

BILL ANALYSIS

C.S.S.B. 462
By: Huffman
Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties observe that the use of specialty courts in Texas began over two decades ago with the establishment of the first drug court. Those parties further observe that the drug court model has often been replicated since then in order to divert nonviolent offenders suffering from mental health or substance abuse issues from the criminal justice system intensive treatment programs. Concerns have been raised that although government funding has been directed to drug courts, performance measures were not established to determine the success and cost-effectiveness of the use of specialty courts in Texas. There is additional concern that the state laws governing the various types of specialty courts are not codified in a common place in statute for ease of reference for judges and specialty court team professionals.

C.S.S.B. 462 seeks to consolidate Texas statutes relating to specialty drug courts, improve oversight of specialty court programs, and change the composition of the governor's Specialty Courts Advisory Council.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.S.B. 462 amends the Government Code and transfers provisions relating to family drug court programs, drug court programs, veterans court programs, and mental health court programs from the Family Code and the Health and Safety Code to the Government Code in order to consolidate statutory provisions relating to specialty courts. The bill removes provisions relating to program oversight that apply to each type of program individually and instead sets out oversight provisions applicable to all of those specialty courts, provisions authorizing the lieutenant governor and the speaker of the house of representatives to assign to appropriate legislative committees duties relating to the oversight of specialty court programs, and provisions authorizing the governor or a legislative committee to request the state auditor to perform a management, operations, or financial or accounting audit of a specialty court program for the purpose of determining the eligibility of the specialty court program to receive state or federal grant funds administered by a state agency.

C.S.S.B. 462 prohibits a specialty court program from operating until the judge, magistrate, or coordinator provides to the criminal justice division of the governor's office written notice of the program, any resolution or other official declaration under which the program was established, and a copy of the applicable community justice plan that incorporates duties related to supervision that will be required under the program, and the judge, magistrate, or coordinator receives from the division written verification of the program's compliance with that requirement. The bill requires a specialty court program to comply with all programmatic best practices recommended by the Specialty Courts Advisory Council and approved by the Texas Judicial Council and to report to the criminal justice division any information required by the

division regarding the performance of the program. The bill makes a specialty court program that fails to comply with such requirements ineligible to receive any state or federal grant funds administered by any state agency.

C.S.S.B. 462 changes the circumstances under which a court is required to enter an order of nondisclosure for a defendant who successfully completes a drug court program with respect to all records and files related to the defendant's arrest for the offense for which the defendant entered the program. The bill requires the court to enter such an order if the defendant has not been previously convicted of an offense for which a judge is prohibited from ordering community supervision or of a sexually violent offense and is not convicted for any felony offense between the date on which the defendant successfully completed the program and the second anniversary of that date, rather than if the defendant has not been previously convicted of a felony offense and is not convicted for any other felony offense before the second anniversary of successful program completion.

C.S.S.B. 462 requires the commissioners court of a county with a population of more than 200,000 that is required to establish a drug court program to direct the judge, magistrate, or coordinator to comply with the bill's requirement to provide specified notice and documents to the criminal justice division of the governor's office. The bill makes the requirement for the county to establish a drug court program contingent on the judge, magistrate, or coordinator receiving verification from the criminal justice division of the program's compliance.

C.S.S.B. 462 establishes that, for purposes of provisions governing veterans court programs, each county that elects to establish a regional veterans court program is considered to have established the program and is entitled to retain fees collected on certain intoxication and drug convictions in the same manner as if the county had established a veterans court program without participating in a regional program.

C.S.S.B. 462 requires a community justice plan submitted for a community supervision and corrections department to include a separate description of any services the department intends to provide in relation to a specialty court program.

C.S.S.B. 462 revises provisions relating to the Specialty Courts Advisory Council that the governor is required to establish within the criminal justice division of the governor's office. The bill expands the definition of "specialty court" for such purposes to include a family drug court program. The bill expands the duties of the council to include making recommendations to the division regarding best practices for specialty courts. The bill increases from seven to nine the number of council members by adding one member who represents the public and one member with experience as the judge of a specialty court. The bill requires each type of specialty court to be represented by the members with experience as a specialty court judge. The bill requires the governor to appoint the two additional members promptly after the bill takes effect and provides for the expiration dates of those members' terms. The bill establishes that the changes made to the qualifications of council members do not affect the entitlement of a member serving on the council immediately before the bill's effective date to continue to serve and function as a member of the council for the remainder of the member's term. The bill establishes that the changes to the qualifications apply only to a member appointed on or after September 1, 2013, but requires the governor to make additional appointments to the council as necessary as the terms of the members serving immediately before that date expire or become vacant. The bill prohibits a member of the council from receiving compensation for service on the council and authorizes the members to receive reimbursement from the criminal justice division for actual and necessary expenses incurred in performing council functions.

