

By: Price, Murr, Moody, Coleman, White,  
et al.

H.B. No. 12

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to individuals who are or may be persons with a mental  
3 illness or an intellectual disability and who are or have been  
4 involved with the court system.

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

6 SECTION 1. Article 15.17, Code of Criminal Procedure, is  
7 amended by adding Subsection (a-1) to read as follows:

8 (a-1) If a magistrate is provided written or electronic  
9 notice of credible information that may establish reasonable cause  
10 to believe that a person brought before the magistrate has a mental  
11 illness or is a person with an intellectual disability, the  
12 magistrate shall conduct the proceedings described by Article 16.22  
13 or 17.032, as appropriate.

14 SECTION 2. Article 16.22, Code of Criminal Procedure, is  
15 amended to read as follows:

16 Art. 16.22. EARLY IDENTIFICATION OF DEFENDANT SUSPECTED OF  
17 HAVING MENTAL ILLNESS OR INTELLECTUAL DISABILITY [~~MENTAL~~  
18 ~~RETARDATION~~]. (a)(1) Not later than four [~~72~~] hours after the  
19 sheriff or municipal jailer having custody of a defendant for an  
20 offense punishable as a Class B misdemeanor or any higher category  
21 of offense receives [~~receiving~~] credible information that may  
22 establish reasonable cause to believe that the [~~a~~] defendant  
23 [~~committed to the sheriff's custody~~] has a mental illness or is a  
24 person with an intellectual disability [~~mental retardation,~~

1 ~~including observation of the defendant's behavior immediately~~  
2 ~~before, during, and after the defendant's arrest and the results of~~  
3 ~~any previous assessment of the defendant],~~ the sheriff or municipal  
4 jailer shall provide written or electronic notice [~~of the~~  
5 ~~information]~~ to the magistrate. The notice must include any  
6 information related to the sheriff's or municipal jailer's  
7 determination, such as information regarding the defendant's  
8 behavior immediately before, during, and after the defendant's  
9 arrest and, if applicable, the results of any previous assessment  
10 of the defendant. On a determination that there is reasonable cause  
11 to believe that the defendant has a mental illness or is a person  
12 with an intellectual disability [~~mental retardation~~], the  
13 magistrate, except as provided by Subdivision (2), shall order the  
14 local mental health [~~or mental retardation~~] authority, the local  
15 intellectual and developmental disability authority, or another  
16 qualified mental health or intellectual disability [~~mental~~  
17 ~~retardation]~~ expert to:

18 (A) collect information regarding whether the  
19 defendant has a mental illness as defined by Section 571.003,  
20 Health and Safety Code, or is a person with an intellectual  
21 disability [~~mental retardation~~] as defined by Section 591.003,  
22 Health and Safety Code, including, if applicable, information  
23 obtained from any previous assessment of the defendant and  
24 information regarding any previously recommended treatment; and

25 (B) provide to the magistrate a written  
26 assessment of the information collected under Paragraph (A) on the  
27 form approved by the Texas Correctional Office on Offenders with

1 Medical or Mental Impairments under Section 614.0032(b)(2), Health  
2 and Safety Code.

3           (2) The magistrate is not required to order the  
4 collection of information under Subdivision (1) if the defendant in  
5 the year preceding the defendant's applicable date of arrest has  
6 been determined to have a mental illness or to be a person with an  
7 intellectual disability [~~mental retardation~~] by the local mental  
8 health [~~or mental retardation~~] authority, the local intellectual  
9 and developmental disability authority, or another mental health or  
10 intellectual disability [~~mental retardation~~] expert described by  
11 Subdivision (1). A court that elects to use the results of that  
12 previous determination may proceed under Subsection (c).

13           (3) If the defendant fails or refuses to submit to the  
14 collection of information regarding the defendant as required under  
15 Subdivision (1), the magistrate may order the defendant to submit  
16 to an examination in a jail or in another place [~~mental health~~  
17 ~~facility~~] determined to be appropriate by the local mental health  
18 [~~or mental retardation~~] authority or local intellectual and  
19 developmental disability authority for a reasonable period not to  
20 exceed 48 hours [~~21 days~~]. If applicable, the [~~The magistrate may~~  
21 ~~order a defendant to a facility operated by the Department of State~~  
22 ~~Health Services or the Department of Aging and Disability Services~~  
23 ~~for examination only on request of the local mental health or mental~~  
24 ~~retardation authority and with the consent of the head of the~~  
25 ~~facility. If a defendant who has been ordered to a facility~~  
26 ~~operated by the Department of State Health Services or the~~  
27 ~~Department of Aging and Disability Services for examination remains~~

1 ~~in the facility for a period exceeding 21 days, the head of that~~  
2 ~~facility shall cause the defendant to be immediately transported to~~  
3 ~~the committing court and placed in the custody of the sheriff of the~~  
4 ~~county in which the committing court is located. That] county in~~  
5 which the committing court is located shall reimburse the local  
6 mental health authority or local intellectual and developmental  
7 disability authority [~~facility~~] for the mileage and per diem  
8 expenses of the personnel required to transport the defendant,  
9 calculated in accordance with the state travel regulations in  
10 effect at the time.

11 (b) Except as otherwise permitted by the magistrate for good  
12 cause shown, a [A] written assessment of the information collected  
13 under Subsection (a)(1)(A) shall be provided to the magistrate:

14 (1) for a defendant held in custody, not later than 72  
15 hours after the time an order was issued under Subsection (a); or

16 (2) for a defendant released from custody, not later  
17 than the 30th day after the date an [of any] order was issued under  
18 Subsection (a).

19 (b-1) The [in a felony case and not later than the 10th day  
20 after the date of any order issued under that subsection in a  
21 misdemeanor case, and the] magistrate shall provide copies of the  
22 written assessment to the defense counsel, the [prosecuting]  
23 attorney representing the state, and the trial court. The written  
24 assessment must include a description of the procedures used in the  
25 collection of information under Subsection (a)(1)(A) and the  
26 applicable expert's observations and findings pertaining to:

27 (1) whether the defendant is a person who has a mental

1 illness or is a person with an intellectual disability [~~mental~~  
2 ~~retardation~~];

3 (2) whether there is clinical evidence to support a  
4 belief that the defendant may be incompetent to stand trial and  
5 should undergo a complete competency examination under Subchapter  
6 B, Chapter 46B; and

7 (3) any appropriate or recommended treatment or  
8 service.

9 (c) After the trial court receives the applicable expert's  
10 written assessment relating to the defendant under Subsection (b-1)  
11 [~~(b)~~] or elects to use the results of a previous determination as  
12 described by Subsection (a)(2), the trial court may, as applicable:

13 (1) resume criminal proceedings against the  
14 defendant, including any appropriate proceedings related to the  
15 defendant's release on personal bond under Article 17.032 if the  
16 defendant is being held in custody;

17 (2) resume or initiate competency proceedings, if  
18 required, as provided by Chapter 46B or other proceedings affecting  
19 the defendant's receipt of appropriate court-ordered mental health  
20 or intellectual disability [~~mental—retardation~~] services,  
21 including proceedings related to the defendant's receipt of  
22 outpatient mental health services under Section 574.034, Health and  
23 Safety Code; [~~or~~]

24 (3) consider the written assessment during the  
25 punishment phase after a conviction of the offense for which the  
26 defendant was arrested, as part of a presentence investigation  
27 report, or in connection with the impositions of conditions

1 following placement on community supervision, including deferred  
2 adjudication community supervision; or

3 (4) refer the defendant to an appropriate specialty  
4 court established or operated under Subtitle K, Title 2, Government  
5 Code.

