

1st Sub. H.B. 330
CIVIL COMMITMENT AMENDMENTS

Representative **Ryan D. Wilcox** proposes the following amendments:

1. *Page 3, Lines 81 through 83:*

81 (1) When a defendant charged with a misdemeanor [~~is~~] may be incompetent to
82 proceed, ~~{a}~~ any petition [may] shall be filed in [the district court of the county where the charge is
83 ~~pending or where the defendant is confined~~] accordance with Section 77-15-3.

2. *Page 4, Lines 89 through 99:*

89 (3) Unless the prosecutor or another individual indicates that civil commitment
90 proceedings will be initiated under Subsection 77-15-6(5)(c), a court shall release a defendant
91 who is incompetent to proceed if:

92 (a) the most severe charge against the defendant is [~~no more severe than~~] a class B
93 misdemeanor;

94 (b) more than 60 days have passed after the day on which the court adjudicated the
95 defendant incompetent to proceed; ~~{+}~~ and ~~{+}~~

96 ~~{(c) restoration treatment has been provided to the defendant; and }~~

97 ~~{+}~~ (c) ~~{+}~~ ~~{(d)}~~ the defendant [~~has not been~~] is not restored to competency.

(4) The department shall provide restoration treatment to the defendant within the timeframe described in Subsection (3)(b).

98 ~~{(4)}~~ (5) [A] The court may, but is not required to, dismiss the charges against a defendant
99 who was released under Subsection (3).

3. *Page 5, Lines 148 through 149:*

148 (d) The stipulation by parties to a bona fide doubt as to the defendant's competency to
149 stand trial alone may not take the place of a competency evaluation ordered under this Subsection (3).

4. *Page 6, Lines 154 through 158:*

154 (b) The petitioner or other party, as directed by the court or requested by the
155 department, shall provide to the forensic evaluator nonmedical information and materials
156 relevant to a determination of the defendant's competency, including the charging document,
157 arrest or incident reports pertaining to the charged offense, and known criminal history
158 information ~~{+}~~ , and known prior mental health evaluations and treatments ~~{+}~~ .

5. Page 7, Lines 200 through 201:

200 (b) in making the determinations described in Subsection (6)(a), the forensic evaluator
201 ~~{may}~~ shall consider , as applicable .

6. Page 9, Lines 249 through 251:

249 (b) describe the procedures, techniques, and tests used in the examination and the
250 purpose or purposes for each, the time spent by the forensic evaluator with the defendant for
251 purposes of the examination, and the compensation to be paid ~~{by}~~ to the evaluator for the report;

7. Page 13, Lines 373 through 374:

373 (b) At the hearing, the burden of proving that the defendant is ~~{+}~~ **competent** ~~{+}~~
~~{incompetent}~~
374 to stand trial is on the proponent of ~~{+}~~ **competency** ~~{+}~~ ~~{incompetency}~~ .