

By: Crockett, Morales Shaw, Burns

H.B. No. 3315

A BILL TO BE ENTITLED

AN ACT

relating to the creation of a pretrial intervention program for certain youth offenders; authorizing a fee.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1. PRETRIAL INTERVENTION PROGRAM

SECTION 1.01. Subtitle K, Title 2, Government Code, is amended by adding Chapter 127 to read as follows:

CHAPTER 127. PRETRIAL INTERVENTION PROGRAM FOR CERTAIN YOUTH OFFENDERS

Sec. 127.001. YOUTH PRETRIAL INTERVENTION PROGRAM DEFINED; PROCEDURES FOR CERTAIN DEFENDANTS. (a) In this chapter, "youth pretrial intervention program" means a program that has the following essential characteristics:

(1) the integration of services in the processing of cases in the judicial system;

(2) the use of a nonadversarial approach involving prosecutors and defense attorneys to promote public safety and to protect the due process rights of program participants;

(3) early identification and prompt placement of eligible participants in the program;

(4) access to a continuum of alcohol, controlled substance, mental health, and other related treatment and rehabilitative services;

(5) careful monitoring of treatment and services

1 provided to program participants;

2 (6) a coordinated strategy to govern program responses
3 to participants' compliance;

4 (7) ongoing judicial interaction with program
5 participants;

6 (8) monitoring and evaluation of program goals and
7 effectiveness;

8 (9) continuing interdisciplinary education to promote
9 effective program planning, implementation, and operations;

10 (10) development of partnerships with public agencies
11 and community organizations; and

12 (11) inclusion of a participant's family members who
13 agree to be involved in the treatment and services provided to the
14 participant under the program.

15 (b) If a defendant successfully completes a youth pretrial
16 intervention program, after notice to the attorney representing the
17 state and a hearing in the youth pretrial intervention court at
18 which that court determines that a dismissal is in the best interest
19 of justice, the youth pretrial intervention court shall provide to
20 the court in which the criminal case is pending information about
21 the dismissal and shall include all of the information required
22 about the defendant for a petition for expunction under Section
23 2(b), Article 55.02, Code of Criminal Procedure. The court in which
24 the criminal case is pending shall dismiss the case against the
25 defendant and:

26 (1) if that trial court is a district court, the court
27 may, with the consent of the attorney representing the state, enter

1 an order of expunction on behalf of the defendant under Section
2 1a(a-3), Article 55.02, Code of Criminal Procedure; or

3 (2) if that trial court is not a district court, the
4 court may, with the consent of the attorney representing the state,
5 forward the appropriate dismissal and expunction information to
6 enable a district court with jurisdiction to enter an order of
7 expunction on behalf of the defendant under Section 1a(a-3),
8 Article 55.02, Code of Criminal Procedure.

9 Sec. 127.002. ESTABLISHMENT OF PROGRAM; DEFENDANT
10 ELIGIBILITY. (a) The commissioners court of a county shall,
11 subject to Subsection (d), establish a youth pretrial intervention
12 program for persons arrested for or charged with an offense that is
13 punishable as a Class B misdemeanor or any higher category of
14 offense, other than an offense listed in Article 42A.054(a), Code
15 of Criminal Procedure.

16 (b) A defendant is eligible to participate in a youth
17 pretrial intervention program established under this chapter only
18 if:

19 (1) the defendant was younger than 18 years of age at
20 the time of the offense; and

21 (2) the defendant has not previously been convicted of
22 or placed on deferred adjudication community supervision for an
23 offense other than a traffic offense that is punishable by fine
24 only.

25 (c) The court in which the criminal case is pending shall
26 allow an eligible defendant to choose whether to proceed through
27 the youth pretrial intervention program or otherwise through the

1 criminal justice system.

2 (d) The commissioners court of a county is not required to
3 establish a specialty court in accordance with this chapter and may
4 require the community supervision and corrections department
5 -serving the county to operate a program under the authority of
6 Section 76.011(a). A program that is operated by a community
7 supervision and corrections department is considered to be a youth
8 pretrial intervention program for purposes of this chapter.

