87R2344 JRR-F

By:  White H.B. No. 2190

A BILL TO BE ENTITLED

AN ACT

relating to the prosecution of and punishment for certain state jail felony offenders, including the creation of a pretrial intervention program for certain state jail felony offenders; authorizing a fee.

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

SECTION 1.  Subchapter C, Chapter 42A, Code of Criminal Procedure, is amended by adding Article 42A.1025 to read as follows:

Art. 42A.1025.  MANDATORY PLACEMENT ON DEFERRED ADJUDICATION COMMUNITY SUPERVISION; CERTAIN STATE JAIL FELONY OFFENDERS. (a) This article applies only to a defendant who:

(1)  is charged with a state jail felony punishable under Section 12.35(a), Penal Code;

(2)  with respect to the offense described by Subdivision (1):

(A)  did not participate in a state jail felony pretrial intervention program established under Chapter 127, Government Code, regardless of whether the defendant was eligible to participate in the program based on the specific state jail felony offense charged; or

(B)  was placed into the program described by Paragraph (A) but did not successfully complete the program; and

(3)  has not previously been convicted of or placed on deferred adjudication community supervision for a state jail felony.

(b)  On request of a defendant described by Subsection (a), a judge shall place the defendant on deferred adjudication community supervision.

(c)  Notwithstanding Article 42A.103(a), the period of deferred adjudication community supervision may not be less than two years and may not exceed four years.

SECTION 2.  Article 42A.110(b), Code of Criminal Procedure, is amended to read as follows:

(b)  A court assessing punishment after an adjudication of guilt of a defendant charged with a state jail felony may suspend the imposition of the sentence and place the defendant on community supervision or may order the sentence to be executed, regardless of whether the defendant has previously been convicted of a felony. Notwithstanding any other law, if the court orders the sentence to be executed following an adjudication of guilt for a state jail felony that is punishable under Section 12.35(a), Penal Code, the defendant shall be punishable by confinement in a community corrections facility, as defined by Section 509.001, Government Code, for a term not to exceed two years.

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

(f)  A civil penalty collected under this article shall be deposited to the credit of the drug court account in the general revenue fund to help fund specialty court programs established under Chapter 122, 123, 124, 125, 127, or 129, Government Code, or former law.

SECTION 4.  Subtitle K, Title 2, Government Code, is amended by adding Chapter 127 to read as follows:

CHAPTER 127. PRETRIAL INTERVENTION PROGRAM FOR CERTAIN STATE JAIL FELONY OFFENDERS

Sec. 127.001.  STATE JAIL FELONY PRETRIAL INTERVENTION PROGRAM DEFINED; PROCEDURES FOR CERTAIN DEFENDANTS. (a) In this chapter, "state jail felony pretrial intervention 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 substance, mental health, and other related treatment and rehabilitative services;

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

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

(7)  ongoing judicial interaction with program participants;

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

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

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

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

(b)  If a defendant successfully completes a state jail felony pretrial intervention program, after notice to the attorney representing the state and a hearing in the state jail felony pretrial intervention program court at which that court determines that a dismissal is in the best interest of justice, the court in which the criminal case is pending shall dismiss the case against the defendant.

Sec. 127.002.  ESTABLISHMENT OF PROGRAM; DEFENDANT ELIGIBILITY. (a) The commissioners court of a county shall establish a state jail felony pretrial intervention program for persons arrested for or charged with a state jail felony punishable under Section 12.35(a), Penal Code, other than a state jail felony under:

(1)  Article 62.102, Code of Criminal Procedure;

(2)  Section 261.107 or 261.109, Family Code;

(3)  Section 171.103, 171.153, or 485.032, Health and Safety Code;

(4)  Section 48.052, Human Resources Code; or

(5)  Section 19.05, 21.09, 21.18, 22.04, 22.041, 22.07, 22.08, 25.031, 38.14, 38.151, 39.04, 43.262, 48.03, or 49.045, Penal Code.

(b)  A defendant is eligible to participate in a state jail felony pretrial intervention program established under this chapter only if the attorney representing the state consents to the defendant's participation in the program. An eligible defendant may participate in the state jail felony pretrial intervention program regardless of whether the defendant previously participated in a state jail felony pretrial intervention program established under this chapter.

(c)  The court in which the criminal case is pending shall allow an eligible defendant to choose whether to proceed through the state jail felony pretrial intervention program or otherwise through the criminal justice system.

Sec. 127.003.  DUTIES OF STATE JAIL FELONY PRETRIAL INTERVENTION PROGRAM. (a) A state jail felony pretrial intervention program established under this chapter must:

(1)  prioritize the acceptance of defendants eligible for participation in the program who have not:

(A)  previously been convicted of or placed on deferred adjudication community supervision for a felony offense; or

(B)  previously participated in a state jail felony pretrial intervention program established under this chapter;

(2)  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;

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

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

(5)  ensure that the jurisdiction of the program continues for a minimum period of not less than six months but does not continue beyond the maximum period allowed under Article 42A.1025(c), Code of Criminal Procedure, for a grant of deferred adjudication community supervision to a defendant charged with a state jail felony punishable under Section 12.35(a), Penal Code.

(b)  A state jail felony pretrial intervention program established under this chapter shall make, establish, and publish local procedures to ensure maximum participation of eligible defendants in the county or counties in which those defendants reside.

(c)  A state jail felony pretrial intervention program may allow a participant to comply with the participant's court-ordered individualized treatment plan or to fulfill certain other court obligations through the use of videoconferencing software or other Internet-based communications.

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

Sec. 127.004.  ESTABLISHMENT OF REGIONAL PROGRAM. The commissioners courts of two or more counties may elect to establish a regional state jail felony pretrial intervention program under this chapter for the participating counties.

Sec. 127.005.  REIMBURSEMENT FEES. (a) A state jail felony pretrial intervention program established under this chapter may collect from a participant in the program:

(1)  a reasonable reimbursement fee for the program not to exceed $1,000; and

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

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

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

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

Sec. 127.006.  COURTESY SUPERVISION. (a) A state jail felony pretrial intervention program that accepts placement of a defendant may transfer responsibility for supervising the defendant's participation in the program to another state jail felony pretrial intervention program that is located in the county where the defendant works or resides. The defendant's supervision may be transferred under this section only with the consent of both state jail felony pretrial intervention programs and the defendant.

(b)  A defendant who consents to the transfer of the defendant's supervision must agree to abide by all rules, requirements, and instructions of the state jail felony pretrial intervention program that accepts the transfer.

(c)  If a defendant whose supervision is transferred under this section does not successfully complete the program, the state jail felony pretrial intervention program supervising the defendant shall return the responsibility for the defendant's supervision to the state jail felony pretrial intervention program that initiated the transfer.

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

(2)  "Specialty court" means:

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

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

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

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

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

(F)  a state jail felony pretrial intervention program established under Chapter 127; and

(G) [~~(F)~~]  a public safety employees treatment court program established under Chapter 129.

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

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

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

(2)  make recommendations to the criminal justice division regarding best practices for specialty courts established under Chapter 122, 123, 124, 125, 127, or 129 or former law.

SECTION 7.  The changes in law made by this Act apply 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 on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 8.  This Act takes effect September 1, 2021.