

By: Price, Murr, Moody, Coleman, White

H.B. No. 12

Substitute the following for H.B. No. 12:

By: Price

C.S.H.B. No. 12

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

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

Art. 16.22. EARLY IDENTIFICATION OF DEFENDANT SUSPECTED OF HAVING MENTAL ILLNESS OR INTELLECTUAL DISABILITY [~~MENTAL RETARDATION~~]. (a)(1) Not later than four [~~72~~] hours after the sheriff or municipal jailer having custody of a defendant for an offense punishable as a Class B misdemeanor or any higher category of offense receives [~~receiving~~] credible information that may establish reasonable cause to believe that the [~~a~~] defendant [~~committed to the sheriff's custody~~] has a mental illness or is a 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 (indecenty 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 jail-based competency
10 restoration program or ordered to participate for an additional
11 period in an outpatient treatment program, as appropriate, only
12 pursuant to civil proceedings conducted under Subtitle C or D,
13 Title 7, Health and Safety Code, by a court with probate
14 jurisdiction.

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

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

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

26 (A) the defendant's transfer to:

27 (i) a mental hospital or other inpatient or

1 residential facility; or

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

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

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

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

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

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

1 (1) on the motion of the attorney representing the
2 state, the court shall dismiss the charge; or

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

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

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

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

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

16 SECTION 10. Article 46B.071(a), Code of Criminal Procedure,
17 is amended to read as follows:

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

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

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

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

27 (C) commit the defendant to a facility under

1 Article 46B.073 only if:

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

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

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

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

12 (B) release the defendant on bail under Article
13 46B.072.

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

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

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

1 shall:

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

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

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

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

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

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

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

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

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

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

1 SECTION 12. The heading to Article 46B.072, Code of
2 Criminal Procedure, is amended to read as follows:

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

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

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

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

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

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

27 (c) Notwithstanding Subsection (a-1), the court may order a

1 defendant to participate in an outpatient competency restoration
2 [~~treatment~~] program under this article only if:

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

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

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

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

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

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

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

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

25 (b) For further examination and competency restoration
26 services with [~~treatment toward~~] the specific objective of the
27 defendant attaining competency to stand trial, the court shall

1 commit a defendant described by Subsection (a) to a mental health
2 facility, ~~[or]~~ residential care facility, or jail-based competency
3 restoration program for the applicable period as follows:

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

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

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

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

1 arriving at the program.

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

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

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

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

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

1 ~~restoration services, the defendant shall be transferred to the~~
2 ~~appropriate mental health facility or residential care facility as~~
3 ~~provided by the court order. This subsection expires September 1,~~
4 ~~2019].~~

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

7 (a) A defendant may be committed to a jail-based competency
8 restoration program, mental health facility, or residential care
9 facility under this subchapter only on competent medical or
10 psychiatric testimony provided by an expert qualified under Article
11 46B.022.

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

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

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

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

1 ~~health facility, residential care]~~ facility~~[7]~~ or [~~outpatient~~
2 ~~treatment]~~ program, as applicable, the court may appoint
3 disinterested experts to reexamine the defendant in accordance with
4 Subchapter B. The court is not required to appoint the same expert
5 or experts who performed the initial examination of the defendant
6 under that subchapter.

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

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

1 appropriate based on the defendant's current condition.

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

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

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

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

1 SECTION 19. Article 46B.077, Code of Criminal Procedure, is
2 amended to read as follows:

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

- 8 (1) develop an individual program of treatment;
9 (2) assess and evaluate whether the defendant is
10 likely to be restored to competency in the foreseeable future; and
11 (3) report to the court and to the local mental health
12 authority or to the local intellectual and developmental disability
13 authority on the defendant's progress toward achieving competency.