6 (d) This article does not prevent the applicable court from,  
7 before, during, or after the collection of information regarding  
8 the defendant as described by this article:

9 (1) releasing a defendant who has a mental illness  
10 [mentally ill] or is a person with an intellectual disability  
11 [mentally retarded defendant] from custody on personal or surety  
12 bond, including imposing as a condition of release that the  
13 defendant submit to an examination or other assessment; or

14 (2) ordering an examination regarding the defendant's  
15 competency to stand trial.

16 (e) The magistrate shall submit to the Office of Court  
17 Administration of the Texas Judicial System on a monthly basis the  
18 number of written assessments provided to the court under  
19 Subsection (a)(1)(B).

20 SECTION 3. Articles 17.032(a), (b), (c), and (d), Code of  
21 Criminal Procedure, are amended to read as follows:

22 (a) In this article, "violent offense" means an offense  
23 under the following sections of the Penal Code:

- 24 (1) Section 19.02 (murder);  
25 (2) Section 19.03 (capital murder);  
26 (3) Section 20.03 (kidnapping);  
27 (4) Section 20.04 (aggravated kidnapping);

- 1 (5) Section 21.11 (indecent with a child);  
2 (6) Section 22.01(a)(1) (assault), if the offense  
3 involved family violence as defined by Section 71.004, Family Code;  
4 (7) Section 22.011 (sexual assault);  
5 (8) Section 22.02 (aggravated assault);  
6 (9) Section 22.021 (aggravated sexual assault);  
7 (10) Section 22.04 (injury to a child, elderly  
8 individual, or disabled individual);  
9 (11) Section 29.03 (aggravated robbery);  
10 (12) Section 21.02 (continuous sexual abuse of young  
11 child or children); or  
12 (13) Section 20A.03 (continuous trafficking of  
13 persons).

14 (b) Notwithstanding Article 17.03(b), or a bond schedule  
15 adopted or a standing order entered by a judge, a [A] magistrate  
16 shall release a defendant on personal bond unless good cause is  
17 shown otherwise if ~~the~~:

18 (1) the defendant is not charged with and has not been  
19 previously convicted of a violent offense;

20 (2) the defendant is examined by the local mental  
21 health ~~[or mental retardation]~~ authority, the local intellectual  
22 and developmental disability authority, or another qualified  
23 mental health or intellectual disability expert under Article 16.22  
24 ~~[of this code]~~;

25 (3) the applicable expert, in a written assessment  
26 submitted to the magistrate under Article 16.22:

27 (A) concludes that the defendant has a mental

1 illness or is a person with an intellectual disability [~~mental~~  
2 ~~retardation~~] and is nonetheless competent to stand trial; and

3 (B) recommends mental health treatment for the  
4 defendant; [~~and~~]

5 (4) the magistrate determines, in consultation with  
6 the local mental health [~~or mental retardation~~] authority or local  
7 intellectual and developmental disability authority, that  
8 appropriate community-based mental health or intellectual  
9 disability [~~mental retardation~~] services for the defendant are  
10 available in accordance with [~~through the Texas Department of~~  
11 ~~Mental Health and Mental Retardation under~~] Section 534.053 or  
12 534.103, Health and Safety Code, or through another mental health  
13 or intellectual disability [~~mental retardation~~] services provider;  
14 and

15 (5) the magistrate finds, after considering all the  
16 circumstances, a pretrial risk assessment, if applicable, and any  
17 other credible information provided by the attorney representing  
18 the state or the defendant, that release on personal bond would  
19 reasonably ensure the defendant's appearance in court as required  
20 and the safety of the community and the victim of the alleged  
21 offense.

22 (c) The magistrate, unless good cause is shown for not  
23 requiring treatment, shall require as a condition of release on  
24 personal bond under this article that the defendant submit to  
25 outpatient or inpatient mental health or intellectual disability  
26 [~~mental retardation~~] treatment as recommended by the local mental  
27 health [~~or mental retardation~~] authority, the local intellectual



1 and developmental disability authority, or another qualified  
2 mental health or intellectual disability expert if the defendant's:

3 (1) mental illness or intellectual disability [~~mental~~  
4 ~~retardation~~] is chronic in nature; or

5 (2) ability to function independently will continue to  
6 deteriorate if the defendant is not treated.

7 (d) In addition to a condition of release imposed under  
8 Subsection (c) [~~of this article~~], the magistrate may require the  
9 defendant to comply with other conditions that are reasonably  
10 necessary to ensure the defendant's appearance in court as required  
11 and the safety of [~~protect~~] the community and the victim of the  
12 alleged offense.

13 SECTION 4. Article [32A.01](#), Code of Criminal Procedure, is  
14 amended by amending Subsection (a) and adding Subsection (c) to  
15 read as follows:

16 (a) Insofar as is practicable, the trial of a criminal  
17 action shall be given preference over trials of civil cases, and the  
18 trial of a criminal action against a defendant who is detained in  
19 jail pending trial of the action shall be given preference over  
20 trials of other criminal actions not described by Subsection (b) or  
21 (c).

22 (c) Except as provided by Subsection (b), the trial of a  
23 criminal action against a defendant who has been determined to be  
24 restored to competency under Article [46B.084](#) shall be given  
25 preference over other matters before the court, whether civil or  
26 criminal.

27 SECTION 5. Article [46B.001](#), Code of Criminal Procedure, is

1 amended by adding Subdivision (9) to read as follows:

2 (9) "Competency restoration" means the treatment or  
3 education process for restoring a person's ability to consult with  
4 the person's attorney with a reasonable degree of rational  
5 understanding and a rational and factual understanding of the court  
6 proceedings and charges against the person.

7 SECTION 6. The heading to Article 46B.0095, Code of  
8 Criminal Procedure, is amended to read as follows:

9 Art. 46B.0095. MAXIMUM PERIOD OF COMMITMENT OR ~~[OUTPATIENT~~  
10 ~~TREATMENT]~~ PROGRAM PARTICIPATION DETERMINED BY MAXIMUM TERM FOR  
11 OFFENSE.

12 SECTION 7. Articles 46B.0095(a), (b), (c), and (d), Code of  
13 Criminal Procedure, are amended to read as follows:

14 (a) A defendant may not, under Subchapter D or E or any other  
15 provision of this chapter, be committed to a mental hospital or  
16 other inpatient or residential facility or to a jail-based  
17 competency restoration program, ordered to participate in an  
18 outpatient competency restoration ~~[treatment]~~ program, or  
19 subjected to any combination of ~~[both]~~ inpatient, ~~[and]~~ outpatient,  
20 or jail-based competency restoration program participation  
21 ~~[treatment]~~ for a cumulative period that exceeds the maximum term  
22 provided by law for the offense for which the defendant was to be  
23 tried, except that if the defendant is charged with a misdemeanor  
24 and has been ordered only to participate in an outpatient  
25 competency restoration or treatment program under Subchapter D or  
26 E, the maximum period of restoration is two years.

