

By: Geren

H.B. No. 3391

A BILL TO BE ENTITLED

AN ACT

relating to the creation of a specialty court for certain public safety employees who commit a criminal offense; imposing fees for participation and testing, counseling, and treatment.

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

SECTION 1. Subtitle K, Title 2, Government Code, is amended by adding Chapter 129 to read as follows:

CHAPTER 129. PUBLIC SAFETY EMPLOYEES TREATMENT COURT PROGRAM

Sec. 129.001. DEFINITION. In this chapter, "public safety employee" means a peace officer, firefighter, detention officer, county jailer, or emergency medical services employee of this state or a political subdivision of this state.

Sec. 129.002. PUBLIC SAFETY EMPLOYEES TREATMENT COURT PROGRAM DEFINED; PROCEDURES FOR CERTAIN DEFENDANTS. (a) In this chapter, "public safety employees treatment court program" means a program that has the following essential characteristics:

(1) the integration of 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, controlled

1 substance, mental health, and other related treatment and  
2 rehabilitative services;

3 (5) careful monitoring of treatment and services  
4 provided to program participants;

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

7 (7) ongoing judicial interaction with program  
8 participants;

9 (8) monitoring and evaluation of program goals and  
10 effectiveness;

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

13 (10) development of partnerships with public agencies  
14 and community organizations; and

15 (11) inclusion of a participant's family members who  
16 agree to be involved in the treatment and services provided to the  
17 participant under the program.

18 (b) If a defendant successfully completes a public safety  
19 employees treatment court program, after notice to the attorney  
20 representing the state and a hearing in the public safety employees  
21 treatment court at which that court determines that a dismissal is  
22 in the best interest of justice, the court in which the criminal  
23 case is pending shall dismiss the case against the defendant.

24 Sec. 129.003. AUTHORITY TO ESTABLISH PROGRAM; ELIGIBILITY.

25 (a) The commissioners court of a county may establish a public  
26 safety employees treatment court program for persons arrested for  
27 or charged with any misdemeanor or felony offense. A defendant is

1 eligible to participate in a public safety employees treatment  
2 court program established under this chapter only if the attorney  
3 representing the state consents to the defendant's participation in  
4 the program and if the court in which the criminal case is pending  
5 finds that the defendant is a current or former public safety  
6 employee who:

7 (1) suffers from a brain injury, mental illness, or  
8 mental disorder, including post-traumatic stress disorder, that:

9 (A) occurred during or resulted from the  
10 defendant's duties as a public safety employee; and

11 (B) affected the defendant's criminal conduct at  
12 issue in the case; or

13 (2) is a defendant whose participation in a public  
14 safety employees treatment court program, considering the  
15 circumstances of the defendant's conduct, personal and social  
16 background, and criminal history, is likely to achieve the  
17 objective of ensuring public safety through rehabilitation of the  
18 public safety employee in the manner provided by Section 1.02(1),  
19 Penal Code.

20 (b) The court in which the criminal case is pending shall  
21 allow an eligible defendant to choose whether to proceed through  
22 the public safety employees treatment court program or otherwise  
23 through the criminal justice system.

24 (c) Proof of matters described by Subsection (a) may be  
25 submitted to the court in which the criminal case is pending in any  
26 form the court determines to be appropriate, including medical  
27 records or testimony or affidavits of other public safety

1 employees. The court's findings must accompany any docketed case.

2 Sec. 129.004. DUTIES OF PUBLIC SAFETY EMPLOYEES TREATMENT  
3 COURT PROGRAM. (a) A public safety employees treatment court  
4 program established under this chapter must:

5 (1) ensure that a defendant eligible for participation  
6 in the program is provided legal counsel before volunteering to  
7 proceed through the program and while participating in the program;

8 (2) allow a participant to withdraw from the program  
9 at any time before a trial on the merits has been initiated;

10 (3) provide a participant with a court-ordered  
11 individualized treatment plan indicating the services that will be  
12 provided to the participant; and

13 (4) ensure that the jurisdiction of the public safety  
14 employees treatment court continues for a period of not less than  
15 six months but does not continue beyond the period of community  
16 supervision for the offense charged.

17 (b) A public safety employees treatment court program  
18 established under this chapter shall make, establish, and publish  
19 local procedures to ensure maximum participation of eligible  
20 defendants in the county or counties in which those defendants  
21 reside.

22 (c) A public safety employees treatment court program may  
23 allow a participant to comply with the participant's court-ordered  
24 individualized treatment plan or to fulfill certain other court  
25 obligations through the use of videoconferencing software or other  
26 Internet-based communications.

27 (d) This chapter does not prevent the initiation of

1 procedures under Chapter 46B, Code of Criminal Procedure.

2 Sec. 129.005. ESTABLISHMENT OF REGIONAL PROGRAM. (a) The  
3 commissioners courts of two or more counties may elect to establish  
4 a regional public safety employees treatment court program under  
5 this chapter for the participating counties.

6 (b) For purposes of this chapter, each county that elects to  
7 establish a regional public safety employees treatment court  
8 program under this section is considered to have established the  
9 program and is entitled to retain fees under Article 102.0178, Code  
10 of Criminal Procedure, in the same manner as if the county had  
11 established a public safety employees treatment court program  
12 without participating in a regional program.

