

By: Crockett, Morales Shaw

H.B. No. 3315

Substitute the following for H.B. No. 3315:

By: Ramos

C.S.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 establish a youth pretrial intervention program for persons
12 arrested for or charged with an offense that is punishable as a
13 Class B misdemeanor or any higher category of offense, other than an
14 offense listed in Article 42A.054(a), Code of Criminal Procedure.

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

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

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

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

1 Sec. 127.003. DUTIES OF YOUTH PRETRIAL INTERVENTION
2 PROGRAM. (a) A youth pretrial intervention program established
3 under this chapter must:

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

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

9 (3) provide a participant with a court-ordered
10 individualized treatment plan indicating the services that will be
11 provided to the participant.

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

16 (c) A youth pretrial intervention program may allow a
17 participant to comply with the participant's court-ordered
18 individualized treatment plan or to fulfill certain other court
19 obligations through the use of videoconferencing software or other
20 Internet-based communications.

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

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

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

6 (c) A program participant charged with an offense
7 punishable as a felony of the third degree may not be required to
8 spend more than three years in the program and may not be required
9 to perform more than 50 hours of community service as part of the
10 program.

11 (d) A program participant charged with an offense
12 punishable as a felony of the second degree may not be required to
13 spend more than four years in the program and may not be required to
14 perform more than 75 hours of community service as part of the
15 program.

16 (e) A program participant charged with an offense
17 punishable as a felony of the first degree may not be required to
18 spend more than five years in the program and may not be required to
19 perform more than 100 hours of community service as part of the
20 program.

21 Sec. 127.005. SUPERVISION OF PARTICIPANTS. The community
22 supervision and corrections department serving the county in which
23 the program is operated shall supervise program participants.

24 Sec. 127.006. ESTABLISHMENT OF REGIONAL PROGRAM. The
25 commissioners courts of two or more counties may elect to establish
26 a regional youth pretrial intervention program under this chapter
27 for the participating counties.

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

4 (1) a reasonable reimbursement fee for the program;
5 and

6 (2) a testing, counseling, and treatment
7 reimbursement fee in an amount necessary to cover the costs of any
8 testing, counseling, or treatment performed or provided under the
9 program.

10 (b) Reimbursement fees collected under this section may be
11 paid on a periodic basis or on a deferred payment schedule at the
12 discretion of the judge, magistrate, or coordinator. The fees must
13 be:

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

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

16 Sec. 127.008. COURTESY SUPERVISION. (a) A youth pretrial
17 intervention program that accepts placement of a defendant may
18 transfer responsibility for supervising the defendant's
19 participation in the program to another youth pretrial intervention
20 program that is located in the county where the defendant works or
21 resides. The defendant's supervision may be transferred under this
22 section only with the consent of both youth pretrial intervention
23 programs and the defendant.

24 (b) A defendant who consents to the transfer of the
25 defendant's supervision must agree to abide by all rules,
26 requirements, and instructions of the youth pretrial intervention
27 program that accepts the transfer.

1 (c) If a defendant whose supervision is transferred under
2 this section does not successfully complete the program, the youth
3 pretrial intervention program supervising the defendant shall
4 return the responsibility for the defendant's supervision to the
5 youth pretrial intervention program that initiated the transfer.

6 SECTION 1.02. Article 59.062(f), Code of Criminal
7 Procedure, is amended to read as follows:

8 (f) A civil penalty collected under this article shall be
9 deposited to the credit of the drug court account in the general
10 revenue fund to help fund specialty court programs established
11 under Chapter 122, 123, 124, 125, 127, or 129, Government Code, or
12 former law.

13 SECTION 1.03. Section 772.0061(a)(2), Government Code, is
14 amended to read as follows:

15 (2) "Specialty court" means:

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

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

20 (C) a drug court program established under
21 Chapter 123 or former law;

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

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

26 (F) a youth pretrial intervention program
27 established under Chapter 127; and

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

3 SECTION 1.04. Section 772.0061(b), Government Code, is
4 amended to read as follows:

5 (b) The governor shall establish the Specialty Courts
6 Advisory Council within the criminal justice division established
7 under Section 772.006 to:

8 (1) evaluate applications for grant funding for
9 specialty courts in this state and to make funding recommendations
10 to the criminal justice division; and

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

14 ARTICLE 2. AUTOMATIC EXPUNCTION

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

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

21 (1) the person is tried for the offense for which the
22 person was arrested and is:

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

25 (B) convicted and subsequently:

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

1 (ii) pardoned or otherwise granted relief
2 on the basis of actual innocence with respect to that offense, if
3 the applicable pardon or court order clearly indicates on its face
4 that the pardon or order was granted or rendered on the basis of the
5 person's actual innocence; or

6 (2) the person has been released and the charge, if
7 any, has not resulted in a final conviction and is no longer pending
8 and there was no court-ordered community supervision under Chapter
9 42A for the offense, unless the offense is a Class C misdemeanor,
10 provided that:

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

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

20 (a) at least 180 days have elapsed
21 from the date of arrest if the arrest for which the expunction was
22 sought was for an offense punishable as a Class C misdemeanor and if
23 there was no felony charge arising out of the same transaction for
24 which the person was arrested;

25 (b) at least one year has elapsed from
26 the date of arrest if the arrest for which the expunction was sought
27 was for an offense punishable as a Class B or A misdemeanor and if

1 there was no felony charge arising out of the same transaction for
2 which the person was arrested;

3 (c) at least three years have elapsed
4 from the date of arrest if the arrest for which the expunction was
5 sought was for an offense punishable as a felony or if there was a
6 felony charge arising out of the same transaction for which the
7 person was arrested; or

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

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

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

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

21 (c) the person completed a youth
22 pretrial intervention program created under Chapter 127,
23 Government Code;

24 (d) the person completed a pretrial
25 intervention program authorized under Section 76.011, Government
26 Code, other than a veterans treatment court program created under
27 Chapter 124, Government Code, or former law, [~~or~~] a mental health

1 court program created under Chapter 125, Government Code, or former
2 law, or a youth pretrial intervention program created under Chapter
3 127, Government Code;

4 (e) [~~(d)~~] the presentment had been
5 made because of mistake, false information, or other similar reason
6 indicating absence of probable cause at the time of the dismissal to
7 believe the person committed the offense; or

8 (f) [~~(e)~~] the indictment or
9 information was void; or

10 (B) prosecution of the person for the offense for
11 which the person was arrested is no longer possible because the
12 limitations period has expired.

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

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

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

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

5 (1) under Article 55.01(a)(2)(A)(ii)(a) after
6 successful completion of a veterans treatment court program created
7 under Chapter 124, Government Code, or former law; ~~or~~

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

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

14 ARTICLE 3. TRANSITION; EFFECTIVE DATE

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

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