

By: Watson

S.B. No. 1653

A BILL TO BE ENTITLED

AN ACT

relating to procedures regarding criminal defendants who have been determined incompetent to stand trial.

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

SECTION 1. Article 46B.001, Code of Criminal Procedure, is amended by adding Subdivision (9) to read as follows:

(9) "Bodily injury" has the meaning assigned by Section 1.07, Penal Code.

SECTION 2. Article 46B.071, Code of Criminal Procedure, is amended to read as follows:

Art. 46B.071. OPTIONS ON DETERMINATION OF INCOMPETENCY.

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

(1) commit the defendant to a facility under Article 46B.073 if the defendant is charged with:

(A) an offense punishable as a felony; or

(B) an offense punishable as a Class A misdemeanor if the alleged conduct resulted in bodily injury to a victim; [or]

(2) on the motion of the attorney representing the state, dismiss the charge and proceed under Subchapter F for a defendant charged with an offense punishable as a misdemeanor other than an offense described by Subdivision (1)(B); or

(3) release the defendant on bail under Article

1 46B.072.

2 (b) On a determination that a defendant is incompetent to  
3 stand trial and is unlikely to be restored to competency in the  
4 foreseeable future, the court shall, as appropriate based on the  
5 circumstances of the case:

6 (1) proceed under Subchapter E for a defendant charged  
7 with:

8 (A) an offense punishable as a felony; or

9 (B) an offense punishable as a Class A  
10 misdemeanor if the alleged conduct resulted in bodily injury to a  
11 victim [~~or F~~]; [~~or~~]

12 (2) dismiss the applicable charge, whether felony or  
13 misdemeanor, and proceed under Subchapter F; or

14 (3) release the defendant on bail as permitted under  
15 Chapter 17.

16 SECTION 3. Article 46B.072(a), Code of Criminal Procedure,  
17 is amended to read as follows:

18 (a) This article applies only to a defendant who is subject  
19 to an initial restoration period under this subchapter based on a  
20 determination made under Article 46B.071.

21 SECTION 4. Article 46B.073(a), Code of Criminal Procedure,  
22 is amended to read as follows:

23 (a) This article applies only to a defendant [~~not released~~  
24 ~~on bail~~] who is subject to an initial restoration period based on a  
25 determination made under Article 46B.071 and who:

26 (1) is charged with:

27 (A) an offense punishable as a felony; or

1                   (B) an offense punishable as a Class A  
2 misdemeanor if the alleged conduct resulted in bodily injury to a  
3 victim; and

4                   (2) was not released on bail under Article 46B.072.

5           SECTION 5. Article 46B.074(a), Code of Criminal Procedure,  
6 is amended to read as follows:

7           (a) A defendant may be committed to a mental health facility  
8 or residential care facility or ordered to participate in an  
9 outpatient treatment program under this subchapter, only on  
10 competent medical or psychiatric testimony provided by an expert  
11 qualified under Article 46B.022.

12           SECTION 6. Article 46B.106, Code of Criminal Procedure, is  
13 amended by adding Subsection (c) to read as follows:

14           (c) Notwithstanding Subsection (a), a defendant charged  
15 with an offense punishable as a misdemeanor may only be committed to  
16 an outpatient treatment program under this article.

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

22           SECTION 8. This Act takes effect September 1, 2017.