

By: White

H.B. No. 2190

A BILL TO BE ENTITLED

1 AN ACT

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

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

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

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

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

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

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

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

24 (3) has not previously been convicted of or placed on

1 deferred adjudication community supervision for a state jail
2 felony.

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

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

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

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

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

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

1 former law.

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

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

6 Sec. 127.001. STATE JAIL FELONY PRETRIAL INTERVENTION
7 PROGRAM DEFINED; PROCEDURES FOR CERTAIN DEFENDANTS. (a) In this
8 chapter, "state jail felony pretrial intervention program" means a
9 program that has the following essential characteristics:

10 (1) the integration of services in the processing of
11 cases in the judicial system;

12 (2) the use of a nonadversarial approach involving
13 prosecutors and defense attorneys to promote public safety and to
14 protect the due process rights of program participants;

15 (3) early identification and prompt placement of
16 eligible participants in the program;

17 (4) access to a continuum of alcohol, controlled
18 substance, mental health, and other related treatment and
19 rehabilitative services;

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

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

24 (7) ongoing judicial interaction with program
25 participants;

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

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

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

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

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

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

21 (1) Article 62.102, Code of Criminal Procedure;
22 (2) Section 261.107 or 261.109, Family Code;
23 (3) Section 171.103, 171.153, or 485.032, Health and
24 Safety Code;

25 (4) Section 48.052, Human Resources Code; or

26 (5) Section 19.05, 21.09, 21.18, 22.04, 22.041, 22.07,
27 22.08, 25.031, 38.14, 38.151, 39.04, 43.262, 48.03, or 49.045,

1 Penal Code.

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

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

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

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

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

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

25 (2) ensure that a defendant eligible for participation
26 in the program is provided legal counsel before electing to proceed
27 through the program and while participating in the program;

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

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

6 (5) ensure that the jurisdiction of the program
7 continues for a minimum period of not less than six months but does
8 not continue beyond the maximum period allowed under Article
9 42A.1025(c), Code of Criminal Procedure, for a grant of deferred
10 adjudication community supervision to a defendant charged with a
11 state jail felony punishable under Section 12.35(a), Penal Code.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (2) "Specialty court" means:

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

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

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

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

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

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

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

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

26 (b) The governor shall establish the Specialty Courts
27 Advisory Council within the criminal justice division established

1 under Section 772.006 to:

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

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

8 SECTION 7. The changes in law made by this Act apply only to
9 an offense committed on or after the effective date of this Act. An
10 offense committed before the effective date of this Act is governed
11 by the law in effect on the date the offense was committed, and the
12 former law is continued in effect for that purpose. For purposes of
13 this section, an offense was committed before the effective date of
14 this Act if any element of the offense occurred before that date.

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