

By: Hodge

H.B. No. 2791

Substitute the following for H.B. No. 2791:

By: Keel

C.S.H.B. No. 2791

A BILL TO BE ENTITLED

AN ACT

relating to the use of substance abuse treatment facilities and other community corrections facilities for individuals referred for treatment as part of a drug court or similar program.

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

SECTION 1. Sections 76.017(b) and (d), Government Code, are amended to read as follows:

(b) The program must:

(1) include automatic screening and evaluation of a person arrested for an offense, other than a Class C misdemeanor, in which an element of the offense is the use or possession of alcohol or the use, possession, or sale of a controlled substance or marihuana;

(2) include automatic screening and evaluation of a person arrested for an offense, other than a Class C misdemeanor, in which the use of alcohol or drugs is suspected to have significantly contributed to the offense for which the individual has been arrested;

(3) coordinate the evaluation and referral to treatment services; and

(4) make referrals for the appropriate treatment of a person determined to be in need of treatment, including referrals to a community corrections facility as defined by Section 509.001.

(d) After a person is screened and evaluated, a

1 representative of the department shall meet with the participating
2 criminal justice and treatment agencies to review the person's case
3 and to determine if the person should be referred for treatment. If
4 a person is considered appropriate for referral, the person may be
5 referred to community-based treatment in accordance with
6 applicable law or any other treatment program deemed appropriate.
7 A magistrate may order a person to participate in a treatment
8 program recommended under this section, including treatment in a
9 drug court program established under Chapter 469, Health and Safety
10 Code, as a condition of bond or condition of pretrial release.

11 SECTION 2. Section 493.009, Government Code, is amended by
12 amending Subsection (a) and adding Subsection (a-1) to read as
13 follows:

14 (a) The department [~~, with the cooperation of the Texas~~
15 ~~Commission on Alcohol and Drug Abuse,~~] shall establish a program to
16 confine and treat:

17 (1) defendants required to participate in the program
18 under Section 14, Article 42.12, Code of Criminal Procedure; and

19 (2) individuals referred for treatment as part of a
20 drug court program established under Chapter 469, Health and Safety
21 Code, or a similar program created under other law.

22 (a-1) The board by rule may modify requirements imposed by
23 this section and Article 42.12, Code of Criminal Procedure, as
24 necessary to properly treat individuals who are not participating
25 in the program as a condition of community supervision.

26 SECTION 3. Section 509.001(1), Government Code, is amended
27 to read as follows:

(1) "Community corrections facility" means a physical structure, established by a judicial district after authorization of the establishment of the structure has been included in the local community justice plan, that is operated by a department or operated for a department by an entity under contract with the department, for the purpose of treating ~~[confining]~~ persons who have been placed on community supervision or who are participating in a drug court program established under Chapter 469, Health and Safety Code, and providing services and programs to modify criminal behavior, deter criminal activity, protect the public, and restore victims of crime. The term includes:

- (A) a restitution center;
- (B) a court residential treatment facility;
- (C) a substance abuse treatment facility;
- (D) a custody facility or boot camp;
- (E) a facility for an offender with a mental impairment, as defined by Section 614.001, Health and Safety Code; and
- (F) an intermediate sanction facility.

SECTION 4. Sections 18(b), (d), and (i), Article 42.12, Code of Criminal Procedure, are amended to read as follows:

(b) If a judge requires as a condition of community supervision or participation in a drug court program established under Chapter 469, Health and Safety Code, that the defendant serve a term in a community corrections facility, the term may not be more than 24 months.

(d) As directed by the judge, the community corrections

1 facility director shall file with the community supervision and
2 corrections department director or administrator of a drug court
3 program, as applicable, a copy of an evaluation made by the facility
4 director of the defendant's behavior and attitude at the facility.
5 The community supervision and corrections department director or
6 program administrator shall examine the evaluation, make written
7 comments on the evaluation that the director or administrator [he]
8 considers relevant, and file the evaluation and comments with the
9 judge who granted community supervision to the defendant or placed
10 the defendant in a drug court program. If the evaluation indicates
11 that the defendant has made significant progress toward compliance
12 with court-ordered conditions of community supervision or
13 objectives of placement in the drug court program, as applicable,
14 the court may release the defendant from the community corrections
15 facility. A [The] defendant who served a term in the facility as a
16 condition of community supervision shall serve the remainder of the
17 defendant's [his] community supervision under any terms and
18 conditions the court imposes under this article.

19 (i) If a [~~defendant participating in a program under this~~
20 ~~section is not required by the~~] judge who places a defendant on
21 community supervision under this section does not require the
22 defendant to deliver the defendant's salary to the restitution
23 center director, the employer of the defendant shall deliver the
24 salary to the director. The director shall deposit the salary into
25 a fund to be given to the defendant on release after deducting:

26 (1) the cost to the center for the defendant's food,
27 housing, and supervision;

1 (2) necessary travel expense to and from work and
2 community-service projects and other incidental expenses of the
3 defendant;

4 (3) support of the defendant's dependents; and

5 (4) restitution to the victims of an offense committed
6 by the defendant.

7 SECTION 5. This Act takes effect immediately if it receives
8 a vote of two-thirds of all the members elected to each house, as
9 provided by Section 39, Article III, Texas Constitution. If this
10 Act does not receive the vote necessary for immediate effect, this
11 Act takes effect September 1, 2005.