27 (b) On expiration of the maximum restoration period under

1 Subsection (a), the mental hospital, ~~[or other inpatient or~~  
2 ~~residential]~~ facility, or ~~[outpatient treatment]~~ program provider  
3 identified in the most recent order of commitment or order of  
4 outpatient competency restoration or treatment program  
5 participation under this chapter shall assess the defendant to  
6 determine if civil proceedings under Subtitle C or D, Title 7,  
7 Health and Safety Code, are appropriate. The defendant may be  
8 confined for an additional period in a mental hospital or other  
9 ~~[inpatient or residential]~~ facility or may be ordered to  
10 participate for an additional period in an outpatient treatment  
11 program, as appropriate, only pursuant to civil proceedings  
12 conducted under Subtitle C or D, Title 7, Health and Safety Code, by  
13 a court with probate jurisdiction.

14 (c) The cumulative period described by Subsection (a):

15 (1) begins on the date the initial order of commitment  
16 or initial order for outpatient competency restoration or treatment  
17 program participation is entered under this chapter; and

18 (2) in addition to any inpatient or outpatient  
19 competency restoration ~~[treatment]~~ periods or program  
20 participation periods described by Subsection (a), includes any  
21 time that, following the entry of an order described by Subdivision  
22 (1), the defendant is confined in a correctional facility, as  
23 defined by Section 1.07, Penal Code, or is otherwise in the custody  
24 of the sheriff during or while awaiting, as applicable:

25 (A) the defendant's transfer to:

26 (i) a mental hospital or other inpatient or  
27 residential facility; or

1                    (ii) a jail-based competency restoration  
2 program;

3                    (B) the defendant's release on bail to  
4 participate in an outpatient competency restoration or treatment  
5 program; or

6                    (C) a criminal trial following any temporary  
7 restoration of the defendant's competency to stand trial.

8                    (d) The court shall credit to the cumulative period  
9 described by Subsection (a) any time that a defendant, following  
10 arrest for the offense for which the defendant was to be tried, is  
11 confined in a correctional facility, as defined by Section 1.07,  
12 Penal Code, before the initial order of commitment or initial order  
13 for outpatient competency restoration or treatment program  
14 participation is entered under this chapter.

15                    SECTION 8. Article 46B.010, Code of Criminal Procedure, is  
16 amended to read as follows:

17                    Art. 46B.010. MANDATORY DISMISSAL OF MISDEMEANOR CHARGES.  
18 If a court orders that a defendant charged with a misdemeanor  
19 punishable by confinement be committed to a mental hospital or  
20 other inpatient or residential facility or to a jail-based  
21 competency restoration program, participate in an outpatient  
22 competency restoration or treatment program, or be subjected to any  
23 combination of [both] inpatient or [and] outpatient competency  
24 restoration or treatment program participation, and the defendant  
25 is not tried before the expiration of the maximum period of  
26 restoration described by Article 46B.0095:

27                    (1) on the motion of the attorney representing the

1 state, the court shall dismiss the charge; or

2 (2) on the motion of the attorney representing the  
3 defendant and notice to the attorney representing the state, the  
4 court:

5 (A) shall set the matter to be heard not later  
6 than the 10th day after the date of filing of the motion; and

7 (B) may dismiss the charge on a finding that the  
8 defendant was not tried before the expiration of the maximum period  
9 of restoration.

10 SECTION 9. Article [46B.026](#), Code of Criminal Procedure, is  
11 amended by adding Subsection (d) to read as follows:

12 (d) The court shall submit to the Office of Court  
13 Administration of the Texas Judicial System on a monthly basis the  
14 number of reports provided to the court under this article.

15 SECTION 10. Article [46B.071\(a\)](#), Code of Criminal Procedure,  
16 is amended to read as follows:

17 (a) Except as provided by Subsection (b), on a determination  
18 that a defendant is incompetent to stand trial, the court shall:

19 (1) if the defendant is charged with an offense  
20 punishable as a Class B misdemeanor:

21 (A) commit the defendant to a jail-based  
22 competency restoration program [~~facility~~] under Article [46B.073](#);  
23 [~~or~~]

24 (B) [~~+~~2] release the defendant on bail under  
25 Article [46B.0711](#); or

26 (C) commit the defendant to a facility under  
27 Article [46B.073](#) only if:

1                   (i) a jail-based competency restoration  
2 program under Article 46B.073 is not available; and

3                   (ii) an outpatient competency restoration  
4 program under Article 46B.0711 is not available; or

5                   (2) if the defendant is charged with an offense  
6 punishable as a Class A misdemeanor or any higher category of  
7 offense:

8                   (A) commit the defendant to a facility or  
9 jail-based competency restoration program under Article 46B.073;  
10 or

11                   (B) release the defendant on bail under Article  
12 46B.072.

13           SECTION 11. Subchapter D, Chapter 46B, Code of Criminal  
14 Procedure, is amended by adding Article 46B.0711 to read as  
15 follows:

16           Art. 46B.0711. RELEASE ON BAIL FOR CLASS B MISDEMEANOR. (a)  
17 This article applies only to a defendant who is subject to an  
18 initial restoration period based on Article 46B.071.

19           (b) Subject to conditions reasonably related to ensuring  
20 public safety and the effectiveness of the defendant's treatment,  
21 if the court determines that a defendant charged with an offense  
22 punishable as a Class B misdemeanor and found incompetent to stand  
23 trial is not a danger to others and may be safely treated on an  
24 outpatient basis with the specific objective of attaining  
25 competency to stand trial, and an appropriate outpatient competency  
26 restoration program is available for the defendant, the court  
27 shall:

1           (1) release the defendant on bail or continue the  
2 defendant's release on bail; and

3           (2) order the defendant to participate in an  
4 outpatient competency restoration program for a period not to  
5 exceed 60 days.

6           (c) Notwithstanding Subsection (b), the court may order a  
7 defendant to participate in an outpatient competency restoration  
8 program under this article only if:

9           (1) the court receives and approves a comprehensive  
10 plan that:

11                   (A) provides for the treatment of the defendant  
12 for purposes of competency restoration; and

13                   (B) identifies the person who will be responsible  
14 for providing that treatment to the defendant; and

15           (2) the court finds that the treatment proposed by the  
16 plan will be available to and will be provided to the defendant.

17           (d) An order issued under this article may require the  
18 defendant to participate in:

19                   (1) as appropriate, an outpatient competency  
20 restoration program administered by a community center or an  
21 outpatient competency restoration program administered by any  
22 other entity that provides competency restoration services; and

23                   (2) an appropriate prescribed regimen of medical,  
24 psychiatric, or psychological care or treatment, including care or  
25 treatment involving the administration of psychoactive medication,  
26 including those required under Article [46B.086](#).

27           SECTION 12. The heading to Article [46B.072](#), Code of

1 Criminal Procedure, is amended to read as follows:

2 Art. 46B.072. RELEASE ON BAIL FOR FELONY OR CLASS A  
3 MISDEMEANOR.

4 SECTION 13. Articles 46B.072(a-1), (b), (c), and (d), Code  
5 of Criminal Procedure, are amended to read as follows:

6 (a-1) Subject to conditions reasonably related to ensuring  
7 [~~assuring~~] public safety and the effectiveness of the defendant's  
8 treatment, if the court determines that a defendant charged with an  
9 offense punishable as a felony or a Class A misdemeanor and found  
10 incompetent to stand trial is not a danger to others and may be  
11 safely treated on an outpatient basis with the specific objective  
12 of attaining competency to stand trial, and [~~if~~] an appropriate  
13 outpatient competency restoration [~~treatment~~] program is available  
14 for the defendant, the court:

15 (1) may release on bail a defendant found incompetent  
16 to stand trial with respect to an offense punishable as a felony or  
17 may continue the defendant's release on bail; and

18 (2) shall release on bail a defendant found  
19 incompetent to stand trial with respect to an offense punishable as  
20 a Class A [~~a~~] misdemeanor or shall continue the defendant's release  
21 on bail.