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

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

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

1 SECTION 20. Article 46B.078, Code of Criminal Procedure, is
2 amended to read as follows:

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

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

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

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

1 (1) the defendant can be safely transferred to a
2 competency restoration program for education services but has not
3 attained competency to stand trial;

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

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

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

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

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

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

27 (d) If the head of the facility or [~~outpatient treatment~~]

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

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

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

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

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

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

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

27 SECTION 25. Article 46B.082(b), Code of Criminal Procedure,

1 is amended to read as follows:

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

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

25 Art. 46B.0825. DISCHARGE AND TRANSPORTATION OF DEFENDANT
26 FOR COMPETENCY RESTORATION EDUCATION SERVICES. (a) As soon as
27 practicable but not later than 10 days after receiving a copy of an

1 order under Article 46B.073(f)(2), the applicable facility shall
2 discharge the defendant into the care of the sheriff of the county
3 in which the court is located. The sheriff shall transport the
4 defendant to the jail-based competency restoration program or
5 outpatient competency restoration program, as appropriate.

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

9 (1) notice regarding the defendant's entry into the
10 program for purposes of receiving competency restoration education
11 services; and

12 (2) subsequent notice as otherwise required under
13 Article 46B.079.

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

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

23 Art. 46B.083. SUPPORTING COMMITMENT INFORMATION PROVIDED
24 BY FACILITY [~~HEAD~~] OR [~~OUTPATIENT TREATMENT~~] PROGRAM [~~PROVIDER~~].

25 (a) If the head of the facility, the jail-based competency
26 restoration program provider, or the outpatient competency
27 restoration [~~treatment~~] program provider believes that the

1 defendant is a person with mental illness and meets the criteria for
2 court-ordered mental health services under Subtitle C, Title 7,
3 Health and Safety Code, the head of the facility or the [~~outpatient~~
4 ~~treatment~~] program provider shall have submitted to the court a
5 certificate of medical examination for mental illness.

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

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

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

16 (1) who is determined under this chapter to be
17 incompetent to stand trial;

18 (2) who either:

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

25 (B) is committed to an inpatient mental health
26 facility, [~~or~~] a residential care facility, or a jail-based
27 competency restoration program for the purpose of competency

1 restoration;

2 (C) is confined in a correctional facility while
3 awaiting further criminal proceedings following competency
4 restoration [~~treatment~~];

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

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

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

17 (4) who, after a hearing held under Section 574.106 or
18 592.156, Health and Safety Code, if applicable, has been found to
19 not meet the criteria prescribed by Sections 574.106(a) and (a-1)
20 or 592.156(a) and (b), Health and Safety Code, for court-ordered
21 administration of psychoactive medications.

22 (b) If a defendant described by Subsection (a) refuses to
23 take psychoactive medications as required by the defendant's
24 continuity of care plan, the director of the [~~correctional~~]
25 facility or [~~outpatient treatment~~] program provider, as
26 applicable, shall notify the court in which the criminal
27 proceedings are pending of that fact not later than the end of the

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

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

19 (d) The court may issue an order under this article only if
20 the order is supported by the testimony of two physicians, one of
21 whom is the physician at or with the applicable [~~correctional~~]
22 facility or [~~outpatient treatment~~] program who is prescribing the
23 medication as a component of the defendant's continuity of care
24 plan and another who is not otherwise involved in proceedings
25 against the defendant. The court may require either or both
26 physicians to examine the defendant and report on the examination
27 to the court.

1 SECTION 29. The heading to Article 46B.090, Code of
2 Criminal Procedure, is amended to read as follows:

3 Art. 46B.090. JAIL-BASED COMPETENCY RESTORATION [~~OF~~
4 ~~COMPETENCY PILOT~~] PROGRAM IMPLEMENTED BY COMMISSION.

5 SECTION 30. Article 46B.090, Code of Criminal Procedure, is
6 amended by amending Subsections (a), (a-1), (b), (c), (f), (g),
7 (i), (j), (k), (l), and (m) and adding Subsection (p) to read as
8 follows:

9 (a) In this article:

10 (1) "Commission" [~~,"department"~~] means the Health and
11 Human Services Commission [~~Department of State Health Services~~].