9 (e) Notwithstanding Subsection (c), the attorney
10 representing the state may request, in writing, that the court in
11 which the criminal case is pending refuse to allow an eligible
12 defendant to proceed through the youth pretrial intervention
13 program. If the court determines that the attorney representing
14 the state has shown that adequate good cause exists, the court shall
15 require the defendant to proceed through the criminal justice
16 system.

17 Sec. 127.003. DUTIES OF YOUTH PRETRIAL INTERVENTION
18 PROGRAM. (a) A youth pretrial intervention program established
19 under this chapter must:

20 (1) ensure that a defendant eligible for participation
21 in the program is provided legal counsel before electing to proceed
22 through the program and while participating in the program;

23 (2) allow a participant to withdraw from the program
24 at any time before a trial on the merits has been initiated; and

25 (3) provide a participant with a court-ordered
26 individualized treatment plan indicating the services that will be
27 provided to the participant.

1 (b) A youth pretrial intervention program established under
2 this chapter shall make, establish, and publish local procedures to
3 ensure maximum participation of eligible defendants in the county
4 or counties in which those defendants reside.

5 (c) A youth pretrial intervention program may allow a
6 participant to comply with the participant's court-ordered
7 individualized treatment plan or to fulfill certain other court
8 obligations through the use of videoconferencing software or other
9 Internet-based communications.

10 (d) This chapter does not prevent the initiation of
11 procedures under Chapter 46B, Code of Criminal Procedure.

12 Sec. 127.004. CONDITIONS OF PROGRAM. (a) A program
13 participant charged with an offense punishable as a Class B
14 misdemeanor may not be required to spend more than one year in the
15 program and may not be required to perform more than 24 hours of
16 community service as part of the program.

17 (b) A program participant charged with an offense
18 punishable as a Class A misdemeanor or state jail felony may not be
19 required to spend more than two years in the program and may not be
20 required to perform more than 24 hours of community service as part
21 of the program.

22 (c) A program participant charged with an offense
23 punishable as a felony of the third degree may not be required to
24 spend more than three years in the program and may not be required
25 to perform more than 50 hours of community service as part of the
26 program.

27 (d) A program participant charged with an offense

1 punishable as a felony of the second degree may not be required to
2 spend more than four years in the program and may not be required to
3 perform more than 75 hours of community service as part of the
4 program.

5 (e) A program participant charged with an offense
6 punishable as a felony of the first degree may not be required to
7 spend more than five years in the program and may not be required to
8 perform more than 100 hours of community service as part of the
9 program.

10 Sec. 127.005. SUPERVISION OF PARTICIPANTS. The community
11 supervision and corrections department serving the county in which
12 the program is operated shall supervise program participants.

13 Sec. 127.006. ESTABLISHMENT OF REGIONAL PROGRAM. The
14 commissioners courts of two or more counties may elect to establish
15 a regional youth pretrial intervention program under this chapter
16 for the participating counties.

17 Sec. 127.007. REIMBURSEMENT FEES. (a) A youth pretrial
18 intervention program established under this chapter may collect
19 from a participant in the program:

20 (1) a reasonable reimbursement fee for the program;
21 and

22 (2) a testing, counseling, and treatment
23 reimbursement fee in an amount necessary to cover the costs of any
24 testing, counseling, or treatment performed or provided under the
25 program.

26 (b) Reimbursement fees collected under this section may be
27 paid on a periodic basis or on a deferred payment schedule at the

1 discretion of the judge, magistrate, or coordinator. The fees must
2 be:

3 (1) based on the participant's ability to pay; and

4 (2) used only for purposes specific to the program.

5 Sec. 127.008. COURTESY SUPERVISION. (a) A youth pretrial
6 intervention program that accepts placement of a defendant may
7 transfer responsibility for supervising the defendant's
8 participation in the program to another youth pretrial intervention
9 program that is located in the county where the defendant works or
10 resides. The defendant's supervision may be transferred under this
11 section only with the consent of both youth pretrial intervention
12 programs and the defendant.

