

## **BILL ANALYSIS**

Senate Research Center

C.S.S.B. 2479  
By: Zaffirini  
Criminal Justice  
4/25/2023  
Committee Report (Substituted)

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

Background Information:

- The Judicial Commission on Mental Health (JCMH) identified several issues in the criminal and civil code that the legislature should correct, specifically regarding inpatient competency restoration for nonviolent misdemeanors, participation in outpatient competency restoration programs, early mental health interventions, applications for emergency detention warrants, security of firearms found in possession of persons in emergency detention under a warrant, and antiquated language and code organization.

S.B. 2479 would:

- limit inpatient competency restoration for nonviolent misdemeanors to extraordinary circumstances and create outpatient treatment alternatives in nonviolent misdemeanor cases.
- The proposed amendments would also address deteriorating mental conditions, credit participation in outpatient competency restoration programs, permit Class C misdemeanor dismissal when the defendant is found not competent, and harmonize mental health personal bonds with recent amendments.
- What's more, S.B. 2479 would allow law enforcement to defer the arrest of a nonviolent person who is undergoing emergency mental health or intellectual disability health care.
- This bill would improve mental health treatment options for persons charged with nonviolent misdemeanors, reduce the strain on the criminal justice system, and enhance outcomes for those with mental health conditions.

(Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 2479 amends current law relating to procedures regarding certain persons who are or may be persons with a mental illness or intellectual disability.

### **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 Articles 16.22(a), (b-2), and (d), Code of Criminal Procedure, as follows:

(a)(1) Requires the sheriff or municipal jailer to provide written or electronic notice to the magistrate not later than 12 hours after the sheriff or municipal jailer having custody of a defendant, rather than the sheriff or municipal jailer having custody of a defendant for an offense punishable as a Class B misdemeanor or any higher category of offense, receives credible information that may establish reasonable cause to believe that the defendant has a mental illness or is a person with an intellectual disability.

(2) Provides that the magistrate is not required to order the interview and collection of other information under Subdivision (1) if the defendant:

(A)-(B) makes nonsubstantive changes to these paragraphs; or

(C) was only arrested or charged with an offense punishable as a Class C misdemeanor.

(3) Authorizes a court that elects to use the results of a determination described by Subdivision (2)(B), rather than the results of that previous determination, to proceed under Subsection (c) (relating to the procedures for a trial court following the receipt of expert testimony concerning the mental state or condition of a defendant or the decision by a court to review a prior determination of a defendant's mental state or condition).

(4) Redesignates existing Subdivision (3) as Subdivision (4).

(b-2) Requires that the written report include a description of the procedures used in the interview and collection of other information under Subsection (a)(1)(A) and the applicable expert's observations and findings pertaining to:

(1) makes no changes to this subdivision;

(2) subject to Article 46B.002 (Applicability), whether there is clinical evidence to support a belief that the defendant may be incompetent to stand trial and should undergo a complete competency examination under Subchapter B (Examination), Chapter 46B; and

(3) makes no changes to this subdivision.

(d) Provides that Article 16.22 (Early Identification of Defendant Suspected of Having Mental Illness or Intellectual Disability) does not prevent the applicable court from, before, during, or after the interview and collection of other information regarding the defendant as described by this article:

(1) makes no changes to this subdivision; or

(2) subject to Article 46B.002 (Applicability), ordering an examination regarding the defendant's competency to stand trial.

SECTION 2. Amends Article 17.03(b-2), Code of Criminal Procedure, to create an exception under Article 17.032 (Release On Personal Bond of Certain Defendants With Mental Illness or Intellectual Disability).

SECTION 3. Amends Section 573.012, Health and Safety Code, by adding Subsection (d-1) and amending Subsection (h), as follows:

(d-1) Provides that a peace officer who transports an apprehended person to a facility in accordance with Section 573.012 (Issuance of Warrant):

(1) is not required to remain at the facility while the person is medically screened or treated or while the person's insurance coverage is verified; and

(2) is authorized to leave the facility immediately after:

(A) the person is taken into custody by appropriate facility staff; and

(B) the peace officer provides to the facility the required documentation.

(h) Authorizes a judge or magistrate to permit an applicant who is a physician or a licensed mental health professional employed by a local mental health authority to present an application by certain electronic methods.

SECTION 4. Amends Section 574.106, Health and Safety Code, by adding Subsection (m), as follows:

(m) Provides that an order issued under Section 574.106 (Hearing and Order Authorizing Psychoactive Medications) authorizes the taking of a patient's blood sample to conduct reasonable and medically necessary evaluations and laboratory tests to safely administer a psychoactive medication authorized by the order.

SECTION 5. Effective date: September 1, 2023.