C.S.S.B. 462 amends the Code of Criminal Procedure, the Family Code, and the Government Code to make conforming changes.

C.S.S.B. 462 repeals Sections 103.029 and 103.0291, Government Code.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.S.B. 462 may differ from the engrossed version in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

SENATE ENGROSSED

HOUSE COMMITTEE SUBSTITUTE

ARTICLE 1. SPECIALTY COURT PROGRAMS

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SECTION 1.01. Title 2, Government Code, is amended by adding Subtitle K to read as follows:

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SUBTITLE K. SPECIALTY COURTS
CHAPTER 121. GENERAL PROVISIONS

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Sec. 121.001. DEFINITION.

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Sec. 121.002. OVERSIGHT. (a) The lieutenant governor and the speaker of the house of representatives may assign to appropriate legislative committees duties relating to the oversight of specialty court programs.

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(b) For the purpose of determining the eligibility of a specialty court program to receive state or federal grant funds administered by a state agency, the governor or a legislative committee to which duties are assigned under Subsection (a) may request the state auditor to perform a management, operations, or financial or accounting audit of the program.

(b) For the purpose of determining the eligibility of a specialty court program to receive state or federal grant funds administered by a state agency, the governor or a legislative committee to which duties are assigned under Subsection (a) may request the state auditor to perform a management, operations, or financial or accounting audit of the program.

(c) Notwithstanding any other law, a specialty court program may not operate until the judge, magistrate, or coordinator:

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(1) provides to the criminal justice division of the governor's office:

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(A) written notice of the program; and

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(B) any resolution or other official declaration under which the program was established; and

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(C) a copy of the applicable community justice plan that incorporates duties related to supervision that will be required under the program; and

(2) receives from the division written verification of the program's compliance

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with Subdivision (1).

(d) A specialty court program shall:

(1) comply with all programmatic best practices recommended by the Specialty Courts Advisory Council under Section 772.0061(b)(2) and approved by the Texas Judicial Council; and

(2) report to the criminal justice division any information required by the division regarding the performance of the program.

(e) A specialty court program that fails to comply with Subsections (c) and (d) is not eligible to receive any state or federal grant funds administered by any state agency.

SECTION 1.02. Subchapter J, Chapter 264, Family Code, is transferred to Subtitle K, Title 2, Government Code, as added by this Act, redesignated as Chapter 122, Government Code, and amended.

SECTION 1.03. Subsection (a), Section 76.011, Government Code, is amended.

SECTION 1.04. Chapter 469, Health and Safety Code, is transferred to Subtitle K, Title 2, Government Code, as added by this Act, redesignated as Chapter 123, Government Code, and amended.

SECTION 1.05. Chapter 617, Health and Safety Code, is transferred to Subtitle K, Title 2, Government Code, as added by this Act, redesignated as Chapter 124, Government Code, and amended.

SECTION 1.06. Chapter 616, Health and Safety Code, is transferred to Subtitle K, Title 2, Government Code, as added by this Act, redesignated as Chapter 125, Government Code, and amended.

No equivalent provision.

with Subdivision (1).

(d) A specialty court program shall:

(1) comply with all programmatic best practices recommended by the Specialty Courts Advisory Council under Section 772.0061(b)(2) and approved by the Texas Judicial Council; and

(2) report to the criminal justice division any information required by the division regarding the performance of the program.

(e) A specialty court program that fails to comply with Subsections (c) and (d) is not eligible to receive any state or federal grant funds administered by any state agency.

SECTION 1.02. Same as engrossed version.

SECTION 1.03. Same as engrossed version.

SECTION 1.04. Same as engrossed version.

SECTION 1.05. Same as engrossed version.

SECTION 1.06. Same as engrossed version.