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

26 (c) Notwithstanding Subsection (a-1), the court may order a  
27 defendant to participate in an outpatient competency restoration



1 ~~[treatment]~~ program under this article only if:

2 (1) the court receives and approves a comprehensive  
3 plan that:

4 (A) provides for the treatment of the defendant  
5 for purposes of competency restoration; and

6 (B) identifies the person who will be responsible  
7 for providing that treatment to the defendant; and

8 (2) the court finds that the treatment proposed by the  
9 plan will be available to and will be provided to the defendant.

10 (d) An order issued under this article may require the  
11 defendant to participate in:

12 (1) as appropriate, an outpatient competency  
13 restoration ~~[treatment]~~ program administered by a community center  
14 or an outpatient competency restoration ~~[treatment]~~ program  
15 administered by any other entity that provides outpatient  
16 competency restoration services; and

17 (2) an appropriate prescribed regimen of medical,  
18 psychiatric, or psychological care or treatment, including care or  
19 treatment involving the administration of psychoactive medication,  
20 including those required under Article [46B.086](#).

21 SECTION 14. Article [46B.073](#), Code of Criminal Procedure, is  
22 amended by amending Subsections (b), (c), (d), and (e) and adding  
23 Subsection (f) to read as follows:

24 (b) For further examination and competency restoration  
25 services with ~~[treatment toward]~~ the specific objective of the  
26 defendant attaining competency to stand trial, the court shall  
27 commit a defendant described by Subsection (a) to a mental health

1 facility, ~~[or]~~ residential care facility, or jail-based competency  
2 restoration program for the applicable period as follows:

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

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

7 (c) If the defendant is charged with an offense listed in  
8 Article 17.032(a), other than an offense under Section 22.01(a)(1),  
9 Penal Code [~~listed in Article 17.032(a)(6)~~], or the indictment  
10 alleges an affirmative finding under Article 42A.054(c) or (d), the  
11 court shall enter an order committing the defendant for competency  
12 restoration services to the maximum security unit of any facility  
13 designated by the Department of State Health Services, to an agency  
14 of the United States operating a mental hospital, or to a Department  
15 of Veterans Affairs hospital.

16 (d) If the defendant is not charged with an offense  
17 described by Subsection (c) and the indictment does not allege an  
18 affirmative finding under Article 42A.054(c) or (d), the court  
19 shall enter an order, in accordance with Article 46B.071(a),  
20 committing the defendant to a jail-based competency restoration  
21 program or to a mental health facility or residential care facility  
22 determined to be appropriate by the local mental health authority  
23 or local intellectual and developmental disability authority. A  
24 defendant may be committed to a jail-based competency restoration  
25 program only if the program provider determines the defendant will  
26 begin to receive competency restoration services within 72 hours of  
27 arriving at the program.

1           (e) On notification from the head of a facility or a program  
2 provider under Article 46B.079(b)(1), the court shall order the  
3 defendant to receive competency restoration education services in a  
4 jail-based competency restoration program or in an outpatient  
5 competency restoration program, as appropriate and if available.

6           (f) If a defendant for whom an order is entered under  
7 Subsection (e) was committed for competency restoration to a  
8 facility other than a jail-based competency restoration program,  
9 the court shall send a copy of that order to:

10                 (1) the sheriff of the county in which the court is  
11 located;

12                 (2) the head of the facility to which the defendant was  
13 committed for competency restoration; and

14                 (3) the local mental health authority or local  
15 intellectual and developmental disability authority, as  
16 appropriate ~~[Notwithstanding Subsections (b), (c), and (d) and~~  
17 ~~notwithstanding the contents of the applicable order of commitment,~~  
18 ~~in a county in which the Department of State Health Services~~  
19 ~~operates a jail-based restoration of competency pilot program under~~  
20 ~~Article 46B.090, a defendant for whom an order is issued under this~~  
21 ~~article committing the defendant to a mental health facility or~~  
22 ~~residential care facility shall be provided competency restoration~~  
23 ~~services at the jail under the pilot program if the service provider~~  
24 ~~at the jail determines the defendant will immediately begin to~~  
25 ~~receive services. If the service provider at the jail determines~~  
26 ~~the defendant will not immediately begin to receive competency~~  
27 ~~restoration services, the defendant shall be transferred to the~~

1 ~~appropriate mental health facility or residential care facility as~~  
2 ~~provided by the court order. This subsection expires September 1,~~  
3 ~~2019].~~

4 SECTION 15. Article 46B.074(a), Code of Criminal Procedure,  
5 is amended to read as follows:

6 (a) A defendant may be committed to a jail-based competency  
7 restoration program, mental health facility, or residential care  
8 facility under this subchapter only on competent medical or  
9 psychiatric testimony provided by an expert qualified under Article  
10 46B.022.

11 SECTION 16. Article 46B.075, Code of Criminal Procedure, is  
12 amended to read as follows:

13 Art. 46B.075. TRANSFER OF DEFENDANT TO FACILITY OR  
14 ~~[OUTPATIENT TREATMENT]~~ PROGRAM. An order issued under Article  
15 46B.0711, 46B.072, or 46B.073 must place the defendant in the  
16 custody of the sheriff or sheriff's deputy for transportation to  
17 the facility or ~~[outpatient treatment]~~ program, as applicable, in  
18 which the defendant is to receive ~~[treatment for purposes of]~~  
19 competency restoration services.

20 SECTION 17. Articles 46B.0755(a), (b), and (d), Code of  
21 Criminal Procedure, are amended to read as follows:

22 (a) Notwithstanding any other provision of this subchapter,  
23 if the court receives credible evidence indicating that the  
24 defendant has been restored to competency at any time after the  
25 defendant's incompetency trial under Subchapter C but before the  
26 defendant is transported under Article 46B.075 to the ~~[a mental~~  
27 ~~health facility, residential care]~~ facility~~[,]~~ or ~~[outpatient~~

1 ~~treatment~~] program, as applicable, the court may appoint  
2 disinterested experts to reexamine the defendant in accordance with  
3 Subchapter B. The court is not required to appoint the same expert  
4 or experts who performed the initial examination of the defendant  
5 under that subchapter.

6 (b) If after a reexamination of the defendant the applicable  
7 expert's report states an opinion that the defendant remains  
8 incompetent, the court's order under Article 46B.0711, 46B.072, or  
9 46B.073 remains in effect, and the defendant shall be transported  
10 to the facility or [~~outpatient treatment~~] program as required by  
11 Article 46B.075. If after a reexamination of the defendant the  
12 applicable expert's report states an opinion that the defendant has  
13 been restored to competency, the court shall withdraw its order  
14 under Article 46B.0711, 46B.072, or 46B.073 and proceed under  
15 Subsection (c) or (d).

16 (d) The court shall hold a hearing to determine whether the  
17 defendant has been restored to competency if any party fails to  
18 agree or if the court fails to concur that the defendant is  
19 competent to stand trial. If a court holds a hearing under this  
20 subsection, on the request of the counsel for either party or the  
21 motion of the court, a jury shall make the competency  
22 determination. For purposes of the hearing, incompetency is  
23 presumed, and the defendant's competency must be proved by a  
24 preponderance of the evidence. If after the hearing the defendant  
25 is again found to be incompetent to stand trial, the court shall  
26 issue a new order under Article 46B.0711, 46B.072, or 46B.073, as  
27 appropriate based on the defendant's current condition.

