

By: Crockett

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;

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; and

24 (3) the attorney representing the state consents to  
25 the defendant's participation in the program.

26 (c) The court in which the criminal case is pending shall  
27 allow an eligible defendant to choose whether to proceed through

1 the youth pretrial intervention program or otherwise through the  
2 criminal justice system.

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

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

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

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

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

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

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

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

1 program and may not be required to perform more than 24 hours of  
2 community service as part of the program.

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

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

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

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

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

26 Sec. 127.006. ESTABLISHMENT OF REGIONAL PROGRAM. The  
27 commissioners courts of two or more counties may elect to establish

1 a regional youth pretrial intervention program under this chapter  
2 for the participating counties.

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

6 (1) a reasonable reimbursement fee for the program;  
7 and

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

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

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

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

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

26 (b) A defendant who consents to the transfer of the  
27 defendant's supervision must agree to abide by all rules,

1 requirements, and instructions of the youth pretrial intervention  
2 program that accepts the transfer.

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

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

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

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

17 (2) "Specialty court" means:

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

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

22 (C) a drug court program established under  
23 Chapter 123 or former law;

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

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

1                    (F) a youth pretrial intervention program  
2 established under Chapter 127; and

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

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

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

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

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

16                    ARTICLE 2. AUTOMATIC EXPUNCTION

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

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

23            (1) the person is tried for the offense for which the  
24 person was arrested and is:

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

27                    (B) convicted and subsequently:



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

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

8 (2) the person has been released and the charge, if  
9 any, has not resulted in a final conviction and is no longer pending  
10 and there was no court-ordered community supervision under Chapter  
11 42A for the offense, unless the offense is a Class C misdemeanor,  
12 provided that:

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

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

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

27 (b) at least one year has elapsed from

1 the date of arrest if the arrest for which the expunction was sought  
2 was for an offense punishable as a Class B or A misdemeanor and if  
3 there was no felony charge arising out of the same transaction for  
4 which the person was arrested;

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

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

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

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

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

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

26 (d) the person completed a pretrial  
27 intervention program authorized under Section 76.011, Government

1 Code, other than a veterans treatment court program created under  
2 Chapter 124, Government Code, or former law, ~~[or]~~ a mental health  
3 court program created under Chapter 125, Government Code, or former  
4 law, or a youth pretrial intervention program created under Chapter  
5 127, Government Code;

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

10 (f) ~~[(e)]~~ the indictment or  
11 information was void; or

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

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

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

1 order for expunction under this subsection may not charge any fee or  
2 assess any cost for the expunction.

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

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

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

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

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

16 ARTICLE 3. TRANSITION; EFFECTIVE DATE

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

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