

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

April 18, 2021

TO: Honorable Andrew S. Murr, Chair, House Committee on Corrections

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB4212 by Moody (Relating to procedures regarding defendants who are or may be persons with a mental illness or intellectual disability.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure and the Government Code related to procedures regarding defendants who are or may be persons with a mental illness or intellectual disability.

The bill would amend the Code of Criminal Procedure Article 16.22(a) to provide that the magistrate is not required to order the interview and collection of certain information if the defendant is no longer in custody. The bill would provide that a personal bond is not required to contain a certain oath related to appearances and the failure to appear if the magistrate makes certain determinations.

The bill would provide that, on motion by certain parties or on the court's own motion, a justice or judge must determine whether probable cause exists to believe that a defendant, including one with a mental illness or intellectual or developmental disability, lacks the capacity to understand the proceedings in a criminal court or to assist in the defendant's own defense and is unfit to proceed. Where the court determines probable cause exists for a finding, after providing notice to the state, the court may dismiss the complaint, which may be appealed. The bill would provide that a justice or judge may not accept a guilty plea or nolo contendere plea under Article 45.022 or 45.023(a) unless it appears the defendant is mentally competent and the plea is free and voluntary.

The bill would amend various sections of the Code of Criminal Procedure related to a jail-based restoration of competency pilot program. The bill would allow a court, for a defendant charged with a misdemeanor and who is returned to the court for further proceedings because the defendant has not been restored to competency at the end of a certain period, to proceed with certain civil commitment procedures, release the defendant on bail, or dismiss the charges. The court would retain the authority to order transfer of certain defendants to an outpatient competency restoration program under certain conditions.

The bill adds a new article to Code of Criminal Procedure Chapter 46B related to the modification of an order for certain treatment following inpatient civil commitment placement. The bill applies only to certain defendants and allows certain parties to request that the court modify an order for inpatient treatment or residential care to order the defendant to participate in an outpatient treatment program. The bill would detail when the court must hold a hearing depending on who makes the request, require the court to require certain materials be submitted to the court before certain hearings, and outline hearing timeline procedures and other relevant procedures.

Based on the analysis of the Office of Court Administration, the Commission on Jail Standards, and the Health and Human Services Commission, it is assumed that duties and responsibilities associated with implementing the bill could be accomplished utilizing existing resources. In addition, no significant fiscal impact to the state court system is anticipated with the implementation of the bill.

This analysis assumes the provisions of the bill would not result in a significant impact on state correctional

populations or on the demand for state correctional resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Admin, 409 Commission on Jail Standards, 529 Hlth & Human Svcs Comm

LBB Staff: JMc, DKN, BH, AF