1 SECTION 18. Article 46B.076, Code of Criminal Procedure, is  
2 amended to read as follows:

3 Art. 46B.076. COURT'S ORDER. (a) If the defendant is found  
4 incompetent to stand trial, not later than the date of the order of  
5 commitment or of release on bail, as applicable, the court shall  
6 send a copy of the order to the applicable facility [~~to which the~~  
7 ~~defendant is committed~~] or [~~the outpatient treatment~~] program [~~to~~  
8 ~~which the defendant is released~~]. The court shall also provide to  
9 the facility or [~~outpatient treatment~~] program copies of the  
10 following made available to the court during the incompetency  
11 trial:

- 12 (1) reports of each expert;
- 13 (2) psychiatric, psychological, or social work  
14 reports that relate to the mental condition of the defendant;
- 15 (3) documents provided by the attorney representing  
16 the state or the attorney representing the defendant that relate to  
17 the defendant's current or past mental condition;
- 18 (4) copies of the indictment or information and any  
19 supporting documents used to establish probable cause in the case;
- 20 (5) the defendant's criminal history record; and
- 21 (6) the addresses of the attorney representing the  
22 state and the attorney representing the defendant.

23 (b) The court shall order that the transcript of all medical  
24 testimony received by the jury or court be promptly prepared by the  
25 court reporter and forwarded to the applicable [~~proper~~] facility or  
26 [~~outpatient treatment~~] program.

27 SECTION 19. Article 46B.077, Code of Criminal Procedure, is

1 amended to read as follows:

2 Art. 46B.077. INDIVIDUAL TREATMENT PROGRAM. (a) The  
3 facility or jail-based competency restoration program to which the  
4 defendant is committed or the outpatient competency restoration  
5 ~~[treatment]~~ program to which the defendant is released on bail  
6 shall:

7 (1) develop an individual program of treatment;

8 (2) assess and evaluate whether the defendant is  
9 likely to be restored to competency in the foreseeable future; and

10 (3) report to the court and to the local mental health  
11 authority or to the local intellectual and developmental disability  
12 authority on the defendant's progress toward achieving competency.

13 (b) If the defendant is committed to an inpatient mental  
14 health facility, ~~[or to a]~~ residential care facility, or jail-based  
15 competency restoration program, the facility or program shall  
16 report to the court at least once during the commitment period. If  
17 the defendant is released to a competency restoration ~~[treatment]~~  
18 program not provided by an inpatient mental health facility, ~~[or a]~~  
19 residential care facility, or jail-based competency restoration  
20 program, the ~~[treatment]~~ program shall report to the court:

21 (1) not later than the 14th day after the date on which  
22 the defendant's competency restoration services begin ~~[treatment~~  
23 ~~begins]~~; and

24 (2) until the defendant is no longer released to the  
25 ~~[treatment]~~ program, at least once during each 30-day period  
26 following the date of the report required by Subdivision (1).

27 SECTION 20. Article [46B.078](#), Code of Criminal Procedure, is

1 amended to read as follows:

2 Art. 46B.078. CHARGES SUBSEQUENTLY DISMISSED. If the  
3 charges pending against a defendant are dismissed, the court that  
4 issued the order under Article 46B.0711, 46B.072, or 46B.073 shall  
5 send a copy of the order of dismissal to the sheriff of the county in  
6 which the court is located and to the head of the facility, the  
7 provider of the jail-based competency restoration program, or the  
8 provider of the outpatient competency restoration [~~treatment~~]  
9 program, as appropriate. On receipt of the copy of the order, the  
10 facility or [~~outpatient treatment~~] program shall discharge the  
11 defendant into the care of the sheriff or sheriff's deputy for  
12 transportation in the manner described by Article 46B.082.

13 SECTION 21. Article 46B.079, Code of Criminal Procedure, is  
14 amended to read as follows:

15 Art. 46B.079. NOTICE AND REPORT TO COURT. (a) The head of  
16 the facility, the provider of the jail-based competency restoration  
17 program, or the provider of the outpatient competency restoration  
18 [~~treatment~~] program, as appropriate, not later than the 15th day  
19 before the date on which the initial restoration period is to expire  
20 according to the terms of the order or under Article 46B.0095 or  
21 other applicable provisions of this chapter, shall notify the  
22 applicable court that the period is about to expire.

23 (b) The head of the facility or jail-based competency  
24 restoration [~~or outpatient treatment~~] program provider shall  
25 promptly notify the court when the head of the facility or  
26 [~~outpatient treatment~~] program provider believes that:

27 (1) the defendant can be safely transferred to a



1 competency restoration program for education services but has not  
2 attained competency to stand trial;

3 (2) the defendant has attained competency to stand  
4 trial; or

5 (3) [~~2~~] the defendant is not likely to attain  
6 competency in the foreseeable future.

7 (b-1) The outpatient competency restoration program  
8 provider shall promptly notify the court when the program provider  
9 believes that:

10 (1) the defendant has attained competency to stand  
11 trial; or

12 (2) the defendant is not likely to attain competency  
13 in the foreseeable future.

14 (c) When the head of the facility or [~~outpatient treatment~~]  
15 program provider gives notice to the court under Subsection (a),  
16 [~~or~~] (b), or (b-1), the head of the facility or [~~outpatient~~  
17 ~~treatment~~] program provider also shall file a final report with the  
18 court stating the reason for the proposed discharge under this  
19 chapter and including a list of the types and dosages of medications  
20 prescribed for the defendant while the defendant was in the  
21 facility or participating in the [~~outpatient treatment~~] program.  
22 To enable any objection to the findings of the report to be made in a  
23 timely manner under Article 46B.084(a-1), the court shall provide  
24 copies of the report to the attorney representing the defendant and  
25 the attorney representing the state.

26 (d) If the head of the facility or [~~outpatient treatment~~]  
27 program provider notifies the court that the initial restoration

1 period is about to expire, the notice may contain a request for an  
2 extension of the period for an additional period of 60 days and an  
3 explanation for the basis of the request. An explanation provided  
4 under this subsection must include a description of any evidence  
5 indicating a reduction in the severity of the defendant's symptoms  
6 or impairment.

7 SECTION 22. Article 46B.080(a), Code of Criminal Procedure,  
8 is amended to read as follows:

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

14 SECTION 23. Article 46B.081, Code of Criminal Procedure, is  
15 amended to read as follows:

16 Art. 46B.081. RETURN TO COURT. Subject to Article  
17 46B.082(b), a defendant committed or released on bail under this  
18 subchapter shall be returned to the applicable court as soon as  
19 practicable after notice to the court is provided under Article  
20 46B.079(a), (b)(2), (b)(3), or (b-1) [46B.079], but not later than  
21 the date of expiration of the period for restoration specified by  
22 the court under Article 46B.0711, 46B.072, or 46B.073.

23 SECTION 24. The heading to Article 46B.082, Code of  
24 Criminal Procedure, is amended to read as follows:

25 Art. 46B.082. TRANSPORTATION OF DEFENDANT TO COURT.

26 SECTION 25. Article 46B.082, Code of Criminal Procedure, is  
27 amended to read as follows:

1           Art. 46B.082. TRANSPORTATION OF DEFENDANT.       (a)     On  
2 notification from the court under Article 46B.078, the sheriff of  
3 the county in which the court is located or the sheriff's deputy  
4 [~~designee~~] shall transport the defendant to the court.

