

By: Davis

H.B. No. 2436

A BILL TO BE ENTITLED

AN ACT

relating to the establishment of a community pretrial review panel by each county for the resolution and diversion of certain misdemeanor cases out of the criminal justice system.

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

SECTION 1. Chapter 2, Code of Criminal Procedure, is amended by adding Article 2.026 to read as follows:

Art. 2.026. DUTY OF PROSECUTING ATTORNEY TO REFER CERTAIN CASES TO COMMUNITY PRETRIAL REVIEW PANEL. (a) This article applies only to a criminal case for:

(1) an offense punishable by fine only; or

(2) a Class B misdemeanor under:

(A) Section 481.121, Health and Safety Code;

(B) Section 481.1161, Health and Safety Code;

(C) Section 28.03, Penal Code;

(D) Section 28.08, Penal Code;

(E) Section 31.03, Penal Code, if the offense is punishable under Subsection (e)(2)(A) of that section;

(F) Section 31.04, Penal Code;

(G) Section 38.114, Penal Code; or

(H) Section 521.457, Transportation Code.

(b) Except as provided by Subsection (c), a prosecuting attorney, before offering a plea agreement in a case described by Subsection (a), may refer the case and all relevant evidence in the

1 possession of the state for review by the community pretrial review
2 panel established under Subchapter J, Chapter 351, Local Government
3 Code, for the county in which the case is to be tried.

4 (c) A case is not eligible for referral to a community
5 pretrial review panel if:

6 (1) the defendant has been previously convicted of two
7 or more offenses; or

8 (2) the defendant has had two cases previously
9 referred to a community pretrial review panel.

10 (d) If a prosecuting attorney does not refer an eligible
11 case to the applicable community pretrial review panel, the
12 prosecuting attorney shall provide the panel with the attorney's
13 reasons for not referring the case.

14 (e) If a prosecuting attorney does not follow the
15 recommendation as to the resolution of the case made by a community
16 pretrial review panel under Section 351.256(5), Local Government
17 Code, the prosecuting attorney shall provide the panel with the
18 attorney's reasons for not following the recommendation.

19 SECTION 2. Subchapter F, Chapter 411, Government Code, is
20 amended by adding Section 411.0892 to read as follows:

21 Sec. 411.0892. ACCESS TO CRIMINAL HISTORY RECORD
22 INFORMATION: COMMUNITY PRETRIAL REVIEW PANELS. (a) A community
23 pretrial review panel established under Subchapter J, Chapter 351,
24 Local Government Code, is entitled to obtain from the department
25 any criminal history record information maintained by the
26 department about a defendant or witness in a case referred to the
27 panel.

1 (b) Criminal history record information obtained by a
2 community pretrial review panel may be used only for a purpose
3 authorized by Subchapter J, Chapter 351, Local Government Code.

4 SECTION 3. Chapter 351, Local Government Code, is amended
5 by adding Subchapter J to read as follows:

6 SUBCHAPTER J. COMMUNITY PRETRIAL REVIEW PANELS

7 Sec. 351.251. DEFINITION. In this subchapter, "panel"
8 means a community pretrial review panel established under Section
9 351.252.

10 Sec. 351.252. ESTABLISHMENT OF PANEL. Each county
11 commissioners court shall establish a panel for the resolution and
12 diversion of cases described by Article 2.026, Code of Criminal
13 Procedure, out of the criminal justice system.

14 Sec. 351.253. COMPOSITION. (a) Each panel is composed of
15 the following six members:

16 (1) one member appointed by the county commissioners
17 court, who serves as the presiding officer of the panel;

18 (2) one member appointed by the county judge; and

19 (3) one member appointed by each county commissioner.

20 (b) Each member of the panel must be qualified to serve as a
21 juror under Section 62.102, Government Code.

22 (c) The member appointed under Subsection (a)(1) must:

23 (1) have previously served as a justice of the peace;

24 or

25 (2) be an attorney licensed in this state.

26 Sec. 351.254. TERMS; VACANCY. (a) Panel members serve
27 four-year terms.

1 (b) If a vacancy occurs on a panel, the appropriate
2 appointing authority shall appoint a successor in the same manner
3 as the original appointment to serve for the remainder of the
4 unexpired term.

5 Sec. 351.255. COMPENSATION; REIMBURSEMENT. Panel members
6 serve without compensation and are not entitled to reimbursement
7 for travel or other expenses.

8 Sec. 351.256. POWERS AND DUTIES. For each case referred to
9 a panel under Article 2.026, Code of Criminal Procedure, the panel
10 shall:

11 (1) review the charging instrument and the defendant's
12 relevant criminal history;

13 (2) inspect available witness statements, offense
14 reports, citations, probable cause affidavits, and other relevant
15 evidence;

16 (3) consult with the prosecuting attorney and defense
17 counsel;

18 (4) consider the root causes of the defendant's
19 conduct;

20 (5) recommend to the prosecuting attorney a just and
21 rehabilitative plea agreement that resolves the case in a manner
22 that avoids confinement in jail or a final conviction for the
23 defendant; and

24 (6) monitor the defendant's compliance with any
25 release or dismissal conditions not otherwise monitored by a
26 community supervision and corrections department or a department,
27 division, or program responsible for pretrial diversion.

1 Sec. 351.257. REFERRAL FOR TRIAL. If a defendant or defense
2 counsel refuses to cooperate with the panel or declines the
3 agreement recommended by the panel, the panel may refer the case
4 back to the prosecuting attorney for continued plea negotiation or
5 trial.

6 Sec. 351.258. CONFIDENTIALITY. All evidence, records, or
7 other material collected or created by a panel is confidential and
8 is not subject to disclosure under Chapter 552, Government Code.

9 SECTION 4. (a) Not later than December 1, 2021, the
10 commissioners court of each county shall establish a community
11 pretrial review panel and the appropriate appointing authorities
12 shall appoint members to the panel as required by Subchapter J,
13 Chapter 351, Local Government Code, as added by this Act.

14 (b) Article 2.026, Code of Criminal Procedure, as added by
15 this Act, applies only to an offense committed on or after January
16 1, 2022. An offense committed before January 1, 2022, is governed by
17 the law in effect on the date the offense was committed, and the
18 former law is continued in effect for that purpose. For purposes of
19 this subsection, an offense was committed before January 1, 2022,
20 if any element of the offense occurred before that date.

21 SECTION 5. This Act takes effect September 1, 2021.