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

14 (a-1) The commission may [~~If the legislature appropriates~~
15 ~~to the department the funding necessary for the department to~~
16 ~~operate a jail-based restoration of competency pilot program as~~
17 ~~described by this article, the department shall~~] develop and
18 implement a jail-based competency restoration [~~the pilot~~] program
19 in any county [~~one or two counties~~] in this state that chooses
20 [~~choose~~] to participate in the [~~pilot~~] program. In developing the
21 [~~pilot~~] program, the commission [~~department~~] shall coordinate and
22 allow for input from a [~~each~~] participating county.

23 (b) The commission [~~department~~] shall contract with a
24 provider of jail-based competency restoration services to provide
25 services under a [~~the pilot~~] program implemented [~~if the department~~
26 ~~develops a pilot program~~] under this article. The commission may
27 contract with a different provider for each program.

1 (c) The executive [~~Not later than November 1, 2013, the~~]
2 commissioner [~~of the department~~] shall adopt rules as necessary to
3 implement a [the pilot] program[~~. In adopting rules~~] under this
4 article, including rules that [~~the commissioner shall~~] specify the
5 types of information the commission [~~department~~] must collect
6 [~~during the operation of the pilot program~~] for use in evaluating a
7 [~~the outcome of the pilot~~] program.

8 (f) To contract with the commission [~~department~~] under
9 Subsection (b), a provider of jail-based competency restoration
10 services must demonstrate to the commission [~~department~~] that:

11 (1) the provider:

12 (A) has previously provided jail-based
13 competency restoration services for one or more years and is
14 certified by a nationwide nonprofit organization that accredits
15 behavioral health care organizations and programs; or

16 (B) is a local mental health authority or local
17 behavioral health authority in good standing with the commission,
18 which may include an authority that subcontracts with a provider of
19 jail-based [~~that has previously provided~~] competency restoration
20 services that is in good standing with the commission; and

21 (2) the provider's jail-based competency restoration
22 program:

23 (A) provides competency restoration through the
24 use of [~~uses~~] a multidisciplinary treatment team [~~to provide~~
25 ~~clinical treatment~~] that is:

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

1 (ii) similar to other [~~the clinical~~
2 ~~treatment provided as part of a~~] competency restoration programs
3 ~~[program at an inpatient mental health facility]~~;

4 (B) employs or contracts for the services of at
5 least one psychiatrist;

6 (C) provides jail-based competency restoration
7 services through licensed or qualified mental health
8 professionals [~~assigns staff members to defendants participating~~
9 ~~in the program at an average ratio not lower than 3.7 to 1]~~; [~~and~~]

10 (D) provides weekly competency restoration
11 [~~treatment~~] hours commensurate to the [~~treatment~~] hours provided as
12 part of a competency restoration program at an inpatient mental
13 health facility;

14 (E) operates in the jail in a designated space
15 that is separate from the space used for the general population of
16 the jail;

17 (F) ensures coordination of general health care;

18 (G) provides mental health treatment and
19 substance use disorder treatment to participants, as necessary, for
20 competency restoration; and

21 (H) supplies clinically appropriate psychoactive
22 medications for purposes of administering court-ordered medication
23 to participants as applicable and in accordance with Article
24 46B.086 of this code and Section 574.106, Health and Safety Code

25 [~~(3) the provider is certified by a nationwide~~
26 ~~nonprofit organization that accredits health care organizations~~
27 ~~and programs, such as the Joint Commission on Health Care Staffing~~

1 ~~Services, or the provider is a local mental health authority in good~~
2 ~~standing with the department; and~~

3 ~~[(4) the provider has a demonstrated history of~~
4 ~~successful jail-based competency restoration outcomes or, if the~~
5 ~~provider is a local mental health authority, a demonstrated history~~
6 ~~of successful competency restoration outcomes].~~

7 (g) A contract under Subsection (b) must require a ~~[the]~~
8 designated provider to collect and submit to the commission
9 ~~[department]~~ the information specified by rules adopted under
10 Subsection (c).

11 (i) The psychiatrist or psychologist for the provider shall
12 conduct at least two full psychiatric or psychological evaluations
13 of the defendant during the period the defendant receives
14 competency restoration services in the jail. The psychiatrist or
15 psychologist must conduct one evaluation not later than the 21st
16 day and one evaluation not later than the 55th day after the date
17 the defendant begins to participate in the ~~[pilot]~~ program. The
18 psychiatrist or psychologist shall submit to the court a report
19 concerning each evaluation required under this subsection.