5           (b)   If before the 15th day after the date on which the court  
6 received notification under Article 46B.079(a), (b)(2), (b)(3), or  
7 (b-1) [46B.079] a defendant committed to a facility or jail-based  
8 competency restoration program or ordered to participate in an  
9 outpatient competency restoration [~~treatment~~] program has not been  
10 transported to the court that issued the order under Article  
11 46B.0711, 46B.072, or 46B.073, as applicable, the head of the  
12 facility or provider of the jail-based competency restoration  
13 program to which the defendant is committed or the provider of the  
14 outpatient competency restoration [~~treatment~~] program in which the  
15 defendant is participating shall cause the defendant to be promptly  
16 transported to the court and placed in the custody of the sheriff of  
17 the county in which the court is located. The county in which the  
18 court is located shall reimburse [~~the Department of State Health~~  
19 ~~Services or~~] the Health and Human [~~Department of Aging and~~  
20 ~~Disability~~] Services Commission or program provider, as  
21 appropriate, for the mileage and per diem expenses of the personnel  
22 required to transport the defendant, calculated in accordance with  
23 rates provided in the General Appropriations Act for state  
24 employees.

25           SECTION 26. Subchapter D, Chapter 46B, Code of Criminal  
26 Procedure, is amended by adding Articles 46B.0825 and 46B.0826 to  
27 read as follows:

1       Art. 46B.0825. DISCHARGE AND TRANSPORTATION OF DEFENDANT  
2 FOR COMPETENCY RESTORATION EDUCATION SERVICES. (a) As soon as  
3 practicable but not later than 10 days after receiving a copy of an  
4 order under Article 46B.073(f)(2), the applicable facility shall  
5 discharge the defendant into the care of the sheriff of the county  
6 in which the court is located or the sheriff's deputy. The sheriff  
7 or sheriff's deputy shall transport the defendant to the jail-based  
8 competency restoration program or outpatient competency  
9 restoration program, as appropriate.

10       (b) A jail-based competency restoration program or  
11 outpatient competency restoration program that receives a  
12 defendant under this article shall give to the court:

13               (1) notice regarding the defendant's entry into the  
14 program for purposes of receiving competency restoration education  
15 services; and

16               (2) subsequent notice as otherwise required under  
17 Article 46B.079.

18       Art. 46B.0826. ADMINISTRATION OF MEDICATION WHILE IN  
19 CUSTODY OF SHERIFF. A sheriff or sheriff's deputy having custody of  
20 a defendant for transportation as required by Article 46B.075,  
21 46B.082, or 46B.0825 shall, according to information available at  
22 the time and unless directed otherwise by a physician treating the  
23 defendant, ensure that the defendant is provided with the types and  
24 dosages of medication prescribed for the defendant.

25       SECTION 27. Article 46B.083, Code of Criminal Procedure, is  
26 amended to read as follows:

27       Art. 46B.083. SUPPORTING COMMITMENT INFORMATION PROVIDED

1 BY FACILITY [~~HEAD~~] OR [~~OUTPATIENT TREATMENT~~] PROGRAM [~~PROVIDER~~].

2 (a) If the head of the facility, the jail-based competency  
3 restoration program provider, or the outpatient competency  
4 restoration [~~treatment~~] program provider believes that the  
5 defendant is a person with mental illness and meets the criteria for  
6 court-ordered mental health services under Subtitle C, Title 7,  
7 Health and Safety Code, the head of the facility or the [~~outpatient~~  
8 ~~treatment~~] program provider shall have submitted to the court a  
9 certificate of medical examination for mental illness.

10 (b) If the head of the facility, the jail-based competency  
11 restoration program provider, or the outpatient competency  
12 restoration [~~treatment~~] program provider believes that the  
13 defendant is a person with an intellectual disability, the head of  
14 the facility or the [~~outpatient treatment~~] program provider shall  
15 have submitted to the court an affidavit stating the conclusions  
16 reached as a result of the examination.

17 SECTION 28. Articles [46B.086](#)(a), (b), (c), and (d), Code of  
18 Criminal Procedure, are amended to read as follows:

19 (a) This article applies only to a defendant:

20 (1) who is determined under this chapter to be  
21 incompetent to stand trial;

22 (2) who either:

23 (A) remains confined in a correctional facility,  
24 as defined by Section [1.07](#), Penal Code, for a period exceeding 72  
25 hours while awaiting transfer to an inpatient mental health  
26 facility, a residential care facility, a jail-based competency  
27 restoration program, or an outpatient competency restoration

1 ~~[treatment]~~ program;

2 (B) is committed to an inpatient mental health  
3 facility, ~~[or]~~ a residential care facility, or a jail-based  
4 competency restoration program for the purpose of competency  
5 restoration;

6 (C) is confined in a correctional facility while  
7 awaiting further criminal proceedings following competency  
8 restoration ~~[treatment]~~;

9 (D) is subject to Article 46B.0711, if the court  
10 has made the determinations required by Subsection (b) of that  
11 article; or

12 (E) [~~(D)~~] is subject to Article 46B.072, if the  
13 court has made the determinations required by Subsection (a-1) of  
14 that article;

15 (3) for whom a correctional facility or jail-based  
16 competency restoration program that employs or contracts with a  
17 licensed psychiatrist, an inpatient mental health facility, a  
18 residential care facility, or an outpatient competency restoration  
19 ~~[treatment]~~ program provider has prepared a continuity of care plan  
20 that requires the defendant to take psychoactive medications; and

21 (4) who, after a hearing held under Section 574.106 or  
22 592.156, Health and Safety Code, if applicable, has been found to  
23 not meet the criteria prescribed by Sections 574.106(a) and (a-1)  
24 or 592.156(a) and (b), Health and Safety Code, for court-ordered  
25 administration of psychoactive medications.

26 (b) If a defendant described by Subsection (a) refuses to  
27 take psychoactive medications as required by the defendant's

1 continuity of care plan, the director of the [~~correctional~~]  
2 facility or [~~outpatient treatment~~] program provider, as  
3 applicable, shall notify the court in which the criminal  
4 proceedings are pending of that fact not later than the end of the  
5 next business day following the refusal. The court shall promptly  
6 notify the attorney representing the state and the attorney  
7 representing the defendant of the defendant's refusal. The  
8 attorney representing the state may file a written motion to compel  
9 medication. The motion to compel medication must be filed not later  
10 than the 15th day after the date a judge issues an order stating  
11 that the defendant does not meet the criteria for court-ordered  
12 administration of psychoactive medications under Section [574.106](#)  
13 or [592.156](#), Health and Safety Code, except that, for a defendant in  
14 an outpatient competency restoration [~~treatment~~] program, the  
15 motion may be filed at any time.

16 (c) The court, after notice and after a hearing held not  
17 later than the 10th day after the motion to compel medication is  
18 filed, may authorize the director of the [~~correctional~~] facility or  
19 the program provider, as applicable, to have the medication  
20 administered to the defendant, by reasonable force if necessary. A  
21 hearing under this subsection may be conducted using an electronic  
22 broadcast system as provided by Article [46B.013](#).

23 (d) The court may issue an order under this article only if  
24 the order is supported by the testimony of two physicians, one of  
25 whom is the physician at or with the applicable [~~correctional~~]  
26 facility or [~~outpatient treatment~~] program who is prescribing the  
27 medication as a component of the defendant's continuity of care

1 plan and another who is not otherwise involved in proceedings  
2 against the defendant. The court may require either or both  
3 physicians to examine the defendant and report on the examination  
4 to the court.

