

## **BILL ANALYSIS**

C.S.H.B. 3315  
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Juvenile Justice & Family Issues  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Texas is one of only five states that charges a 17-year-old as an adult, and concerns have been raised that the placement of these offenders into the adult criminal system is leading to higher recidivism rates. Pretrial diversion programs serve as an effective rehabilitative option for these defendants and may help in reducing rates of recidivism. C.S.H.B. 3315 seeks to promote these objectives by providing for a youth pretrial intervention program as a specialty court for defendants who were 17 years of age at the time of an offense that is punishable as a Class B misdemeanor or any higher category of offense, other than an offense that is ineligible for judge-ordered community supervision.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **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**

#### **Pretrial Intervention Program**

C.S.H.B. 3315 amends the Government Code to require the commissioners court of a county to establish a youth pretrial intervention program as a specialty court for persons arrested for or charged with an offense that is punishable as a Class B misdemeanor or any higher category of offense, other than an offense that is ineligible for judge-ordered community supervision. The bill sets out the required essential characteristics of such a program and establishes that a defendant is eligible to participate in a program only if:

- the defendant was younger than 18 years of age at the time of the offense; and
- the defendant has not previously been convicted of or placed on deferred adjudication community supervision for an offense other than a traffic offense that is punishable by fine only.

The court in which the criminal case is pending must allow an eligible defendant to choose whether to proceed through the youth pretrial intervention program or otherwise through the criminal justice system.

C.S.H.B. 3315 requires a program to do the following:

- ensure that a defendant eligible for participation in the program is provided legal counsel before electing to proceed through the program and while participating in the program;
- allow a participant to withdraw from the program at any time before a trial on the merits has been initiated; and

- provide a participant with a court-ordered individualized treatment plan indicating the services that will be provided to the participant.

C.S.H.B. 3315 sets out additional program provisions relating to the following:

- a requirement for a program regarding local procedures to ensure maximum participation of eligible defendants in the county or counties in which those defendants reside;
- the use of videoconferencing software or other Internet-based communications by a program participant to comply with certain court obligations;
- the supervision of program participants by the community supervision and corrections department serving the county in which the program is operated;
- the establishment of a regional program by the commissioners courts of two or more counties for the participating counties;
- the collection from a program participant of a reasonable reimbursement fee for the program and a testing, counseling, and treatment reimbursement fee in an amount necessary to cover the costs for those services;
- the courtesy supervision of a defendant for whom the responsibility for supervising the defendant's participation has been transferred to another program located in the county where the defendant works or resides; and
- a requirement for a program supervising such a defendant to return the responsibility for the defendant's supervision to the program that initiated the transfer if the defendant does not successfully complete the program.

C.S.H.B. 3315 establishes program conditions as follows:

- a program participant charged with an offense punishable as a Class B misdemeanor may not be required to spend more than one year in the program and may not be required to perform more than 24 hours of community service as part of the program;
- a program participant charged with an offense punishable as a Class A misdemeanor or state jail felony may not be required to spend more than two years in the program and may not be required to perform more than 24 hours of community service as part of the program;
- a program participant charged with an offense punishable as a felony of the third degree may not be required to spend more than three years in the program and may not be required to perform more than 50 hours of community service as part of the program;
- a program participant charged with an offense punishable as a felony of the second degree may not be required to spend more than four years in the program and may not be required to perform more than 75 hours of community service as part of the program; and
- a program participant charged with an offense punishable as a felony of the first degree may not be required to spend more than five years in the program and may not be required to perform more than 100 hours of community service as part of the program.

C.S.H.B. 3315 requires a program, if a defendant successfully completes the program, after notice to the state's attorney and a hearing in the youth pretrial intervention court at which that court determines that a dismissal is in the best interest of justice, to provide to the court in which the criminal case is pending information about the dismissal and to include all of the information required about the defendant for a petition for expunction. The court in which the criminal case is pending must dismiss the case against the defendant and the court may, with the consent of the state's attorney, do the following:

- if that trial court is a district court, enter an order of expunction on behalf of the defendant; or
- if that trial court is not a district court, forward the appropriate dismissal and expunction information to enable a district court with jurisdiction to enter such an order.

These provisions relating to a pretrial intervention program for certain youth offenders do not prevent the initiation of procedures under Code of Criminal Procedure provisions relating to incompetency to stand trial.

## **Automatic Expunction**

C.S.H.B. 3315 amends the Code of Criminal Procedure to entitle a person who has been placed under arrest for commission of either a felony or misdemeanor to have all records and files relating to the arrest expunged provided that an indictment or information charging the person with the commission of the felony or misdemeanor, as applicable, was dismissed or quashed because the person completed a youth pretrial intervention program and if the following apply:

- the person has been released; and
- the charge, if any:
  - has not resulted in a final conviction and is no longer pending; and
  - there was no court-ordered community supervision for the offense.

C.S.H.B. 3315 provides that a trial court dismissing a case following a person's successful completion of a youth pretrial intervention program, if the trial court is a district court or a district court in the county in which the trial court is located, may, with the consent of the state's attorney, enter an order of expunction for a person so entitled to expunction not later than the 30th day after the date the court dismisses the case or receives the information regarding that dismissal, as applicable. The bill prohibits a court that enters such an order for expunction from charging any fee or assessing any cost for the expunction.

### **EFFECTIVE DATE**

September 1, 2021.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 3315 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute does not include the requirement that the state's attorney consent to the defendant's participation in a youth pretrial intervention program.