

BILL ANALYSIS

C.S.H.B. 3200
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Corrections
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Studies show that if a probationer is going to re-offend, they will usually do it within the first two years. It is in this time period that more resources are needed to supervise the offenders and offer programming options.

The current method of per capita probation funding and reliance on supervision fees are disincentives to grant early dismissals and shorter probation terms. The current method encourages probation officers to keep offenders on probation longer than they need to be because they are putting money into the system.

CSHB 3200 creates an alternative probation funding mechanism which frontloads the formulas to encourage more intensive programming early in the probation terms and discourages community supervision and corrections departments from keeping offenders on probation longer than is necessary.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Board of Criminal Justice in SECTION 1 of this bill.

ANALYSIS

CSHB 3200 modifies the funding structure of state aid to community supervision and corrections departments (department). One of several methods that funding is currently provided to departments is based on a per diem amount for each felony defendant directly supervised by the department. CSHB 3200 separates this method of per capita felony placement funding into two categories: (1) a per diem amount for felony defendants that are placed on community supervision and supervised by the department pursuant to lawful authority that is based on a per capita funding formula which is established in subsection (i), Section 509.011, Government Code (as added by this bill); and (2) a per diem amount based on each felony defendant participating in a pretrial program and supervised by the department pursuant to lawful authority.

Additionally, current statute provides for a per diem amount (per capita funding) for a period not to exceed 182 days for each defendant supervised by the department pursuant to lawful authority, other than a felony defendant. CSHB 3200 changes this to apply specifically to misdemeanor defendants placed on community supervision and supervised by the department pursuant to lawful authority.

Subsection (i) as added by this Act, requires the Community Justice Assistance Division (division) of the Texas Department of Criminal Justice to biennially establish a per capita funding formula to determine the percentage of the total amount provided in the General Appropriations Act for payments to departments that each department is entitled to receive as per capita funding for felony defendants placed on community supervision and supervised by the department pursuant to lawful authority. The formula must include: (1) higher per capita rates for those felony defendants supervised by a department who are serving the early years of a term of community supervision than for those defendants who are serving the end of a term of community supervision; (2) penalties in per capita funding with respect to each defendant supervised by a department whose community supervision is revoked due to a technical violation of an applicable condition of community supervision; and (3) awards in per capita funding with respect to each felony defendant supervised by a department who is discharged following an

early termination of community supervision under Section 5 or Section 20, Article 42.12, Code of Criminal Procedure, as applicable.

Currently, the division is required to consider the amounts appropriated in the General Appropriations Act for basic supervision when establishing per diem payments to departments for felony defendants and non-felony defendants. CSHB 3200 removes this requirement and instead provides that in establishing the per capita funding formula under subsection (i), as added by this Act, the division shall consider the amounts appropriated in the General Appropriations Act for basic supervision as sufficient to provide basic supervision in each year of the fiscal biennium.

CSHB 3200 provides that the Texas Board of Criminal Justice by rule may adopt a policy limiting the percentage of benefit or loss a department may realize as a result of the operation of the per capita funding formula established under Subsection (i), as added by this Act.

The bill requires the division to establish the per capita funding formula, as added by this Act, by not later than January 1, 2008, and it is to be used for the state fiscal year beginning September 1, 2008.

Sections 509.011(a) and (e), Government Code, as amended by this Act, and Sections 509.011(i) and (j), Government Code, as added by this Act, apply to appropriations made for any state fiscal year beginning on or after September 1, 2008.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

HB 3200 collapses the funding mechanisms for per capita funding for felony probationers with non-felony probationers into one funding formula. The substitute separates misdemeanor and pre-trial funding from the funding formula for felony probationers.

HB 3200 authorizes misdemeanor funding for the duration of the term of community supervision. The substitute limits misdemeanor funding to 182 days.

HB 3200 requires that the Community Justice Assistance Division (division) establish a per capita funding formula on an annual basis. The substitute requires the division to establish a per capita funding formula biennially.