5 SECTION 29. Subchapter D, Chapter 46B, Code of Criminal  
6 Procedure, is amended by adding Article 46B.091 to read as follows:

7 Art. 46B.091. JAIL-BASED COMPETENCY RESTORATION PROGRAM  
8 IMPLEMENTED BY COUNTY. (a) In this article:

9 (1) "Commission" means the Health and Human Services  
10 Commission.

11 (2) "Executive commissioner" means the executive  
12 commissioner of the Health and Human Services Commission.

13 (b) A county or counties jointly may develop and implement a  
14 jail-based competency restoration program.

15 (c) A county that implements a program under this article  
16 shall contract with a provider of jail-based competency restoration  
17 services that is a local mental health authority or local  
18 behavioral health authority that is in good standing with the  
19 commission, which may include an authority that is in good standing  
20 with the commission and subcontracts with a provider of jail-based  
21 competency restoration services.

22 (d) A jail-based competency restoration program must:

23 (1) provide jail-based competency restoration  
24 services through the use of a multidisciplinary treatment team that  
25 are:

26 (A) directed toward the specific objective of  
27 restoring the defendant's competency to stand trial; and



1                   (B) similar to other competency restoration  
2 programs;

3                   (2) employ or contract for the services of at least one  
4 psychiatrist;

5                   (3) provide jail-based competency restoration  
6 services through licensed or qualified mental health  
7 professionals;

8                   (4) provide weekly competency restoration hours  
9 commensurate to the hours provided as part of a competency  
10 restoration program at an inpatient mental health facility;

11                   (5) operate in the jail in a designated space that is  
12 separate from the space used for the general population of the jail;

13                   (6) ensure coordination of general health care;

14                   (7) provide mental health treatment and substance use  
15 disorder treatment to defendants, as necessary, for competency  
16 restoration; and

17                   (8) supply clinically appropriate psychoactive  
18 medications for purposes of administering court-ordered medication  
19 to defendants as applicable and in accordance with Article 46B.086  
20 of this code or Section 574.106, Health and Safety Code.

21                   (e) The executive commissioner shall adopt rules as  
22 necessary for a county to develop and implement a program under this  
23 article. The commission shall, as part of the rulemaking process,  
24 establish contract monitoring and oversight requirements for a  
25 local mental health authority or local behavioral health authority  
26 that contracts with a county to provide jail-based competency  
27 restoration services under this article. The contract monitoring

1 and oversight requirements must be consistent with local mental  
2 health authority or local behavioral health authority performance  
3 contract monitoring and oversight requirements, as applicable.

4 (f) The commission may inspect on behalf of the state any  
5 aspect of a program implemented under this article.

6 (g) A psychiatrist or psychologist for the provider shall  
7 conduct at least two full psychiatric or psychological evaluations  
8 of the defendant during the period the defendant receives  
9 competency restoration services in the jail. The psychiatrist or  
10 psychologist must conduct one evaluation not later than the 21st  
11 day and one evaluation not later than the 55th day after the date  
12 the defendant is committed to the program. The psychiatrist or  
13 psychologist shall submit to the court a report concerning each  
14 evaluation required under this subsection.

15 (h) If at any time during a defendant's commitment to a  
16 program implemented under this article the psychiatrist or  
17 psychologist for the provider determines that the defendant has  
18 attained competency to stand trial:

19 (1) the psychiatrist or psychologist for the provider  
20 shall promptly issue and send to the court a report demonstrating  
21 that fact; and

22 (2) the court shall consider that report as the report  
23 of an expert stating an opinion that the defendant has been restored  
24 to competency for purposes of Article 46B.0755(a) or (b).

25 (i) If at any time during a defendant's commitment to a  
26 program implemented under this article the psychiatrist or  
27 psychologist for the provider determines that the defendant's

1 competency to stand trial is unlikely to be restored in the  
2 foreseeable future:

3 (1) the psychiatrist or psychologist for the provider  
4 shall promptly issue and send to the court a report demonstrating  
5 that fact; and

6 (2) the court shall:

7 (A) proceed under Subchapter E or F and order the  
8 transfer of the defendant, without unnecessary delay, to the first  
9 available facility that is appropriate for that defendant, as  
10 provided under Subchapter E or F, as applicable; or

11 (B) release the defendant on bail as permitted  
12 under Chapter 17.

13 (j) If the psychiatrist or psychologist for the provider  
14 determines that a defendant committed to a program implemented  
15 under this article has not been restored to competency by the end of  
16 the 60th day after the date the defendant was committed to the  
17 program:

18 (1) for a defendant charged with a felony, the  
19 defendant shall be transferred, without unnecessary delay and for  
20 the remainder of the period prescribed by Article 46B.073(b), to  
21 the first available facility that is appropriate for that defendant  
22 as provided by Article 46B.073(c) or (d); and

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

25 (A) order a single extension under Article  
26 46B.080 and, notwithstanding Articles 46B.073(e) and (f), the  
27 transfer of the defendant without unnecessary delay to the

1 appropriate mental health facility or residential care facility as  
2 provided by Article 46B.073(d) for the remainder of the period  
3 under the extension;

4 (B) proceed under Subchapter E or F;

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

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

9 (k) Unless otherwise provided by this article, the  
10 provisions of this chapter, including the maximum periods  
11 prescribed by Article 46B.0095, apply to a defendant receiving  
12 competency restoration services, including competency restoration  
13 education services, under a program implemented under this article  
14 in the same manner as those provisions apply to any other defendant  
15 who is subject to proceedings under this chapter.

16 (l) This article does not affect the responsibility of a  
17 county to ensure the safety of a defendant who is committed to the  
18 program and to provide the same adequate care to the defendant as is  
19 provided to other inmates of the jail in which the defendant is  
20 located.

21 SECTION 30. Subchapter C, Chapter 72, Government Code, is  
22 amended by adding Section 72.032 to read as follows:

23 Sec. 72.032. BEST PRACTICES EDUCATION. The director shall  
24 make available to courts information concerning best practices for  
25 addressing the needs of persons with mental illness in the court  
26 system, including the use of the preferred terms and phrases  
27 provided by Section 392.002.

1 SECTION 31. Chapter 121, Government Code, is amended by  
2 adding Section 121.003 to read as follows:

3 Sec. 121.003. SPECIALTY COURTS REPORT. (a) In this  
4 section, "office" means the Office of Court Administration of the  
5 Texas Judicial System.

6 (b) For the period beginning September 1, 2017, and ending  
7 September 1, 2018, the office shall collect information from  
8 specialty courts in this state regarding outcomes of participants  
9 in those specialty courts who are persons with mental illness,  
10 including recidivism rates of those participants, and other  
11 relevant information as determined by the office.

12 (c) Not later than December 1, 2018, the office shall submit  
13 to the legislature a report containing and evaluating the  
14 information collected under Subsection (b).

15 (d) This section expires September 1, 2019.

16 SECTION 32. Subchapter B, Chapter 531, Government Code, is  
17 amended by adding Section 531.0993 to read as follows:

18 Sec. 531.0993. GRANT PROGRAM TO REDUCE RECIDIVISM, ARREST,  
19 AND INCARCERATION AMONG INDIVIDUALS WITH MENTAL ILLNESS AND TO  
20 REDUCE WAIT TIME FOR FORENSIC COMMITMENT. (a) For purposes of this  
21 section, "low-income household" means a household with a total  
22 income at or below 200 percent of the federal poverty guideline.

