

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**May 9, 2011**

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

**FROM:** John S O'Brien, Director, Legislative Budget Board

**IN RE: HB2725** by Hartnett (Relating to the determination of incompetency in criminal cases. ),  
**Committee Report 2nd House, Substituted**

**No significant fiscal implication to the State is anticipated.**

The bill would make multiple changes regarding incompetency procedures including specifying 60 days for an initial inpatient competency restoration period if the defendant is charged with an offense punishable as a misdemeanor and a period of not more than 120 days if the defendant is charged with an offense punishable as a felony. Only one 60 day extension is allowed. The bill also clarifies how long a defendant can be kept in a correctional facility, an inpatient facility or an outpatient competency restoration program. In the bill, time served in jail waiting for a hospital bed or waiting in jail for a trial will begin to count toward maximum time served.

The bill requires the Department of State Health Services (DSHS) in coordination with the Health and Human Services Commission (HHSC) to study the feasibility of providing home and community-based services instead of institutional care to persons with severe and persistent mental illness who have a history of more than one inpatient forensic commitment and to report the results of the study to the Legislature by December 1, 2012.

According to DSHS, it is unknown how many individuals may meet this new maximum (60 or 120) day length of stay next fiscal year when the bill would take effect. Additionally DSHS believes that there should be no significant fiscal impact associated with this and the other related provisions in the bill based on the assumption that an outpatient commitment is dependent upon available services in the community; the Health and Safety Code Chapter 574.034 states that "a judge may order a proposed patient to receive court-ordered temporary outpatient mental health services only if the judge finds that appropriate mental health services are available to the patient." Given this provision DSHS assumes no additional fiscal impact associated with outpatient commitments.

According to DSHS and HHSC the required feasibility study could be done using existing resources and it is not anticipated that any other provisions of the bill would result in a significant fiscal impact to the State.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 520 Board of Examiners of Psychologists, 537 State Health Services, Department of, 529 Health and Human Services Commission, 539 Aging and Disability Services, Department of

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