

BILL ANALYSIS

Senate Research Center

H.B. 1139
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Criminal Justice
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Concerns have been raised over the applicability of the death penalty to a capital offense committed by a defendant who may have an intellectual disability. As a result of these concerns, there have been calls for a uniform pretrial procedure to determine whether such a defendant has such a disability and should instead be sentenced to imprisonment for life. H.B. 1139 seeks to address these issues by prohibiting the sentencing of a defendant who is a person with an intellectual disability to death and by creating a hearing process for purposes of determining whether a defendant is a person with an intellectual disability.

H.B. 1139 amends current law relating to the applicability of the death penalty to a capital offense committed by a person with an intellectual disability.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 44.01, Code of Criminal Procedure, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Entitles the state to appeal an order of a court in a criminal case if the order is issued under Chapter 46E or 64 (Motion For Forensic DNA Testing).

(a-1) Provides that the state's appeal of an order issued under Chapter 46E is a direct appeal to the Texas Court of Criminal Appeals (CCA). Requires CCA to expeditiously review the appeal.

SECTION 2. Amends Title 1, Code of Criminal Procedure, by adding Chapter 46E, as follows:

CHAPTER 46E. CAPITAL CASE: EFFECT OF INTELLECTUAL DISABILITY

Art. 46E.001. DEFINITIONS. Defines "deficits in adaptive behavior," "developmental period," "intellectual disability," and "significantly subaverage general intellectual functioning" for purposes of this chapter.

Art. 46E.002. RESTRICTION ON DEATH PENALTY. Prohibits a defendant who is a person with an intellectual disability from being sentenced to death.

Art. 46E.003. HEARING; DETERMINATION. (a) Authorizes the attorney for a defendant in a capital case, not later than the first anniversary of the date of the defendant's indictment, to request in writing that the judge hearing the case hold a hearing to determine whether the defendant is a person with an intellectual disability.

(b) Requires the judge, on receipt of a request under this article, if the judge determines that the request was timely filed, to hold a hearing to determine the issue. Requires the hearing to be held:

(1) not earlier than 180 days after the date that the written request was submitted under Subsection (a); and

(2) not later than the 120th day before the date the trial is scheduled to begin.

(c) Authorizes the judge, if the attorney for a defendant files an untimely request under Subsection (a), or after the time for filing a request under Subsection (a) otherwise presents evidence that the defendant is a person with an intellectual disability, to hold a hearing under this chapter outside the presence of the jury if the attorney can show good cause for not filing a request within the time limit prescribed by Subsection (a).

Art. 46E.004. APPOINTMENT OF DISINTERESTED EXPERT. (a) Requires the judge, on the request of either party or on the judge's own motion, to appoint a disinterested expert experienced and qualified in the field of diagnosing intellectual disabilities to examine the defendant and determine whether the defendant is a person with an intellectual disability.

(b) Authorizes the judge to order the defendant to submit to an examination by an expert appointed under this article.

(c) Requires an examination described by this article to be narrowly tailored to determine whether the defendant has an intellectual disability.

Art. 46E.005. BURDEN OF PROOF. (a) Provides that, at a hearing under this chapter, the burden is on the defendant to prove by a preponderance of the evidence that the defendant is a person with an intellectual disability.

(b) Authorizes the state to offer evidence to rebut evidence offered by the defendant.

Art. 46E.006. PREVAILING MEDICAL STANDARDS. Requires evidence offered by either party for purposes of a hearing under this chapter to be consistent with prevailing medical standards for the diagnosis of intellectual disabilities.

Art. 46E.007. DETERMINATION AND ORDER RELATED TO INTELLECTUAL DISABILITY. (a) Requires the judge, as soon as practicable but not later than the 30th day after the conclusion of a hearing under this chapter, to determine whether the defendant is a person with an intellectual disability and issue an appropriate order. Requires the order to contain findings of fact explaining the judge's reasoning for the determination and citing evidence in the record.

(b) Requires the judge, if the judge does not determine that the defendant is a person with an intellectual disability, to conduct the trial of the offense in the same manner as if a hearing under this chapter had not been held. Provides that at the trial:

(1) the jury is prohibited from being informed of the fact that the judge held a hearing under this chapter; and

(2) the defendant is authorized to present evidence of intellectual disability as otherwise permitted by law.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2019.