

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

April 11, 2017

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB1183 by Perry (Relating to procedures regarding criminal defendants who are or may be persons with a mental illness or an intellectual disability and to the period for which a person may be committed to receive certain temporary mental health services.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1183, As Introduced: a negative impact of (\$41,283,448) through the biennium ending August 31, 2019.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2018	(\$20,403,723)
2019	(\$20,879,725)
2020	(\$20,879,725)
2021	(\$20,879,725)
2022	(\$20,879,725)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund	Change in Number of State Employees from FY 2017
	1	
2018	(\$20,403,723)	2.0
2019	(\$20,879,725)	2.0
2020	(\$20,879,725)	2.0
2021	(\$20,879,725)	2.0
2022	(\$20,879,725)	2.0

Fiscal Analysis

The bill would amend the Code of Criminal Procedure and the Health and Safety Code to prohibit a court from committing an incompetent defendant charged with a Class B misdemeanor to a state

mental health facility. Instead, an incompetent defendant charged with a Class B misdemeanor would be released on bail and ordered into an outpatient competency restoration education program for up to 90 days or committed to a jail-based competency restoration program. The bill would require a court to dismiss a case upon a prosecutor's motion, if a defendant charged with a Class B misdemeanor completed an outpatient treatment program. If a defendant did not complete the program then the bill would authorize the court to commit the defendant to a jail-based competency program or the court would dismiss the case on the motion of the prosecutor.

The bill would permit the head of a mental health facility, jail-based competency restoration program, or outpatient program to notify the court when the head of the facility or program believes that the defendant has attained psychiatric stabilization. Upon this notification, the defendant would be returned to a jail-based competency restoration program or outpatient competency restoration education program for the remainder of the competency restoration period. The bill would require a court to give preference to any criminal action against a defendant restored to competency through an outpatient, inpatient, or jail-based treatment program.

The bill would authorize the Health and Human Services Commission (HHSC) to develop and implement a jail-based restoration of competency program in any county to provide competency restoration services in jails to individuals that would otherwise be committed to a mental health facility. The bill would outline the standards for such programs, and would require the HHSC to promulgate any rules necessary to implement the program.

The bill would limit the amount of time an order for temporary inpatient or outpatient mental health services to 45 days unless the judge finds that a longer period is necessary. The bill would require courts report to the Office of Court Administration on a monthly basis on the number of reports submitted to the court regarding the competency or incompetency of a defendant to stand trial.

The bill would take effect on September 1, 2017, with the exception of any provision that would require a waiver or approval from a federal agency.

Methodology

Under the provisions of the bill, HHSC would be authorized to coordinate with counties to establish a jail-based competency restoration programs. This analysis assumes that HHSC would establish a program consisting of 10 beds in each of the 10 counties with the highest level of need at a rate of \$478 per day and that a 25 percent increase in demand for outpatient competency restoration services would occur at the Local Mental Health Authorities. The cost associated with establishing a jail-based competency restoration program and serving additional individuals in outpatient competency restoration services is estimated to be \$20,403,723 in fiscal year 2018 and \$20,879,725 in each subsequent fiscal year. This cost includes assumptions that the provisions would require two additional full-time equivalent (FTE) positions, a Nurse V and a Program Specialist VI. The estimated costs of the two additional FTEs, including salary, technology costs, and other operating expenses would be \$146,913 with associated benefits of \$53,800 (or \$200,713) each fiscal year.

This analysis assumes that the provisions of the bill would allow the state hospitals to provide more timely services to individuals currently on the forensic waiting list, but that the demand for services would continue to exceed total capacity. To the extent that jail-based competency restoration programs established under the provisions of the bill would decrease the demand for services at the state hospitals below total capacity, there could be a savings of approximately \$477

per bed per day at the state hospitals based on FY 16 actual daily costs per bed.

According to the Department of Public Safety and Office of Court Administration, duties and responsibilities associated with implementing the remaining provisions of the bill could be accomplished by utilizing existing resources.

Technology

The technology cost would be \$24,298 in fiscal year 2018 and \$20,216 each subsequent fiscal year.

Local Government Impact

According to the Office of Court Administration, the fiscal impact to local courts is not anticipated to be significant.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 405 Department of Public Safety, 529 Health and Human Services Commission, 537 State Health Services, Department of

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