13 (b) A defendant who consents to the transfer of the
14 defendant's supervision must agree to abide by all rules,
15 requirements, and instructions of the youth pretrial intervention
16 program that accepts the transfer.

17 (c) If a defendant whose supervision is transferred under
18 this section does not successfully complete the program, the youth
19 pretrial intervention program supervising the defendant shall
20 return the responsibility for the defendant's supervision to the
21 youth pretrial intervention program that initiated the transfer.

22 SECTION 1.02. Article [59.062\(f\)](#), Code of Criminal
23 Procedure, is amended to read as follows:

24 (f) A civil penalty collected under this article shall be
25 deposited to the credit of the drug court account in the general
26 revenue fund to help fund specialty court programs established
27 under Chapter [122](#), [123](#), [124](#), [125](#), [127](#), or [129](#), Government Code, or

1 former law.

2 SECTION 1.03. Section 509.011, Government Code, is amended
3 by adding Subsection (a-1) to read as follows:

4 (a-1) The supervision by a department of a participant in a
5 youth pretrial intervention program under Chapter 127 or other law
6 constitutes supervision by the department pursuant to lawful
7 authority for purposes of Subsection (a).

8 SECTION 1.04. Section 772.0061(a)(2), Government Code, is
9 amended to read as follows:

10 (2) "Specialty court" means:

11 (A) a commercially sexually exploited persons
12 court program established under Chapter 126 or former law;

13 (B) a family drug court program established under
14 Chapter 122 or former law;

15 (C) a drug court program established under
16 Chapter 123 or former law;

17 (D) a veterans treatment court program
18 established under Chapter 124 or former law;

19 (E) a mental health court program established
20 under Chapter 125 or former law;

21 (F) a youth pretrial intervention program
22 established under Chapter 127; and

23 (G) [~~(F)~~] a public safety employees treatment
24 court program established under Chapter 129.

25 SECTION 1.05. Section 772.0061(b), Government Code, is
26 amended to read as follows:

27 (b) The governor shall establish the Specialty Courts

1 Advisory Council within the criminal justice division established
2 under Section 772.006 to:

3 (1) evaluate applications for grant funding for
4 specialty courts in this state and to make funding recommendations
5 to the criminal justice division; and

6 (2) make recommendations to the criminal justice
7 division regarding best practices for specialty courts established
8 under Chapter 122, 123, 124, 125, 127, or 129 or former law.

9 ARTICLE 2. AUTOMATIC EXPUNCTION

10 SECTION 2.01. Article 55.01(a), Code of Criminal Procedure,
11 is amended to read as follows:

12 (a) A person who has been placed under a custodial or
13 noncustodial arrest for commission of either a felony or
14 misdemeanor is entitled to have all records and files relating to
15 the arrest expunged if:

16 (1) the person is tried for the offense for which the
17 person was arrested and is:

18 (A) acquitted by the trial court, except as
19 provided by Subsection (c); or

20 (B) convicted and subsequently:

21 (i) pardoned for a reason other than that
22 described by Subparagraph (ii); or

23 (ii) pardoned or otherwise granted relief
24 on the basis of actual innocence with respect to that offense, if
25 the applicable pardon or court order clearly indicates on its face
26 that the pardon or order was granted or rendered on the basis of the
27 person's actual innocence; or

1 (2) the person has been released and the charge, if
2 any, has not resulted in a final conviction and is no longer pending
3 and there was no court-ordered community supervision under Chapter
4 42A for the offense, unless the offense is a Class C misdemeanor,
5 provided that:

6 (A) regardless of whether any statute of
7 limitations exists for the offense and whether any limitations
8 period for the offense has expired, an indictment or information
9 charging the person with the commission of a misdemeanor offense
10 based on the person's arrest or charging the person with the
11 commission of any felony offense arising out of the same
12 transaction for which the person was arrested:

13 (i) has not been presented against the
14 person at any time following the arrest, and:

15 (a) at least 180 days have elapsed
16 from the date of arrest if the arrest for which the expunction was
17 sought was for an offense punishable as a Class C misdemeanor and if
18 there was no felony charge arising out of the same transaction for
19 which the person was arrested;