SECTION 1.07. Subsection (b), Section 509.007, Government Code, is amended to read as follows:

(b) A community justice plan required under this section must include:

(1) a statement of goals and priorities and of commitment by the community justice

council, the judges described by Section 76.002 who established the department, and the department director to achieve a targeted level of alternative sanctions;

(2) a description of methods for measuring the success of programs provided by the department or provided by an entity served by the department;

(3) a proposal for the use of state jail felony facilities and, at the discretion of the community justice council, a regional proposal for the construction, operation, maintenance, or management of a state jail felony facility by a county, a community supervision and corrections department, or a private vendor under a contract with a county or a community supervision and corrections department;

(4) a description of the programs and services the department provides or intends to provide, including a separate description of:

(A) any services the department intends to provide in relation to a specialty court program; and

(B) any programs or other services the department intends to provide to enhance public safety, reduce recidivism, strengthen the investigation and prosecution of criminal offenses, improve programs and services available to victims of crime, and increase the amount of restitution collected from persons supervised by the department; and

(5) an outline of the department's projected programmatic and budgetary needs, based on the programs and services the department both provides and intends to provide.

SECTION 1.07. Subdivision (2), Subsection (a), Section 772.0061, Government Code, is amended.

SECTION 1.08. Same as engrossed version.

SECTION 1.08. Section 772.0061, Government Code, is amended.

SECTION 1.09. Same as engrossed version.

ARTICLE 2. CONFORMING AMENDMENTS

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SECTION 2.01. Subsection (b), Section 18,

SECTION 2.01. Same as engrossed version.

Article 42.12, Code of Criminal Procedure, is amended.

SECTION 2.02. Subsection (f), Article 59.062, Code of Criminal Procedure, is amended.

SECTION 2.03. Subsection (g), Section 102.0178, Code of Criminal Procedure, is amended.

SECTION 2.04. Subsection (c-1), Section 58.003, Family Code, is amended.

SECTION 2.05. Section 54.1801, Government Code, is amended.

SECTION 2.06. Subchapter C, Chapter 71, Government Code, is amended.

SECTION 2.07. Subsection (d), Section 76.017, Government Code, is amended.

SECTION 2.08. Section 102.021, Government Code, is amended.

SECTION 2.09. (a) Subchapter B, Chapter 103, Government Code, is amended.

(b) Subchapter B, Chapter 103, Government Code, is amended.

(c) Sections 103.029 and 103.0291, Government Code, are repealed.

SECTION 2.10. Subsection (a), Section 493.009, Government Code, is amended.

SECTION 2.11. Subdivision (1), Section 509.001, Government Code, is amended.

ARTICLE 3. TRANSITION

SECTION 2.02. Same as engrossed version.

SECTION 2.03. Same as engrossed version.

SECTION 2.04. Same as engrossed version.

SECTION 2.05. Same as engrossed version.

SECTION 2.06. Same as engrossed version.

SECTION 2.07. Same as engrossed version.

SECTION 2.08. Same as engrossed version.

SECTION 2.09. Same as engrossed version.

SECTION 2.10. Same as engrossed version.

SECTION 2.11. Same as engrossed version.

ARTICLE 3. TRANSITION

SECTION 3.01. (a) Except as provided by Subsection (b) of this section, the change in law made by this Act applies to a specialty court as defined by Section 121.001, Government Code, as added by this Act, regardless of whether that court was created under Subtitle K, Title 2, Government Code, as added by this Act, or former law.

(b) Subsection (b), Section 123.001, Government Code, as redesignated and amended by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this subsection, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

(c) Promptly after this Act takes effect, the governor shall appoint two additional members to the Specialty Courts Advisory Council under Section 772.0061, Government Code, as amended by this Act, as follows:

(1) one member who has experience as a judge of a specialty court, to serve a term expiring February 1, 2017; and

(2) one member who represents the public, to serve a term expiring February 1, 2019.

(d) The change in law made by this Act in the qualifications applying to a member of the Specialty Courts Advisory Council does not affect the entitlement of a member serving on the council immediately before September 1, 2013, to continue to serve and function as a member of the council for the remainder of the member's term. The change in law in the qualifications applies only to a member appointed on or after September 1, 2013. However, as the terms of the members serving immediately before September 1, 2013, expire or become vacant, the governor shall make additional appointments to the council as necessary to comply with Section 772.0061, Government Code, as amended by this Act.

(e) To the extent of any conflict, this Act prevails over another Act of the 83rd Legislature, Regular Session, 2013, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 3.01. Same as engrossed version.

ARTICLE 4. EFFECTIVE DATE

SECTION 4.01. This Act takes effect September 1, 2013.

ARTICLE 4. EFFECTIVE DATE

SECTION 4.01. Same as engrossed version.