

By: Hodge (Senate Sponsor - Deuell) H.B. No. 2791
(In the Senate - Received from the House May 16, 2005;
May 17, 2005, read first time and referred to Committee on Criminal
Justice; May 20, 2005, reported favorably by the following vote:
Yeas 4, Nays 0; May 20, 2005, sent to printer.)

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

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

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

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

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

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

SECTION 3. Section 509.001(1), Government Code, is amended
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 facility director shall file with the community supervision and corrections department director or administrator of a drug court program, as applicable, a copy of an evaluation made by the facility director of the defendant's behavior and attitude at the facility. The community supervision and corrections department director or program administrator shall examine the evaluation, make written comments on the evaluation that the director or administrator [he] considers relevant, and file the evaluation and comments with the judge who granted community supervision to the defendant or placed the defendant in a drug court program. If the evaluation indicates that the defendant has made significant progress toward compliance with court-ordered conditions of community supervision or objectives of placement in the drug court program, as applicable, the court may release the defendant from the community corrections facility. A [The] defendant who served a term in the facility as a condition of community supervision shall serve the remainder of the defendant's [his] community supervision under any terms and conditions the court imposes under this article.

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

- (1) the cost to the center for the defendant's food, housing, and supervision;
- (2) necessary travel expense to and from work and community-service projects and other incidental expenses of the defendant;
- (3) support of the defendant's dependents; and
- (4) restitution to the victims of an offense committed by the defendant.

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

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