13 Sec. 129.006. FEES. (a) A public safety employees  
14 treatment court program established under this chapter may collect  
15 from a participant in the program:

- 16 (1) a reasonable program fee not to exceed \$1,000; and  
17 (2) a testing, counseling, and treatment fee in an  
18 amount necessary to cover the costs of any testing, counseling, or  
19 treatment performed or provided under the program.

20 (b) Fees collected under this section may be paid on a  
21 periodic basis or on a deferred payment schedule at the discretion  
22 of the judge, magistrate, or coordinator. The fees must be:

- 23 (1) based on the participant's ability to pay; and  
24 (2) used only for purposes specific to the program.

25 Sec. 129.007. COURTESY SUPERVISION. (a) A public safety  
26 employees treatment court program that accepts placement of a  
27 defendant may transfer responsibility for supervising the

1 defendant's participation in the program to another public safety  
2 employees treatment court program that is located in the county  
3 where the defendant works or resides. The defendant's supervision  
4 may be transferred under this section only with the consent of both  
5 public safety employees treatment court programs and the defendant.

6 (b) A defendant who consents to the transfer of the  
7 defendant's supervision must agree to abide by all rules,  
8 requirements, and instructions of the public safety employees  
9 treatment court program that accepts the transfer.

10 (c) If a defendant whose supervision is transferred under  
11 this section does not successfully complete the program, the public  
12 safety employees treatment court program supervising the defendant  
13 shall return the responsibility for the defendant's supervision to  
14 the public safety employees treatment court program that initiated  
15 the transfer.

16 (d) If a defendant is charged with an offense in a county  
17 that does not operate a public safety employees treatment court  
18 program, the court in which the criminal case is pending may place  
19 the defendant in a public safety employees treatment court program  
20 located in the county where the defendant works or resides,  
21 provided that a program is operated in that county and the defendant  
22 agrees to the placement. A defendant placed in a public safety  
23 employees treatment court program in accordance with this  
24 subsection must agree to abide by all rules, requirements, and  
25 instructions of the program.

26 SECTION 2. Article 59.062(f), Code of Criminal Procedure,  
27 is amended to read as follows:

1 (f) A civil penalty collected under this article shall be  
2 deposited to the credit of the drug court account in the general  
3 revenue fund to help fund specialty [~~drug~~] court programs  
4 established under Chapter 122, 123, 124, [or] 125, or 129,  
5 Government Code, or former law.

6 SECTION 3. Article 102.0178(g), Code of Criminal Procedure,  
7 is amended to read as follows:

8 (g) The comptroller shall deposit the funds received under  
9 this article to the credit of the drug court account in the general  
10 revenue fund to help fund drug court programs established under  
11 Chapter 122, 123, 124, [or] 125, or 129, Government Code, or former  
12 law. The legislature shall appropriate money from the account  
13 solely to the criminal justice division of the governor's office  
14 for distribution to drug court programs that apply for the money.

15 SECTION 4. Subchapter B, Chapter 103, Government Code, is  
16 amended by adding Sections 103.02714 and 103.02715 to read as  
17 follows:

18 Sec. 103.02714. ADDITIONAL MISCELLANEOUS FEES AND COSTS:  
19 GOVERNMENT CODE. A program fee for a public safety employees  
20 treatment court program established under Section 129.003 shall be  
21 collected under Section 129.006 in a reasonable amount not to  
22 exceed \$1,000.

23 Sec. 103.02715. ADDITIONAL MISCELLANEOUS FEES AND COSTS:  
24 GOVERNMENT CODE. A participant in a public safety employees  
25 treatment court program administered under Chapter 129 shall pay a  
26 fee in an amount necessary to cover the costs of any testing,  
27 counseling, or treatment performed or provided to the participant

1 under the program.

2 SECTION 5. Section 772.0061(a)(2), Government Code, is  
3 amended to read as follows:

4 (2) "Specialty court" means:

5 (A) a commercially sexually exploited persons  
6 court program established under Chapter 126 or former law;

7 (B) a family drug court program established under  
8 Chapter 122 or former law;

9 (C) a drug court program established under  
10 Chapter 123 or former law;

11 (D) a veterans treatment court program  
12 established under Chapter 124 or former law; ~~and~~

13 (E) a mental health court program established  
14 under Chapter 125 or former law; and

15 (F) a public safety employees treatment court  
16 program established under Chapter 129.

17 SECTION 6. Section 772.0061(b), Government Code, is amended  
18 to read as follows:

19 (b) The governor shall establish the Specialty Courts  
20 Advisory Council within the criminal justice division established  
21 under Section 772.006 to:

22 (1) evaluate applications for grant funding for  
23 specialty courts in this state and to make funding recommendations  
24 to the criminal justice division; and

25 (2) make recommendations to the criminal justice  
26 division regarding best practices for specialty courts established  
27 under Chapter 122, 123, 124, ~~or~~ 125, or 129 or former law.

1 SECTION 7. This Act takes effect September 1, 2017.