86R4898 LHC-D

By:  Watson S.B. No. 1389

A BILL TO BE ENTITLED

AN ACT

relating to the period for which a person may be committed to a facility or a jail-based or outpatient program for restoration of competency.

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

SECTION 1.  Article 46B.072(b), Code of Criminal Procedure, is amended to read as follows:

(b)  The court shall order a defendant released on bail under Subsection (a-1) to participate in an outpatient competency restoration program for a period not to exceed 60 [~~120~~] days.

SECTION 2.  Article 46B.073(b), Code of Criminal Procedure, is amended to read as follows:

(b)  For purposes of further examination and competency restoration services with the specific objective of the defendant attaining competency to stand trial, the court shall commit a defendant described by Subsection (a) to a mental health facility, residential care facility, or jail-based competency restoration program for [~~the applicable period as follows:~~

[~~(1)~~]  a period of not more than 60 days[~~, if the defendant is charged with an offense punishable as a misdemeanor; or~~

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

SECTION 3.  Article 46B.079(d), Code of Criminal Procedure, is amended to read as follows:

(d)  If the head of the facility or program provider notifies the court that the initial restoration period is about to expire, the notice may contain a request for an extension of the period for an additional period of 30 [~~60~~] days and an explanation for the basis of the request.  An explanation provided under this subsection must include a description of any evidence indicating a reduction in the severity of the defendant's symptoms or impairment.

SECTION 4.  Articles 46B.080(a) and (c), Code of Criminal Procedure, are amended to read as follows:

(a)  On a request of the head of a facility or a program provider that is made under Article 46B.079(d) and notwithstanding any other provision of this subchapter, the court may enter an order extending the initial restoration period for an additional period of 30 [~~60~~] days.

(c)  The court may grant only one 30-day [~~60-day~~] extension under this article in connection with the specific offense with which the defendant is charged.

SECTION 5.  Article 46B.090(l), Code of Criminal Procedure, is amended to read as follows:

(l)  If the psychiatrist for the provider determines that a defendant ordered to participate in the pilot program has not been restored to competency by the end of the 60th day after the date the defendant began to receive services in the pilot program:

(1)  for a defendant charged with a felony, the court may:

(A)  order a single extension under Article 46B.080 and the transfer of the defendant [~~shall be transferred,~~] without unnecessary delay [~~and for the remainder of the period prescribed by Article 46B.073(b),~~] to the first available facility that is appropriate for that defendant as provided by Article 46B.073(c) or (d) for the remainder of the period under the extension;

(B)  proceed under Subchapter E or F; or

(C)  release the defendant on bail as permitted under Chapter 17; and

(2)  for a defendant charged with a misdemeanor, the court may:

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

(B)  proceed under Subchapter E or F;

(C)  release the defendant on bail as permitted under Chapter 17; or

(D)  dismiss the charges in accordance with Article 46B.010.

SECTION 6.  Article 46B.091(j), Code of Criminal Procedure, is amended to read as follows:

(j)  If the psychiatrist or psychologist for the provider determines that a defendant committed to a program implemented under this article has not been restored to competency by the end of the 60th day after the date the defendant began to receive services in the program:

(1)  for a defendant charged with a felony, the court may:

(A)  order a single extension under Article 46B.080 and the transfer of the defendant [~~shall be transferred,~~] without unnecessary delay [~~and for the remainder of the period prescribed by Article 46B.073(b),~~] to the first available facility that is appropriate for that defendant as provided by Article 46B.073(c) or (d) for the remainder of the period under the extension;

(B)  proceed under Subchapter E or F; or

(C)  release the defendant on bail as permitted under Chapter 17; and

(2)  for a defendant charged with a misdemeanor, the court may:

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

(B)  proceed under Subchapter E or F;

(C)  release the defendant on bail as permitted under Chapter 17; or

(D)  dismiss the charges in accordance with Article 46B.010.

SECTION 7.  The changes in law made by this Act apply only to the commitment of a defendant against whom proceedings are initiated under Chapter 46B, Code of Criminal Procedure, as amended by this Act, on or after the effective date of this Act. The commitment of a defendant against whom proceedings are initiated before the effective date of this Act is governed by the law in effect on the date the proceedings were initiated, and the former law is continued in effect for that purpose.

SECTION 8.  This Act takes effect September 1, 2019.