

By: Madden

H.B. No. 530

A BILL TO BE ENTITLED

AN ACT

relating to the operation and funding of drug court programs.

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

SECTION 1. Section 469.001, Health and Safety Code, is amended to read as follows:

Sec. 469.001. DRUG COURT PROGRAM DEFINED; PROCEDURES FOR CERTAIN DEFENDANTS. (a) In this chapter, "drug court program" means a program that has the following essential characteristics:

(1) the integration of alcohol and other drug treatment 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, drug, and other related treatment and rehabilitative services;

(5) monitoring of abstinence through weekly alcohol and other drug testing;

(6) a coordinated strategy to govern program responses to participants' compliance;

(7) ongoing judicial interaction with program participants;

1 (8) monitoring and evaluation of program goals and
2 effectiveness;

3 (9) continuing interdisciplinary education to promote
4 effective program planning, implementation, and operations; and

5 (10) development of partnerships with public agencies
6 and community organizations.

7 (b) If a defendant enters a drug court program following an
8 arrest for an offense punishable as a state jail felony under
9 Chapter 481, the court, with the consent of the attorney
10 representing the state, may defer the proceedings without accepting
11 a plea of guilty or nolo contendere or entering an adjudication of
12 guilt. If the defendant successfully completes the program, on
13 motion of the attorney representing the state, the court may
14 dismiss the indictment or information charging the defendant with
15 the commission of the offense. If the defendant fails to
16 successfully complete the program, the court may proceed as if the
17 case had never been stayed.

18 (c) On ex parte petition or other request of a defendant,
19 the court shall enter an order of nondisclosure under Section
20 411.081, Government Code, as if the defendant had received a
21 discharge and dismissal under Section 5(c), Article 42.12, Code of
22 Criminal Procedure, with respect to all records and files related
23 to the defendant's arrest for the offense for which the defendant
24 entered the drug court program if the defendant:

25 (1) has not been previously convicted of a felony
26 offense; and

27 (2) is not arrested or convicted for any other felony

1 offense before the second anniversary of the defendant's successful
2 completion of the drug court program.

3 SECTION 2. Section 469.002, Health and Safety Code, is
4 amended to read as follows:

5 Sec. 469.002. AUTHORITY TO ESTABLISH PROGRAM. The [~~Except~~
6 ~~as provided by Section 469.006, the~~] commissioners court of a
7 county or governing body of a municipality may establish the
8 following types of [a] drug court programs:

9 (1) drug courts for [~~program for~~] persons arrested
10 for, charged with, or convicted of:

11 (A) [~~(1)~~] an offense in which an element of the
12 offense is the use or possession of alcohol or the use, possession,
13 or sale of a controlled substance, a controlled substance analogue,
14 or marihuana; or

15 (B) [~~(2)~~] an offense in which the use of alcohol
16 or a controlled substance is suspected to have significantly
17 contributed to the commission of the offense and the offense did not
18 involve:

19 (i) [~~(A)~~] carrying, possessing, or using a
20 firearm or other dangerous weapon;

21 (ii) [~~(B)~~] the use of force against the
22 person of another; or

23 (iii) [~~(C)~~] the death of or serious bodily
24 injury to another;

25 (2) drug courts for juveniles detained for, taken into
26 custody for, or adjudicated as having engaged in:

27 (A) delinquent conduct, including habitual

1 felony conduct, or conduct indicating a need for supervision in
2 which an element of the conduct is the use or possession of alcohol
3 or the use, possession, or sale of a controlled substance, a
4 controlled substance analogue, or marihuana; or

5 (B) delinquent conduct, including habitual
6 felony conduct, or conduct indicating a need for supervision in
7 which the use of alcohol or a controlled substance is suspected to
8 have significantly contributed to the commission of the conduct and
9 the conduct did not involve:

10 (i) carrying, possessing, or using a
11 firearm or other dangerous weapon;

12 (ii) the use of force against the person of
13 another; or

14 (iii) the death of or serious bodily injury
15 to another;

16 (3) reentry drug courts for persons with a
17 demonstrated history of using alcohol or a controlled substance who
18 may benefit from a program designed to facilitate the person's
19 transition and reintegration into the community on release from a
20 state or local correctional facility;

21 (4) family dependency drug treatment courts for family
22 members involved in a suit affecting the parent-child relationship
23 in which a parent's use of alcohol or a controlled substance is a
24 primary consideration in the outcome of the suit; or

25 (5) programs for other persons not precisely described
26 by Subdivisions (1)-(4) who may benefit from a program that has the
27 essential characteristics described by Section 469.001.

