



Report on the Jail- Based Competency Restoration Pilot Program

**As Required by
Senate Bill 49, 87th Legislature,
Regular Session, 2021**

**Health and Human Services
Commission**

December 2021



TEXAS
Health and Human
Services

Table of Contents

Table of Contents	1
1. Executive Summary	2
2. Introduction	3
3. Background	4
Performance Measures.....	4
Related Legislation	5
4. JBCR Pilot Program	6
Summary of JBCR Pilot Program Outputs	6
5. Conclusion	7
List of Acronyms	8

1. Executive Summary

Senate Bill (S.B.) 49, 87th Legislature, Regular Session, 2021, amended the Code of Criminal Procedure (CCP), Article 46B.090(n), by requiring the executive commissioner of the Health and Human Services Commission (HHSC) to submit a report concerning the Jail-based Competency Restoration (JBCR) pilot program by December 1, 2021.

The JBCR program provides competency restoration services to adults who are deemed incompetent to stand trial (IST).¹ The JBCR program minimizes the cost associated with forensic inpatient treatment in state hospitals while maximizing community access to services provided by the local mental health authorities and local behavioral health authorities.

HHSC established a JBCR pilot program with the Harris Center for Mental Health and IDD (the Harris Center) in fiscal year 2020. The JBCR pilot program has the capacity to serve up to 80 people on an annual basis. In fiscal year 2021, the JBCR pilot program served 56 individuals.

¹ A person is incompetent to stand trial if the person does not have sufficient present ability to consult with the person's lawyer with a reasonable degree of rational understanding, or a rational, as well as factual, understanding of the proceedings against the person. (CCP Article 46B.003)

2. Introduction

Article 46B.090(n) requires HHSC's executive commissioner to submit a report concerning the Jail-based Competency Restoration pilot program, including information collected and an evaluation of the outcome of the program by December 1, 2021.

JBCR programs provide services focused on training and educating people charged with crimes, but who are found IST. Professionals work with those individuals to provide education on court proceedings and reduce symptoms of mental illness and substance use disorder with medications, nursing, and counseling. The benefits of JBCR program participation include education on legal processes and increased mental health functioning to restore a person to competency so that the legal proceedings can resume.

The *Report on the Jail-Based Competency Restoration* pilot program summarizes JBCR pilot program outputs for fiscal year 2021. HHSC does not have sufficient data to conduct an evaluation of the JBCR pilot program as the program has only been in operation for one fiscal year.

3. Background

The goals of the JBCR pilot program are to:

- Reduce wait times and admissions to state-operated facilities for inmates deemed IST;
- Provide a cost-effective alternative to competency restoration in a mental health facility or residential care facility;
- Reduce the demand for state hospital bed days in the area served by the program; and
- Minimize or ameliorate the stress of incarceration to the extent possible for participants in the program.

JBCR services consist of access to a multidisciplinary treatment team, cognitive behavior therapy, curriculum-based competency restoration education, motivational interviewing, treatment planning, and coordination of general healthcare.

The JBCR pilot program has a dedicated, board-certified psychiatrist to provide medication management to JBCR participants and a dedicated psychiatric registered nurse, who assists and supports the psychiatrist. The JBCR clinical team is comprised of a program manager, two educators who are licensed practitioners of the healing arts, two re-entry specialists, and one peer specialist. The multidisciplinary treatment team provides a wide range of group and individual services to include court education, trauma-informed care, living skills, art therapy, and peer support services.

Performance Measures

HHSC requires the JBCR pilot program to track and measure implementation progress and performance for the program.

HHSC requires that the JBCR pilot program achieve a total rate of 55 percent of all JBCR Pilot Program participants restored to competency. The JBCR pilot program has an annual target goal of serving 80 participants.

Additionally, HHSC requires the Harris Center to report the following information twice a year in a required format:

- The number of individuals on felony charges;
- The number of individuals on misdemeanor charges;
- The average number of days for an individual charged with a felony to be restored to competency;
- The average number of days for an individual charged with a misdemeanor to be restored to competency;

- The number of individuals charged with a misdemeanor and not restored to competency, for whom an extension was sought;
- The number of individuals restored to competency;
- The average length of time between the determination of non-restorability and transfer to a state mental health facility or residential care facility;
- The percentage of individuals restored to competency in 60 days or less;
- The number of jail inmates founds IST who were screened out of or deemed inappropriate for the program and the reason why; and
- The number of individuals not restored to competency and who were transferred to a state mental health facility or residential care facility.