20 (j) If at any time during a defendant's participation in a
21 ~~[the jail-based restoration of competency pilot]~~ program
22 implemented under this article the psychiatrist or psychologist for
23 the provider determines that the defendant has attained competency
24 to stand trial:

25 (1) the psychiatrist or psychologist for the provider
26 shall promptly issue and send to the court a report demonstrating
27 that fact; and

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

4 (k) If at any time during a defendant's participation in a
5 ~~[the jail-based restoration of competency pilot]~~ program
6 implemented under this article the psychiatrist or psychologist for
7 the provider determines that the defendant's competency to stand
8 trial is unlikely to be restored in the foreseeable future:

9 (1) the psychiatrist or psychologist for the provider
10 shall promptly issue and send to the court a report demonstrating
11 that fact; and

12 (2) the court shall:

13 (A) proceed under Subchapter E or F and order the
14 transfer of the defendant, without unnecessary delay, to the first
15 available facility that is appropriate for that defendant, as
16 provided under Subchapter E or F, as applicable; or

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

19 (1) If the psychiatrist or psychologist for the provider
20 determines that a defendant ordered to participate in a ~~[the pilot]~~
21 program implemented under this article has not been restored to
22 competency by the end of the 60th day after the date the defendant
23 began to participate in the ~~[pilot]~~ program:

24 (1) for a defendant charged with a felony, the
25 defendant shall be transferred, without unnecessary delay and for
26 the remainder of the period prescribed by Article 46B.073(b), to
27 the first available facility that is appropriate for that defendant

1 as provided by Article 46B.073(c) or (d); and

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

4 (A) order a single extension under Article
5 46B.080 and the transfer of the defendant without unnecessary delay
6 to the appropriate mental health facility or residential care
7 facility as provided by Article 46B.073(d) for the remainder of the
8 period under the extension;

9 (B) proceed under Subchapter E or F;

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

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

14 (m) Unless otherwise provided by this article, the
15 provisions of this chapter, including the maximum periods
16 prescribed by Article 46B.0095, apply to a defendant receiving
17 competency restoration services, including competency restoration
18 education services, under a a [the pilot] program implemented under
19 this article in the same manner as those provisions apply to any
20 other defendant who is subject to proceedings under this chapter.

21 (p) This article does not affect the responsibility of a
22 county to provide the same basic care to a participant as is
23 provided to other inmates of the jail in which the participant is
24 located.

25 SECTION 31. Subchapter C, Chapter 72, Government Code, is
26 amended by adding Section 72.032 to read as follows:

27 Sec. 72.032. BEST PRACTICES EDUCATION. The director shall

1 make available to courts information concerning best practices for
2 addressing the needs of persons with mental illness in the court
3 system, including the use of the preferred terms and phrases
4 provided by Section 392.002.

5 SECTION 32. Chapter 121, Government Code, is amended by
6 adding Section 121.003 to read as follows:

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

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

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

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

20 SECTION 33. Subchapter B, Chapter 531, Government Code, is
21 amended by adding Section 531.0993 to read as follows:

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

27 (b) The commission shall establish a program to provide

1 grants to county-based community collaboratives for the purposes of
2 reducing:

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

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

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

13 (d) The commission shall condition each grant provided to a
14 community collaborative under this section on the collaborative
15 providing matching funds from non-state sources in a total amount
16 at least equal to the provided grant amount. To raise matching
17 funds, a collaborative may seek and receive gifts, grants, or
18 donations from any person.

19 (e) For each state fiscal year for which a community
20 collaborative seeks a grant, the collaborative must submit a
21 petition to the commission not later than the 30th day of that
22 fiscal year. The community collaborative must include with a
23 petition:

24 (1) a statement indicating the amount of matching
25 funds the collaborative is able to provide; and

26 (2) a plan that:

27 (A) is endorsed by each of the collaborative's

1 member entities;

2 (B) identifies a target population;

3 (C) describes how the grant money and matching
4 funds will be used;

5 (D) includes outcome measures to evaluate the
6 success of the plan; and

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

10 (f) The commission must review plans submitted with a
11 petition under Subsection (e) before the commission provides a
12 grant under this section. The commission must fulfill the
13 commission's requirements under this subsection not later than the
14 60th day of each fiscal year.

