

1-1 By: Geren (Senate Sponsor - Birdwell) H.B. No. 3391
 1-2 (In the Senate - Received from the House May 15, 2017;
 1-3 May 15, 2017, read first time and referred to Committee on State
 1-4 Affairs; May 19, 2017, reported favorably by the following vote:
 1-5 Yeas 9, Nays 0; May 19, 2017, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to the creation of a specialty court for certain public
 1-20 safety employees who commit a criminal offense; imposing fees for
 1-21 participation and testing, counseling, and treatment.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Subtitle K, Title 2, Government Code, is amended
 1-24 by adding Chapter 129 to read as follows:

1-25 CHAPTER 129. PUBLIC SAFETY EMPLOYEES TREATMENT COURT PROGRAM

1-26 Sec. 129.001. DEFINITION. In this chapter, "public safety
 1-27 employee" means a peace officer, firefighter, detention officer,
 1-28 county jailer, or emergency medical services employee of this state
 1-29 or a political subdivision of this state.

1-30 Sec. 129.002. PUBLIC SAFETY EMPLOYEES TREATMENT COURT
 1-31 PROGRAM DEFINED; PROCEDURES FOR CERTAIN DEFENDANTS. (a) In this
 1-32 chapter, "public safety employees treatment court program" means a
 1-33 program that has the following essential characteristics:

1-34 (1) the integration of services in the processing of
 1-35 cases in the judicial system;

1-36 (2) the use of a nonadversarial approach involving
 1-37 prosecutors and defense attorneys to promote public safety and to
 1-38 protect the due process rights of program participants;

1-39 (3) early identification and prompt placement of
 1-40 eligible participants in the program;

1-41 (4) access to a continuum of alcohol, controlled
 1-42 substance, mental health, and other related treatment and
 1-43 rehabilitative services;

1-44 (5) careful monitoring of treatment and services
 1-45 provided to program participants;

1-46 (6) a coordinated strategy to govern program responses
 1-47 to participants' compliance;

1-48 (7) ongoing judicial interaction with program
 1-49 participants;

1-50 (8) monitoring and evaluation of program goals and
 1-51 effectiveness;

1-52 (9) continuing interdisciplinary education to promote
 1-53 effective program planning, implementation, and operations;

1-54 (10) development of partnerships with public agencies
 1-55 and community organizations; and

1-56 (11) inclusion of a participant's family members who
 1-57 agree to be involved in the treatment and services provided to the
 1-58 participant under the program.

1-59 (b) If a defendant successfully completes a public safety
 1-60 employees treatment court program, after notice to the attorney
 1-61 representing the state and a hearing in the public safety employees

2-1 treatment court at which that court determines that a dismissal is
 2-2 in the best interest of justice, the court in which the criminal
 2-3 case is pending shall dismiss the case against the defendant.

2-4 Sec. 129.003. AUTHORITY TO ESTABLISH PROGRAM; ELIGIBILITY.

2-5 (a) The commissioners court of a county may establish a public
 2-6 safety employees treatment court program for persons arrested for
 2-7 or charged with any misdemeanor or felony offense. A defendant is
 2-8 eligible to participate in a public safety employees treatment
 2-9 court program established under this chapter only if the attorney
 2-10 representing the state consents to the defendant's participation in
 2-11 the program and if the court in which the criminal case is pending
 2-12 finds that the defendant is a current or former public safety
 2-13 employee who:

2-14 (1) suffers from a brain injury, mental illness, or
 2-15 mental disorder, including post-traumatic stress disorder, that:

2-16 (A) occurred during or resulted from the
 2-17 defendant's duties as a public safety employee; and

2-18 (B) affected the defendant's criminal conduct at
 2-19 issue in the case; or

2-20 (2) is a defendant whose participation in a public
 2-21 safety employees treatment court program, considering the
 2-22 circumstances of the defendant's conduct, personal and social
 2-23 background, and criminal history, is likely to achieve the
 2-24 objective of ensuring public safety through rehabilitation of the
 2-25 public safety employee in the manner provided by Section 1.02(1),
 2-26 Penal Code.

