

## **BILL ANALYSIS**

Senate Research Center  
88R6653 MZM-F

S.B. 402  
By: Whitmire  
Criminal Justice  
2/23/2023  
As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

In recent months, there have been increasing reports of defendants facing murder and capital murder charges waiting years for hearings and trials in several counties. The reason is often that courts are backlogged from COVID, a shortage of judges among other reasons. The Criminal Justice Committee heard testimony in December from a capital murder defendant who was held in jail for five years before he eventually was released on bond due to these delays. These delays have drawn increasing complaints from city and county law enforcement officials, prosecutors, victims' families and criminal defense lawyers. Several cases have shown that the longer it takes for a case to come to trial, the more chance that evidence will be lost, key witnesses will disappear, prosecutions will be impaired and that magistrates may be more likely to release these violent-crime defendants on bond due to jail crowding and other issues related to the backlog – despite the right to a speedy trial that is a bedrock of Texas' justice system. S.B. 402 amends current law to give preference to trial courts to schedule hearings and hold trials for defendants charged with murder and capital murder. Courts already are allowed by statute to give preference to temporary injunctions and cases involving family violence, among others, and this measure would expand that preference to include the state's most serious violent crimes. If approved by the Legislature, the change would take effect September 1, 2023.

As proposed, S.B. 402 amends current law relating to the preference given by trial courts to hearings and trials for murder and capital murder offenses.

### **RULEMAKING AUTHORITY**

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

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 23.101(a), Government Code, as follows:

(a) Requires the trial courts of this state, except as provided by Subsection (b-1) (relating to requiring the court to prioritize a proceeding for injunctive relief relative to a criminal investigation under the Election Code pending or filed in the court on or after the 70th day before a general or special election), to regularly and frequently set hearings and trials of pending matters, giving preference to hearings and trials of the following:

(1) makes no changes to this subdivision;

(2) criminal actions, with certain actions given preference over other criminal actions, including an offense under Section 19.02 (Murder) or 19.03 (Capital Murder), Penal Code. Makes a nonsubstantive change; and

(3)-(8) makes no changes to these subdivisions.

SECTION 2. Effective date: September 1, 2023.