


**Report on the
Jail-Based Competency Restoration Pilot
Program
Second Quarter Fiscal Year 2016**

**As Required By
The 2016-2017 General Appropriations Act, H.B. 1, 84th
Legislature, Regular Session, 2015 (Article II, Department of
State Health Services, Rider 70)**



**Department of State Health Services
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Table of Contents

Introduction.....1

Background1

Rule Development2

Program Implementation.....2

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Introduction

[The 2016-2017 General Appropriations Act, H.B. 1, 84th Legislature, Regular Session, 2015, \(Article II, Department of State Health Services, Rider 70\)](#) requires the Department of State Health Services (DSHS) to develop and implement a Jail-Based Competency Restoration (JBCR) Pilot Program established under [Article 46B.090 of the Code of Criminal Procedure](#) with \$1.75 million in appropriated funds. In addition, DSHS is required to submit interim quarterly progress reports to Legislative Budget Board, Chair of the House Appropriations Committee, Chair of the Senate Finance Committee, Speaker of the House, and Lieutenant Governor no later than 15 business days after the end of each fiscal quarter. This second quarterly report provides a brief summary of activities for the JBCR Pilot Program. The first quarterly report can be found at: <http://www.dshs.state.tx.us/Legislative/Reports-2015.aspx>.

Background

Senate Bill 1475, 83rd Legislature, Regular Session, 2013 amended Article 46B.090 of the Code of Criminal Procedure to establish a JBCR pilot program. The 2014-2015 General Appropriations Act, H.B. 1, Regular Session, 2013 (Article II, Department of State Health Services, Rider 74) appropriated funds to DSHS. DSHS was required to develop and implement the pilot program in one or two counties in the state that choose to participate in the pilot program and implement with input from them. DSHS was allowed to adopt any rules necessary, in consultation with a stakeholder workgroup, to implement the pilot program. Additionally, Senate Bill 1475 directed DSHS to establish a stakeholder workgroup comprised of specific representatives.¹ The department was also directed to contract with a provider who met specific requirements, including but not limited to, providers who:

- Use a multidisciplinary team to provide clinical treatment;
- Employ or contract for the services of at least one psychiatrist;
- Assign staff members to defendants participating in the program at an average ratio not lower than 3.7 to 1; and
- Provide weekly treatment hours commensurate to the treatment hours provided as part of the competency restoration program at an inpatient mental health facility.

Because the pilot program was not implemented in the 2014-2015 biennium, a majority of the \$3.05 million appropriation was not expended. Some of the funding was used to address other state funding needs. Although the JBCR pilot was not implemented in the 2014-2015 biennium, DSHS is completing preparation activities for implementation in calendar year 2016.

¹ The stakeholder workgroup must be composed of one member who is a sheriff one member who represents a local mental health authority; one member who is a county commissioner, county judge, or elected county officer; one member who is a district attorney or county attorney with criminal jurisdiction; one member who is a defense attorney; one member who is a judge of a district criminal court or county criminal court; two members who are mental health advocates; and any other member DSHS considers appropriate to appoint to the workgroup.

Program Development

The JBCR Pilot Program developed by DSHS will provide jail-based competency restoration services to individuals with mental health or co-occurring psychiatric and substance abuse disorders (COPSD). Jail-based competency restoration services include behavioral health treatment services and competency education for individuals found incompetent to stand trial (IST); those services must be consistent with competency restoration services provided in state mental health facilities. In addition, DSHS established the following goals of the JBCR Pilot Program:

- Reduce the number of maximum security and non-maximum security defendants on the State Mental Health Program clearinghouse waiting list determined to be IST due to mental illness and/or COPSD issues.
- Provide prompt access to clinically appropriate JBCR services for individuals determined IST who do not qualify for the Outpatient Competency Restoration program.
- Provide a cost-effective alternative to restoration in a state hospital.
- Minimize or ameliorate the stress of incarceration, to the extent possible, for participants in the JBCR Pilot Program.
- Collect data to support the effectiveness and cost savings of the pilot.

Rule Development

DSHS adopted new 25 TAC §416.73 – 416.93, concerning jail-based competency restoration program rules. The rules became effective January 7, 2016 and were published in the January 8, 2016, edition of the *Texas Register*. Sections 416.84 and 416.86 were adopted with changes, and republished in the January 15, 2016, edition of the *Texas Register*.

Program Implementation

DSHS distributed a Request for Proposals on January 13, 2016. Proposals are due by February 29, 2016. DSHS anticipates a contract will be executed in May 2016.