

BILL ANALYSIS

C.S.H.B. 3346
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County Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Current data from the Prison Policy Initiative indicates that over 43 percent of incarcerated individuals have been diagnosed with a mental illness and that 66 percent of those individuals do not receive any mental health care or medication while in custody. Incarcerated individuals have a higher rate of mental illness than the general population and such illness is more likely to increase in severity during a period of incarceration. Mental health treatment is a fundamental human right and systemic solutions are needed to ensure proper rehabilitation of incarcerated individuals. C.S.H.B. 3346 seeks to help address this issue by providing for the administration of medication to certain defendants in sheriff custody in order to address treatment gaps, support rehabilitation, and reduce recidivism.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3346 amends the Code of Criminal Procedure to revise provisions relating to the administration of medication while in the custody of a sheriff to require a sheriff or sheriff's deputy having custody of a defendant discharged from a facility, jail-based competency restoration program, or outpatient competency restoration program, according to information available at the time and unless directed otherwise by a physician treating the defendant, to ensure that the defendant is provided with the types and dosages of medication prescribed for the defendant and, in accordance with applicable law, compel the defendant to take all prescribed medication to ensure the defendant's continuity of care.

C.S.H.B. 3346 requires the sheriff or deputy, if the defendant is being treated with a psychotropic medication at the time the defendant is discharged, to ensure that administration of the medication continues unless directed otherwise by the physician for the jail. The bill requires the jail physician to appropriately document the need for any discontinuation or other change in the use or amount of medication after consulting with the physician who treated the defendant at the facility or program to ensure that the change does not adversely affect the defendant's mental health or ability to continue with court proceedings.

C.S.H.B. 3346 removes the entitlement of the sheriff to reimbursement from the state for providing prescribed medication to the defendant to the extent funds are appropriated for that

purpose and repeals a related provision that establishes that a sheriff is not required to comply with the requirement to ensure that the defendant is provided with prescribed medication if the sheriff determines that funds are not available from the state to reimburse the sheriff. The bill instead requires the Health and Human Services Commission (HHSC) to reimburse the sheriff for the cost of providing the medication to the defendant.

C.S.H.B. 3346 repeals Article 46B.0825(c), Code of Criminal Procedure.

EFFECTIVE DATE

September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 3346 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes provisions absent in the introduced that do the following:

- change the defendants determined to be incompetent to stand trial who are in the custody of a sheriff or sheriff's deputy and for whom the sheriff or deputy is required to ensure is provided with the types and dosages of prescribed medication according to information available at the time and unless directed otherwise by a physician treating the defendant, from a defendant in custody during proceedings relating to a defendant's return to court or in custody for transportation as required by provisions relating to competency restoration education services or relating to the transportation of a defendant to court, to a defendant discharged from an applicable facility, jail-based competency restoration program, or outpatient competency restoration program; and
- also require the sheriff or deputy as such, in accordance with applicable law, to compel the defendant to take all prescribed medication to ensure the defendant's continuity of care.

Whereas the introduced extended the entitlement of a sheriff to reimbursement from the state for providing prescribed medication to a defendant to the extent funds are appropriated for that purpose to apply also to the provision of medication to a defendant under the bill's provisions, the substitute replaces that entitlement with a requirement for HHSC to reimburse the sheriff for the cost of providing the medication to the defendant.