2-27 (b) The court in which the criminal case is pending shall
 2-28 allow an eligible defendant to choose whether to proceed through
 2-29 the public safety employees treatment court program or otherwise
 2-30 through the criminal justice system.

2-31 (c) Proof of matters described by Subsection (a) may be
 2-32 submitted to the court in which the criminal case is pending in any
 2-33 form the court determines to be appropriate, including medical
 2-34 records or testimony or affidavits of other public safety
 2-35 employees. The court's findings must accompany any docketed case.

2-36 Sec. 129.004. DUTIES OF PUBLIC SAFETY EMPLOYEES TREATMENT
 2-37 COURT PROGRAM. (a) A public safety employees treatment court
 2-38 program established under this chapter must:

2-39 (1) ensure that a defendant eligible for participation
 2-40 in the program is provided legal counsel before volunteering to
 2-41 proceed through the program and while participating in the program;

2-42 (2) allow a participant to withdraw from the program
 2-43 at any time before a trial on the merits has been initiated;

2-44 (3) provide a participant with a court-ordered
 2-45 individualized treatment plan indicating the services that will be
 2-46 provided to the participant; and

2-47 (4) ensure that the jurisdiction of the public safety
 2-48 employees treatment court continues for a period of not less than
 2-49 six months but does not continue beyond the period of community
 2-50 supervision for the offense charged.

2-51 (b) A public safety employees treatment court program
 2-52 established under this chapter shall make, establish, and publish
 2-53 local procedures to ensure maximum participation of eligible
 2-54 defendants in the county or counties in which those defendants
 2-55 reside.

2-56 (c) A public safety employees treatment court program may
 2-57 allow a participant to comply with the participant's court-ordered
 2-58 individualized treatment plan or to fulfill certain other court
 2-59 obligations through the use of videoconferencing software or other
 2-60 Internet-based communications.

2-61 (d) This chapter does not prevent the initiation of
 2-62 procedures under Chapter 46B, Code of Criminal Procedure.

2-63 Sec. 129.005. ESTABLISHMENT OF REGIONAL PROGRAM. (a) The
 2-64 commissioners courts of two or more counties may elect to establish
 2-65 a regional public safety employees treatment court program under
 2-66 this chapter for the participating counties.

2-67 (b) For purposes of this chapter, each county that elects to
 2-68 establish a regional public safety employees treatment court
 2-69 program under this section is considered to have established the

3-1 program and is entitled to retain fees under Article 102.0178, Code
3-2 of Criminal Procedure, in the same manner as if the county had
3-3 established a public safety employees treatment court program
3-4 without participating in a regional program.

3-5 Sec. 129.006. FEES. (a) A public safety employees
3-6 treatment court program established under this chapter may collect
3-7 from a participant in the program:

3-8 (1) a reasonable program fee not to exceed \$1,000; and

3-9 (2) a testing, counseling, and treatment fee in an
3-10 amount necessary to cover the costs of any testing, counseling, or
3-11 treatment performed or provided under the program.

3-12 (b) Fees collected under this section may be paid on a
3-13 periodic basis or on a deferred payment schedule at the discretion
3-14 of the judge, magistrate, or coordinator. The fees must be:

3-15 (1) based on the participant's ability to pay; and

3-16 (2) used only for purposes specific to the program.

3-17 Sec. 129.007. COURTESY SUPERVISION. (a) A public safety
3-18 employees treatment court program that accepts placement of a
3-19 defendant may transfer responsibility for supervising the
3-20 defendant's participation in the program to another public safety
3-21 employees treatment court program that is located in the county
3-22 where the defendant works or resides. The defendant's supervision
3-23 may be transferred under this section only with the consent of both
3-24 public safety employees treatment court programs and the defendant.

3-25 (b) A defendant who consents to the transfer of the
3-26 defendant's supervision must agree to abide by all rules,
3-27 requirements, and instructions of the public safety employees
3-28 treatment court program that accepts the transfer.

