

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION**

**May 20, 2021**

**TO:** Honorable Dan Patrick, Lieutenant Governor, Senate

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: SB49** by Zaffirini (Relating to procedures regarding defendants who are or may be persons with a mental illness or intellectual disability.), **As Passed 2nd House**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Code of Criminal Procedure to expand the offices that would receive a written assessment of the information collected during the mental health or intellectual disability screening of a defendant that must be provided by a magistrate ordering the assessment to include the sheriff or other person responsible for the defendant's medical records while the defendant is confined in the county jail, and as applicable, any county personal bond office, or the director of the office or department responsible for supervising the defendant while released on bail and receiving mental health or intellectual disability service as a condition of bail.

The bill would provide that the magistrate is not required order the 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 under certain circumstances.

The bill would provide that on motions by certain parties, a judge shall determine whether probably cause exists too believe that a defendant lacks the capacity to understand the proceedings or to assist in the defendants own defense or is unfit to proceed. The bill would merit a court to dismiss a complaint depending on that determination.

The bill would prohibit a judge from accepting a plea of guilty or plea of nolo contendere under Article 45.022 or 45.023(a) unless it appears that the defendant is mentally competent and the plea is free and voluntary.

The bill would require a court sentencing a person convicted of a criminal offense to credit to the term of the person's sentence any period during which the person participated in an outpatient competency restoration program.

The bill would provide that the initial restoration period for a defendant under Article 46B.0711, 46B.072, or 46B.073 begins on the later of the date the defendant is ordered to participate in an outpatient competency restoration program; or committed to a mental health facility, residential care facility, or jail-based competency restoration program; or the date competency restoration services actually begin.

The bill would amend the Code of Criminal Procedure to provide that certain local behavioral health authorities may contract with the Commission on Jail Standards to provide jail-based competency restoration services. The bill would also set standards for a jail-based competency restoration program.

The bill would provide that a defendant, the head of the facility to which the defendant is committed, or the attorney representing the state may 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 amend the Government Code to provide that a prisoner with a mental illness be provided with each prescription medication that a qualified medical professional or mental health professional determines is necessary for the care, treatment, or stabilization of the prisoner.

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

This analysis assumes implementing the provisions of the bill would not result in a significant impact 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

**LBB Staff:** JMc, LBO, DKN, BH