1 SECTION 3. Section 469.003, Health and Safety Code, is
2 amended by adding Subsection (c) to read as follows:

3 (c) A drug court program established under Section 469.002
4 may:

5 (1) notify the criminal justice division of the
6 governor's office before or on implementation of the program; and

7 (2) provide information regarding the performance of
8 the program to the division on request.

9 SECTION 4. Section 469.004, Health and Safety Code, is
10 amended to read as follows:

11 Sec. 469.004. FEES. (a) A drug court program established
12 under Section 469.002 may collect from a participant in the
13 program:

14 (1) a reasonable program fee not to exceed \$1,000~~[,~~
15 ~~which may be paid on a periodic basis or on a deferred payment~~
16 ~~schedule at the discretion of the judge, magistrate, or program~~
17 ~~director administering the program]; and~~

18 (2) an alcohol or controlled substance [a urinalysis]
19 testing, [and] counseling, and treatment fee[+]

20 ~~[(A) based on the participant's ability to pay,~~
21 ~~and~~

22 ~~[(B)]~~ in an amount necessary to cover the costs
23 of the testing, ~~[and]~~ counseling, and treatment.

24 (b) Fees collected under this section may be paid on a
25 periodic basis or on a deferred payment schedule at the discretion
26 of the judge, magistrate, or program director administering the
27 program. The fees must be:

1 (1) ~~[A drug court program may require a participant to~~
2 ~~pay all treatment costs incurred while participating in the~~
3 ~~program,]~~ based on the participant's ability to pay; and

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

5 SECTION 5. Section 469.006, Health and Safety Code, is
6 amended to read as follows:

7 Sec. 469.006. PROGRAM IN CERTAIN COUNTIES MANDATORY. (a)
8 The commissioners court of a county with a population of more than
9 200,000 ~~[550,000]~~ shall establish a drug court program under
10 Subdivision (1) of Section 469.002.

11 ~~(b) [A drug court program required under this section to be~~
12 ~~established must have at least 100 participants during the first~~
13 ~~four months in which the program is operating.~~

14 ~~[(c)]~~ A county required under this section to establish a
15 drug court program shall apply for ~~[to the]~~ federal and state
16 ~~[government for any]~~ funds available to pay the costs of the
17 program. The criminal justice division of the governor's office
18 may assist a county in applying for federal funds as required by
19 this subsection~~[, including providing financial assistance to the~~
20 ~~county]~~.

21 (c) Notwithstanding Subsection (a), a county is required to
22 establish a drug program under this section only if the county
23 receives federal or state funding specifically for that purpose.

24 (d) A county that does not establish a drug court program as
25 required by this section and maintain the program is ineligible to
26 receive from the state:

27 (1) funds for a community supervision and corrections

1 department; and

2 (2) grants for substance abuse treatment programs
3 administered by the criminal justice division of the governor's
4 office.

5 SECTION 6. Subchapter A, Chapter 102, Code of Criminal
6 Procedure, is amended by adding Article 102.0178 to read as
7 follows:

8 Art. 102.0178. COSTS ATTENDANT TO CERTAIN INTOXICATION AND
9 DRUG CONVICTIONS. (a) In addition to other costs on conviction
10 imposed by this chapter, a person shall pay \$50 as a court cost on
11 conviction of an offense under:

12 (1) Chapter 49, Penal Code; or

13 (2) Chapter 481, Health and Safety Code.