23 (b) The commission shall establish a program to provide  
24 grants to county-based community collaboratives for the purposes of  
25 reducing:

26 (1) recidivism by, the frequency of arrests of, and  
27 incarceration of persons with mental illness; and

1           (2) the total waiting time for forensic commitment of  
2 persons with mental illness to a state hospital.

3           (c) A community collaborative may petition the commission  
4 for a grant under the program only if the collaborative includes a  
5 county, a local mental health authority that operates in the  
6 county, and each hospital district, if any, located in the county.  
7 A community collaborative may include other local entities  
8 designated by the collaborative's members.

9           (d) The commission shall condition each grant provided to a  
10 community collaborative under this section on the collaborative  
11 providing funds from non-state sources in a total amount at least  
12 equal to:

13           (1) 50 percent of the grant amount if the  
14 collaborative includes a county with a population of less than  
15 250,000;

16           (2) 100 percent of the grant amount if the  
17 collaborative includes a county with a population of 250,000 or  
18 more; and

19           (3) the percentage of the grant amount otherwise  
20 required by this subsection for the largest county included in the  
21 collaborative, if the collaborative includes more than one county.

22           (d-1) To raise the required non-state sourced funds, a  
23 collaborative may seek and receive gifts, grants, or donations from  
24 any person.

25           (d-2) From money appropriated to the commission for each  
26 fiscal year to implement this section, the commission shall reserve  
27 40 percent of that total to be awarded only as grants to a community

1 collaborative that includes a county with a population of less than  
2 250,000.

3 (e) For each state fiscal year for which a community  
4 collaborative seeks a grant, the collaborative must submit a  
5 petition to the commission not later than the 30th day of that  
6 fiscal year. The community collaborative must include with a  
7 petition:

8 (1) a statement indicating the amount of funds from  
9 non-state sources the collaborative is able to provide; and

10 (2) a plan that:

11 (A) is endorsed by each of the collaborative's  
12 member entities;

13 (B) identifies a target population;

14 (C) describes how the grant money and funds from  
15 non-state sources will be used;

16 (D) includes outcome measures to evaluate the  
17 success of the plan; and

18 (E) describes how the success of the plan in  
19 accordance with the outcome measures would further the state's  
20 interest in the grant program's purposes.

21 (f) The commission must review plans submitted with a  
22 petition under Subsection (e) before the commission provides a  
23 grant under this section. The commission must fulfill the  
24 commission's requirements under this subsection not later than the  
25 60th day of each fiscal year.

26 (g) For each petition timely submitted and containing the  
27 statement and plan required by Subsection (e), the commission shall

1 estimate the number of cases of serious mental illness in  
2 low-income households located in the county included in the  
3 community collaborative that submitted the petition. The  
4 commission must fulfill the commission's requirements under this  
5 subsection not later than the 60th day of each fiscal year.

6 (h) For each state fiscal year, the commission shall  
7 determine an amount of grant money available for the program on a  
8 per-case basis by dividing the total amount of money appropriated  
9 to the commission for the purpose of providing grants under this  
10 section for that fiscal year by the total number of the cases  
11 estimated under Subsection (g) for all collaboratives to which the  
12 commission intends to provide grants under this section. The  
13 commission must fulfill the commission's requirements under this  
14 subsection not later than the 60th day of each fiscal year.

15 (i) Not later than the 90th day of each fiscal year, the  
16 commission shall make available to a community collaborative  
17 receiving a grant under this section a grant in an amount equal to  
18 the lesser of:

19 (1) the amount determined by multiplying the per-case  
20 amount determined under Subsection (h) by the number of cases of  
21 serious mental illness in low-income households estimated for that  
22 collaborative under Subsection (g); or

23 (2) the collaborative's available matching funds.

24 (j) Acceptable uses for the grant money and matching funds  
25 include:

26 (1) the continuation of a mental health jail diversion  
27 program;



1           (2) the establishment or expansion of a mental health  
2 jail diversion program;

3           (3) the establishment of alternatives to competency  
4 restoration in a state hospital, including outpatient competency  
5 restoration, inpatient competency restoration in a setting other  
6 than a state hospital, or jail-based competency restoration;

7           (4) the provision of assertive community treatment or  
8 forensic assertive community treatment with an outreach component;

9           (5) the provision of intensive mental health services  
10 and substance abuse treatment not readily available in the county;

11           (6) the provision of continuity of care services for  
12 an individual being released from a state hospital;

13           (7) the establishment of interdisciplinary rapid  
14 response teams to reduce law enforcement's involvement with mental  
15 health emergencies; and

16           (8) the provision of local community hospital, crisis,  
17 respite, or residential beds.

18           (j-1) To the extent money appropriated to the commission to  
19 implement this section for a fiscal year remains available to the  
20 commission after the commission selects grant recipients for the  
21 fiscal year, the commission shall make grants available using the  
22 money remaining for the fiscal year through a competitive request  
23 for proposal process, without regard to the limitation provided by  
24 Subsection (d-2).

25           (k) Not later than the 90th day after the last day of the  
26 state fiscal year for which the commission distributes a grant  
27 under this section, each community collaborative that receives a

1 grant shall prepare and submit a report describing the effect of the  
2 grant money and matching funds in achieving the standard defined by  
3 the outcome measures in the plan submitted under Subsection (e).

4 (1) The commission may make inspections of the operation and  
5 provision of mental health services provided by a community  
6 collaborative to ensure state money appropriated for the grant  
7 program is used effectively.

8 SECTION 33. Section 614.0032(b), Health and Safety Code, is  
9 amended to read as follows:

10 (b) The office shall:

11 (1) ~~[with the special assistance of committee members~~  
12 ~~appointed under Section 614.002(b)(1):~~

13 ~~[(A) review examinations to determine the~~  
14 ~~competency of defendants in criminal cases to stand trial and~~  
15 ~~examinations to determine the fitness of children to proceed with~~  
16 ~~respect to adjudications of delinquent conduct or conduct~~  
17 ~~indicating a need for supervision; and~~

18 ~~[(B) periodically report to the legislature and~~  
19 ~~the court of criminal appeals findings made as a result of the~~  
20 ~~review described by Paragraph (A); and~~

21 ~~[(2)]~~ approve and make generally available in  
22 electronic format a standard form for use by experts in reporting  
23 competency examination results under Chapter 46B, Code of Criminal  
24 Procedure; and

25 (2) approve and make generally available in electronic  
26 format a standard form for use by experts in reporting mental health  
27 assessment results under Article 16.22, Code of Criminal Procedure.

1 SECTION 34. The following provisions are repealed:

2 (1) Article 46B.026(c), Code of Criminal Procedure;

3 (2) Article 46B.090(o), Code of Criminal Procedure;

4 and

5 (3) Section 614.0032(c), Health and Safety Code.

6 SECTION 35. Not later than November 1, 2017, the executive  
7 commissioner of the Health and Human Services Commission shall  
8 adopt the rules described by Article 46B.091(e), Code of Criminal  
9 Procedure, as added by this Act.

10 SECTION 36. Except as otherwise provided by this Act, the  
11 changes in law made by this Act apply only to a defendant charged  
12 with an offense committed on or after the effective date of this  
13 Act. A defendant charged with an offense committed before the  
14 effective date of this Act is governed by the law in effect on the  
15 date the offense was committed, and the former law is continued in  
16 effect for that purpose. For purposes of this section, an offense  
17 was committed before the effective date of this Act if any element  
18 of the offense occurred before that date.

19 SECTION 37. This Act takes effect September 1, 2017.