20 (b) at least one year has elapsed from
21 the date of arrest if the arrest for which the expunction was sought
22 was for an offense punishable as a Class B or A misdemeanor and if
23 there was no felony charge arising out of the same transaction for
24 which the person was arrested;

25 (c) at least three years have elapsed
26 from the date of arrest if the arrest for which the expunction was
27 sought was for an offense punishable as a felony or if there was a

1 felony charge arising out of the same transaction for which the
2 person was arrested; or

3 (d) the attorney representing the
4 state certifies that the applicable arrest records and files are
5 not needed for use in any criminal investigation or prosecution,
6 including an investigation or prosecution of another person; or

7 (ii) if presented at any time following the
8 arrest, was dismissed or quashed, and the court finds that the
9 indictment or information was dismissed or quashed because:

10 (a) the person completed a veterans
11 treatment court program created under Chapter 124, Government Code,
12 or former law, subject to Subsection (a-3);

13 (b) the person completed a mental
14 health court program created under Chapter 125, Government Code, or
15 former law, subject to Subsection (a-4);

16 (c) the person completed a youth
17 pretrial intervention program created under Chapter 127,
18 Government Code;

19 (d) the person completed a pretrial
20 intervention program authorized under Section 76.011, Government
21 Code, other than a veterans treatment court program created under
22 Chapter 124, Government Code, or former law, [or] a mental health
23 court program created under Chapter 125, Government Code, or former
24 law, or a youth pretrial intervention program created under Chapter
25 127, Government Code;

26 (e) [or] the presentment had been
27 made because of mistake, false information, or other similar reason

1 indicating absence of probable cause at the time of the dismissal to
2 believe the person committed the offense; or

3 (f) [~~(e)~~] the indictment or
4 information was void; or

5 (B) prosecution of the person for the offense for
6 which the person was arrested is no longer possible because the
7 limitations period has expired.

8 SECTION 2.02. Section 1a, Article 55.02, Code of Criminal
9 Procedure, is amended by adding Subsection (a-3) to read as
10 follows:

11 (a-3) A trial court dismissing a case following a person's
12 successful completion of a youth pretrial intervention program
13 created under Chapter 127, Government Code, if the trial court is a
14 district court or a district court in the county in which the trial
15 court is located, may, with the consent of the attorney
16 representing the state, enter an order of expunction for a person
17 entitled to expunction under Article 55.01(a)(2)(A)(ii)(c) not
18 later than the 30th day after the date the court dismisses the case
19 or receives the information regarding that dismissal, as
20 applicable. Notwithstanding any other law, a court that enters an
21 order for expunction under this subsection may not charge any fee or
22 assess any cost for the expunction.

23 SECTION 2.03. Article 102.006(b-1), Code of Criminal
24 Procedure, is amended to read as follows:

25 (b-1) The fees under Subsection (a) shall be waived if the
26 petitioner is entitled to expunction:

27 (1) under Article 55.01(a)(2)(A)(ii)(a) after

1 successful completion of a veterans treatment court program created
2 under Chapter 124, Government Code, or former law; ~~[or]~~

3 (2) under Article 55.01(a)(2)(A)(ii)(b) after
4 successful completion of a mental health court program created
5 under Chapter 125, Government Code, or former law; or

6 (3) under Article 55.01(a)(2)(A)(ii)(c) after
7 successful completion of a youth pretrial intervention program
8 created under Chapter 127, Government Code.

9 ARTICLE 3. TRANSITION; EFFECTIVE DATE

10 SECTION 3.01. The changes in law made by this Act apply only
11 to an offense committed on or after the effective date of this Act.
12 An offense committed before the effective date of this Act is
13 governed by the law in effect on the date the offense was committed,
14 and the former law is continued in effect for that purpose. For
15 purposes of this section, an offense was committed before the
16 effective date of this Act if any element of the offense occurred
17 before that date.

18 SECTION 3.02. This Act takes effect September 1, 2021.