14 (b) The court shall assess and make a reasonable effort to
15 collect the cost due under this article whether or not any other
16 court cost is assessed or collected.

17 (c) For purposes of this article, a person is considered to
18 have been convicted if:

19 (1) a sentence is imposed;

20 (2) the defendant receives community supervision or
21 deferred adjudication; or

22 (3) the court defers final disposition of the case.

23 (d) Court costs under this article are collected in the same
24 manner as other fines or costs. An officer collecting the costs
25 shall keep separate records of the funds collected as costs under
26 this article and shall deposit the funds in the county or municipal
27 treasury, as appropriate.

1 (e) The custodian of a county or municipal treasury shall:

2 (1) keep records of the amount of funds on deposit
3 collected under this article; and

4 (2) except as provided by Subsection (f), send to the
5 comptroller before the last day of the first month following each
6 calendar quarter the funds collected under this article during the
7 preceding quarter.

8 (f) A county or municipality is entitled to:

9 (1) retain 40 percent of the funds collected under
10 this article by an officer of the county or municipality to be used
11 exclusively for the development and maintenance of drug court
12 programs operated within the county or municipality; and

13 (2) if the custodian of the county or municipal
14 treasury complies with Subsection (e), retain an additional 10
15 percent of the funds collected under this article by an officer of
16 the county or municipality as a collection fee.

17 (g) If no funds due as costs under this article are
18 deposited in a county or municipal treasury in a calendar quarter,
19 the custodian of the treasury shall file the report required for the
20 quarter in the regular manner and must state that no funds were
21 collected.

22 (h) The comptroller shall deposit the funds received under
23 this article to the credit of the drug court account in the general
24 revenue fund to help fund drug court programs established under
25 Chapter 469, Health and Safety Code. The legislature shall
26 appropriate money from the account solely to the criminal justice
27 division of the governor's office for distribution to drug court

1 programs that apply for the money.

2 (i) Funds collected under this article are subject to audit
3 by the comptroller.

4 SECTION 7. Subchapter B, Chapter 102, Government Code, is
5 amended by adding Section 102.0215 to read as follows:

6 Sec. 102.0215. ADDITIONAL COURT COSTS ON CONVICTION: CODE
7 OF CRIMINAL PROCEDURE. A person convicted of an offense shall pay
8 under the Code of Criminal Procedure, in addition to all other
9 costs, costs attendant to convictions under Chapter 49, Penal Code,
10 and under Chapter 481, Health and Safety Code, to help fund drug
11 court programs established under Chapter 469, Health and Safety
12 Code (Art. 102.0178, Code of Criminal Procedure) . . . \$50.

13 SECTION 8. (a) The change in law made by this Act in
14 amending Section 469.001, Health and Safety Code, applies to a
15 defendant who enters a drug court program under Chapter 469, Health
16 and Safety Code, regardless of whether the defendant committed the
17 offense for which the defendant enters the program before, on, or
18 after the effective date of this Act.

19 (b) The commissioners court of a county required under
20 Section 469.006(b), Health and Safety Code, as amended by this Act,
21 to establish a drug court program shall establish the program not
22 later than the later of:

23 (1) September 1, 2008; or

24 (2) the first anniversary of the initial date on which
25 the federal census indicates that the county's population exceeds
26 200,000.

27 (c) The change in law made by this Act in adding Article

1 102.0178, Code of Criminal Procedure, and Section 102.0215,
2 Government Code, applies only to an offense committed on or after
3 the effective date of this Act. An offense committed before the
4 effective date of this Act is governed by the law in effect when the
5 offense was committed, and the former law is continued in effect for
6 that purpose. For purposes of this subsection, an offense was
7 committed before the effective date of this Act if any element of
8 the offense was committed before that date.

9 SECTION 9. This Act takes effect immediately if it receives
10 a vote of two-thirds of all the members elected to each house, as
11 provided by Section 39, Article III, Texas Constitution. If this
12 Act does not receive the vote necessary for immediate effect, this
13 Act takes effect September 1, 2007.