

## **BILL ANALYSIS**

S.B. 1505  
By: Whitmire  
Criminal Jurisprudence  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Currently, magistrates are required to give personal bonds to certain defendants who are in need of treatment for mental illness or mental retardation. Judges, however, do not have express authority to require the same mental health treatment of defendants who do not qualify for mandatory treatment.

S.B. 1505 amends current law relating to the arrest and release on bail or other form of bond of certain criminal defendants with a mental illness or with mental retardation.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **ANALYSIS**

SECTION 1. Amends Article 14.03(a), Code of Criminal Procedure, as follows:

(a) Authorizes any peace officer to arrest, without warrant, certain persons, including a person who the peace officer has probable cause to believe has violated a condition of release on bail or other form of bond under Article 17.032 (Release on Personal Bond of Certain Mentally Ill Defendants) or 17.455. Makes a nonsubstantive change.

SECTION 2. Amends Article 17.032, Code of Criminal Procedure, by adding Subsection (b-1) and amending Subsections (c) and (d), as follows:

(b-1) Authorizes the court before whom the criminal case is pending, unless good cause is shown otherwise, if the requirements specified by Subsections (b)(2) (relating to a magistrate being required to release a defendant on personal bond if the defendant is examined by the local mental health or mental retardation authority or another mental health expert under Article 16.22 of this Code), (b)(3) (relating to a magistrate being required to release a defendant on personal bond if the examining expert, in a report submitted to the magistrate, makes certain conclusions or recommendations), and (b)(4) (relating to a magistrate being required to release a defendant on personal bond if the magistrate determines that appropriate community-based mental health or mental retardation services for the defendant are available through certain providers) are satisfied, to release on personal bond a defendant who is charged with or has been previously convicted of a violent offense.

(c) Requires the applicable court, rather than the magistrate, unless good cause is shown for not requiring treatment, to require as a condition of release on personal bond under Subsections (b) (relating to requiring a magistrate to release a defendant on personal bond unless good cause is shown otherwise if they meet certain criteria) or (b-1), rather than this article, that the defendant submit to outpatient or inpatient mental health or mental retardation treatment as recommended by the local mental health or mental retardation authority if the defendant's mental illness or mental retardation is chronic in nature; or ability to function independently will continue to deteriorate if the defendant is not treated.

(d) Makes conforming changes.

SECTION 3. Amends Chapter 17, Code of Criminal Procedure, by adding Article 17.455, as follows:

Art. 17.455. CONDITIONS REQUIRING SUBMISSION TO MENTAL HEALTH OR MENTAL RETARDATION TREATMENT. (a) Authorizes a magistrate to require as a condition of a defendant's release on bond, other than a release on personal bond, that the defendant submit to outpatient or inpatient mental health or mental retardation treatment, as recommended by the applicable local mental health or mental retardation authority if:

(1) the requirements of Articles 17.032(b)(2), (b)(3), and (b)(4) are satisfied with respect to the defendant in the same manner as if the defendant were being released on personal bond; and

(2) the defendant's mental illness or mental retardation is chronic, or will continue to interfere with the defendant's ability to function independently if the defendant does not receive treatment.

(b) Authorizes an order for treatment under this article to require the defendant to receive services and to reside at a local mental health facility or residential care facility, as applicable, during the period of the defendant's release.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: September 1, 2009.

**EFFECTIVE DATE**

September 1, 2009.