Related Legislation

- Article 46B.090 (added by S.B. 1475, 83rd Legislature, Regular Session, 2013) authorized the provision of jail-based competency restoration services as provided through a JBCR pilot program. The Department of State Health Services (now HHSC) was directed to implement a JBCR pilot program if the legislature appropriated the necessary funding and establish rules governing the provision of JBCR services.
- The 2014-15 General Appropriations Act, S.B. 1, 83rd Legislature, Regular Session, 2013 (Article II, DSHS, Rider 74) appropriated funds to develop and implement the JBCR pilot program in one or two counties in the state.
- The 2016-17 General Appropriations Act, House Bill 1, 84th Texas Legislature, Regular Session, 2015 (Article II, DSHS, Rider 70), required DSHS to use the appropriated funds to implement a JBCR pilot program.
- Article 46B.090 (as amended by S.B. 1326, 85th Legislature, Regular Session, 2017) updated statutory requirements that led to revisions to the Jail-Based Competency Restoration Program rules² to reflect changes for operating a county-based JBCR program and an integrated approach to care. The rules were adopted and effective on August 6, 2018.
- Article 46B.090 (as amended by S.B. 49, 87th Legislature, Regular Session, 2021) requires HHSC to submit a report on the JBCR pilot program by December 1, 2021. Additionally, S.B.49 provided that Article 46B.090 will expire September 1, 2022, and the pilot program established under this Article may continue to operate subject to the requirements of Article 46B.091.

² Title 26, Texas Administrative Code, Chapter 307, Subchapter C

4. JBCR Pilot Program

On November 1, 2019, HHSC posted a Request for Applications (RFA) and received a total of three applications. HHSC made \$871,500 available per fiscal year to one awardee, the Harris Center, as a result of the solicitation. HHSC began contracting with the Harris Center for the JBCR pilot program effective May 22, 2020. The outputs identified below do not reflect an entire fiscal year of data given the late contract execution date. The JBCR pilot program was operationalized beginning in fiscal year 2021. The JBCR pilot program is available only in Harris County.

Summary of JBCR Pilot Program Outputs

As Table 1 shows, the JBCR pilot program served 56 participants (70 percent) of the annual target of 80 participants in fiscal year 2021. Additionally, the JBCR pilot program restored to competency 59% of individuals served in the program. Of the 56 participants, 33 participants were restored to competency and one participant had charges dismissed due to exceeding the maximum period allowed for program participation pursuant to CCP, Article 46B.0095.

Table 1. Harris Center Program Performance for Fiscal Year 2021

Fiscal Year	Served	Restored	Charges Dismissed	Misdemeanor Charge	Felony Charge
2021	56	33	1	4	52

Of the 56 participants, the majority had a diagnosis of schizophrenia and related disorders (66 percent) or affective disorders-bipolar (17 percent) as noted in Table 2 below.

Table 2. Program Participants Diagnosis

Diagnosis	Schizophrenia and related disorders	Affective disorders-Bipolar	Affective Disorders-Major Depression	Dementia/other cognitive disorders	Other psychoses	All other diagnoses
Percentage	66%	17%	6%	0%	4%	6%

5. Conclusion

Between September 1, 2020, and August 31, 2021, the JBCR Pilot Program served 56 participants. Of those 56 participants, 33 were restored to competency and 1 participant had charges dismissed. The JBCR pilot program continues to provide services that reduce wait times and admissions to state-operated facilities for individuals deemed incompetent to stand trial.

List of Acronyms

Acronym	Full Name
CCP	Code of Criminal Procedure
DSHS	Department of State Health Services
HHSC	Health and Human Services Commission
IST	Incompetent to Stand Trial
JBCR	Jail-based Competency Restoration
RFA	Request for Applications
SB	Senate Bill
TAC	Texas Administrative Code