15 (g) For each petition timely submitted and containing the
16 statement and plan required by Subsection (e), the commission shall
17 estimate the number of cases of serious mental illness in
18 low-income households located in the county included in the
19 community collaborative that submitted the petition. The
20 commission must fulfill the commission's requirements under this
21 subsection not later than the 60th day of each fiscal year.

22 (h) For each state fiscal year, the commission shall
23 determine an amount of grant money available for the program on a
24 per-case basis by dividing the total amount of money appropriated
25 to the commission for the purpose of providing grants under this
26 section for that fiscal year by the total number of the cases
27 estimated under Subsection (g) for all collaboratives to which the

1 commission intends to provide grants under this section. The
2 commission must fulfill the commission's requirements under this
3 subsection not later than the 60th day of each fiscal year.

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

8 (1) the amount determined by multiplying the per-case
9 amount determined under Subsection (h) by the number of cases of
10 serious mental illness in low-income households estimated for that
11 collaborative under Subsection (g); or

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

13 (j) Acceptable uses for the grant money and matching funds
14 include:

15 (1) the continuation of a mental health jail diversion
16 program;

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

19 (3) the establishment of alternatives to competency
20 restoration in a state hospital, including outpatient competency
21 restoration, inpatient competency restoration in a setting other
22 than a state hospital, or jail-based competency restoration;

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

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

27 (6) the provision of continuity of care services for

1 an individual being released from a state hospital;

2 (7) the establishment of interdisciplinary rapid
3 response teams to reduce law enforcement's involvement with mental
4 health emergencies; and

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

7 (k) Not later than the 90th day after the last day of the
8 state fiscal year for which the commission distributes a grant
9 under this section, each community collaborative that receives a
10 grant shall prepare and submit a report describing the effect of the
11 grant money and matching funds in achieving the standard defined by
12 the outcome measures in the plan submitted under Subsection (e).

13 (l) The commission may make inspections of the operation and
14 provision of mental health services provided by a community
15 collaborative to ensure state money appropriated for the grant
16 program is used effectively.

17 SECTION 34. Section 614.0032(b), Health and Safety Code, is
18 amended to read as follows:

19 (b) The office shall:

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

22 ~~[(A) review examinations to determine the~~
23 ~~competency of defendants in criminal cases to stand trial and~~
24 ~~examinations to determine the fitness of children to proceed with~~
25 ~~respect to adjudications of delinquent conduct or conduct~~
26 ~~indicating a need for supervision; and~~

27 ~~[(B) periodically report to the legislature and~~

1 ~~the court of criminal appeals findings made as a result of the~~
2 ~~review described by Paragraph (A); and~~

3 [~~2~~] approve and make generally available in
4 electronic format a standard form for use by experts in reporting
5 competency examination results under Chapter 46B, Code of Criminal
6 Procedure; and

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

10 SECTION 35. The following provisions are repealed:

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

12 (2) Articles 46B.090(h), (n), and (o), Code of
13 Criminal Procedure; and

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

15 SECTION 36. Not later than November 1, 2017, the executive
16 commissioner of the Health and Human Services Commission shall
17 adopt the rules described by Article 46B.090(c), Code of Criminal
18 Procedure, as amended by this Act.

19 SECTION 37. Except as otherwise provided by this Act, the
20 changes in law made by this Act apply only to a defendant charged
21 with an offense committed on or after the effective date of this
22 Act. A defendant charged with an offense committed before the
23 effective date of this Act is governed by the law in effect on the
24 date the offense was committed, and the former law is continued in
25 effect for that purpose. For purposes of this section, an offense
26 was committed before the effective date of this Act if any element
27 of the offense occurred before that date.

1 SECTION 38. This Act takes effect September 1, 2017.