

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION
Revision 1

April 18, 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.),
Committee Report 1st House, Substituted

No significant fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure and the Health and Safety Code to authorize a court to commit certain incompetent defendants to a jail-based competency restoration program in certain circumstances. The bill would prohibit a court from committing a defendant charged with a Class B misdemeanor to a mental health facility or residential care facility unless a jail-based competency restoration program is not available. In addition, if the court determines that an incompetent defendant charged with a felony, Class A misdemeanor, or Class B misdemeanor is not a danger to others, may be safely treated in an outpatient basis, and an appropriate outpatient competency restoration program is available, the bill would require the court to order the defendant to participate in an outpatient competency restoration program for a period not to exceed 60 days.

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 is clinically ready to be transferred to a competency restoration program for education services but has not yet attained competency to stand trial. Upon this notification, the court would be required to order the defendant to a jail-based competency restoration program or outpatient competency restoration program for competency restoration education services. The bill would require the sheriff or other person having custody of the defendant for the purposes of transportation to ensure that the defendant is provided with the types and dosages of medication prescribed for the defendant unless otherwise directed by a physician treating the defendant, and if state funding is available for the purpose of reimbursing the expenses of the sheriff. 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 require courts to report to the Office of Court Administration, on a monthly basis, the number of reports submitted to the court regarding the competency or incompetency of a defendant to stand trial.

The bill would require the Executive Commissioner of HHSC to adopt necessary rules for a county

to develop and implement a jail-based competency restoration program, including contract monitoring and oversight authority for a local mental health or behavioral health authority that contracts with a county to provide competency restoration services. The bill would authorize HHSC to inspect any aspect of a county jail-based competency restoration program.

The bill would take effect on September 1, 2017. Based on the LBB's analysis of the Department of Public Safety, the Office of Court Administration, and the Health and Human Services Commission, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

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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