as applicable; or

17-52 (B) release the defendant on bail as permitted
 17-53 under Chapter 17.

17-54 (j) If the psychiatrist or psychologist for the provider
 17-55 determines that a defendant committed to a program implemented
 17-56 under this article has not been restored to competency by the end of
 17-57 the 60th day after the date the defendant was committed to the
 17-58 program:

17-59 (1) for a defendant charged with a felony, the
 17-60 defendant shall be transferred, without unnecessary delay and for
 17-61 the remainder of the period prescribed by Article 46B.073(b), to
 17-62 the first available facility that is appropriate for that defendant
 17-63 as provided by Article 46B.073(c) or (d); and

17-64 (2) for a defendant charged with a misdemeanor, the
 17-65 court may:

17-66 (A) order a single extension under Article
 17-67 46B.080 and, notwithstanding Articles 46B.073(e) and (f), the
 17-68 transfer of the defendant without unnecessary delay to the
 17-69 appropriate mental health facility or residential care facility as

18-1 provided by Article 46B.073(d) for the remainder of the period
18-2 under the extension;

18-3 (B) proceed under Subchapter E or F;

18-4 (C) release the defendant on bail as permitted
18-5 under Chapter 17; or

18-6 (D) dismiss the charges in accordance with
18-7 Article 46B.010.

18-8 (k) Unless otherwise provided by this article, the
18-9 provisions of this chapter, including the maximum periods
18-10 prescribed by Article 46B.0095, apply to a defendant receiving
18-11 competency restoration services, including competency restoration
18-12 education services, under a program implemented under this article
18-13 in the same manner as those provisions apply to any other defendant
18-14 who is subject to proceedings under this chapter.

18-15 (l) This article does not affect the responsibility of a
18-16 county to ensure the safety of a defendant who is committed to the
18-17 program and to provide the same adequate care to the defendant as is
18-18 provided to other inmates of the jail in which the defendant is
18-19 located.

18-20 SECTION 33. Section 614.0032(b), Health and Safety Code, is
18-21 amended to read as follows:

18-22 (b) The office shall~~+~~
18-23 [~~1~~] ~~with the special assistance of committee members~~
18-24 ~~appointed under Section 614.002(b)(1).~~

18-25 [~~(A)~~] ~~review examinations to determine the~~
18-26 ~~competency of defendants in criminal cases to stand trial and~~
18-27 ~~examinations to determine the fitness of children to proceed with~~
18-28 ~~respect to adjudications of delinquent conduct or conduct~~
18-29 ~~indicating a need for supervision; and~~

18-30 [~~(B)~~] ~~periodically report to the legislature and~~
18-31 ~~the court of criminal appeals findings made as a result of the~~
18-32 ~~review described by Paragraph (A); and~~

18-33 [~~2~~] approve and make generally available in
18-34 electronic format a standard form for use by experts in reporting
18-35 competency examination results under Chapter 46B, Code of Criminal
18-36 Procedure.

18-37 SECTION 34. The following provisions are repealed:

18-38 (1) Article 46B.026(c), Code of Criminal Procedure;

18-39 (2) Articles 46B.090(h), (n), and (o), Code of
18-40 Criminal Procedure; and

18-41 (3) Section 614.0032(c), Health and Safety Code.

18-42 SECTION 35. Not later than November 1, 2017, the executive
18-43 commissioner of the Health and Human Services Commission shall
18-44 adopt the rules described by Article 46B.090(c), Code of Criminal
18-45 Procedure, as amended by this Act, and Article 46B.091(e), Code of
18-46 Criminal Procedure, as added by this Act.

18-47 SECTION 36. The changes in law made by this Act apply only
18-48 to a defendant charged with an offense committed on or after the
18-49 effective date of this Act. A defendant charged with an offense
18-50 committed before the effective date of this Act is governed by the
18-51 law in effect on the date the offense was committed, and the former
18-52 law is continued in effect for that purpose. For purposes of this
18-53 section, an offense was committed before the effective date of this
18-54 Act if any element of the offense occurred before that date.

18-55 SECTION 37. This Act takes effect only if a specific
18-56 appropriation for the implementation of the Act is provided in a
18-57 general appropriations act of the 85th Legislature.

18-58 SECTION 38. This Act takes effect September 1, 2017.

18-59 * * * * *