3-29 (c) If a defendant whose supervision is transferred under
3-30 this section does not successfully complete the program, the public
3-31 safety employees treatment court program supervising the defendant
3-32 shall return the responsibility for the defendant's supervision to
3-33 the public safety employees treatment court program that initiated
3-34 the transfer.

3-35 (d) If a defendant is charged with an offense in a county
3-36 that does not operate a public safety employees treatment court
3-37 program, the court in which the criminal case is pending may place
3-38 the defendant in a public safety employees treatment court program
3-39 located in the county where the defendant works or resides,
3-40 provided that a program is operated in that county and the defendant
3-41 agrees to the placement. A defendant placed in a public safety
3-42 employees treatment court program in accordance with this
3-43 subsection must agree to abide by all rules, requirements, and
3-44 instructions of the program.

3-45 SECTION 2. Article 59.062(f), Code of Criminal Procedure,
3-46 is amended to read as follows:

3-47 (f) A civil penalty collected under this article shall be
3-48 deposited to the credit of the drug court account in the general
3-49 revenue fund to help fund specialty [~~drug~~] court programs
3-50 established under Chapter 122, 123, 124, [~~or~~] 125, or 129,
3-51 Government Code, or former law.

3-52 SECTION 3. Article 102.0178(g), Code of Criminal Procedure,
3-53 is amended to read as follows:

3-54 (g) The comptroller shall deposit the funds received under
3-55 this article to the credit of the drug court account in the general
3-56 revenue fund to help fund drug court programs established under
3-57 Chapter 122, 123, 124, [~~or~~] 125, or 129, Government Code, or former
3-58 law. The legislature shall appropriate money from the account
3-59 solely to the criminal justice division of the governor's office
3-60 for distribution to drug court programs that apply for the money.

3-61 SECTION 4. Subchapter B, Chapter 103, Government Code, is
3-62 amended by adding Sections 103.02714 and 103.02715 to read as
3-63 follows:

3-64 Sec. 103.02714. ADDITIONAL MISCELLANEOUS FEES AND COSTS:
3-65 GOVERNMENT CODE. A program fee for a public safety employees
3-66 treatment court program established under Section 129.003 shall be
3-67 collected under Section 129.006 in a reasonable amount not to
3-68 exceed \$1,000.

3-69 Sec. 103.02715. ADDITIONAL MISCELLANEOUS FEES AND COSTS:

4-1 GOVERNMENT CODE. A participant in a public safety employees
4-2 treatment court program administered under Chapter 129 shall pay a
4-3 fee in an amount necessary to cover the costs of any testing,
4-4 counseling, or treatment performed or provided to the participant
4-5 under the program.

4-6 SECTION 5. Section 772.0061(a)(2), Government Code, is
4-7 amended to read as follows:

4-8 (2) "Specialty court" means:

4-9 (A) a commercially sexually exploited persons
4-10 court program established under Chapter 126 or former law;

4-11 (B) a family drug court program established under
4-12 Chapter 122 or former law;

4-13 (C) a drug court program established under
4-14 Chapter 123 or former law;

4-15 (D) a veterans treatment court program
4-16 established under Chapter 124 or former law; ~~and~~

4-17 (E) a mental health court program established
4-18 under Chapter 125 or former law; and

4-19 (F) a public safety employees treatment court
4-20 program established under Chapter 129.

4-21 SECTION 6. Section 772.0061(b), Government Code, is amended
4-22 to read as follows:

4-23 (b) The governor shall establish the Specialty Courts
4-24 Advisory Council within the criminal justice division established
4-25 under Section 772.006 to:

4-26 (1) evaluate applications for grant funding for
4-27 specialty courts in this state and to make funding recommendations
4-28 to the criminal justice division; and

4-29 (2) make recommendations to the criminal justice
4-30 division regarding best practices for specialty courts established
4-31 under Chapter 122, 123, 124, ~~or~~ 125, or 129 or former law.

4-32 SECTION 7. This Act takes effect September 1, 2017.

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