|  |
| --- |
| BILL ANALYSIS |

|  |
| --- |
| H.B. 4398 |
| By: Kitzman |
| Criminal Jurisprudence |
| Committee Report (Unamended) |

|  |
| --- |
| **BACKGROUND AND PURPOSE** There is a need for a centralized office to oversee personal bond orders imposed on defendants for bail because many county magistrates and judges do not have access to these orders and are therefore unable to enforce certain bond conditions. H.B. 4398 seeks to address this issue by providing for the authority of a county or judicial district to establish a personal bond and pretrial supervision office. |
| **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** H.B. 4398 amends the Code of Criminal Procedure to authorize a county or judicial district with jurisdiction in more than one county to establish a personal bond and pretrial supervision office with applicable commissioners court approval and to make statutory provisions relating to the establishment, administration, and oversight of a personal bond office applicable also with respect to a personal bond and pretrial supervision office. H.B. 4398 authorizes a commissioners court of a county that establishes a personal bond and pretrial supervision office or the district and county judges of a judicial district that establish such an office to direct the office to provide the pretrial services a community supervision and corrections department may provide under applicable Government Code provisions. The bill authorizes programs operated by the office to include reasonable conditions and monitoring related to the purpose of the programs, including testing for controlled substances and alcohol use. However, if this authorization conflicts with a more specific provision of another law, the other law prevails. These provisions expressly do not apply to a personal bond and pretrial supervision office that on January 1, 1995, was operated by a community corrections and supervision department.H.B. 4398 authorizes applicable county commissioners courts and district and county judges, as part of the court's or the judges' duties related to pretrial services, to direct the office to provide the following services:* indigent legal services monitoring, including:
	+ assisting defendants in filing applications for indigent legal services;
	+ reviewing applications and documentation to assist the court in determining eligibility for indigent legal services; and
	+ coordinating with appointed attorneys to ensure sufficient legal services are provided;
* pretrial rehabilitative services, including:
	+ determining what rehabilitative services are available to a defendant;
	+ making recommendations to the state, defense counsel, and the court on rehabilitative services; and
	+ monitoring the placement of defendants in rehabilitative services;
* coordination of mental health services, including:
	+ recommending mental health testing;
	+ assisting defense counsel in meeting mental health testing requirements;
	+ monitoring compliance with mental health testing dates; and
	+ assisting magistrates with mental health orders and testing; and
* other services as are required to fulfill the goals of pretrial bond supervision.

These provisions expressly do not apply to a personal bond and pretrial supervision office that on January 1, 1995, was operated by a community corrections and supervision department.H.B. 4398 amends the Government Code to entitle a director of a personal bond or personal bond and pretrial supervision office established under the bill's provisions, or an employee of the office authorized by the director, to obtain from the Department of Public Safety (DPS) criminal history record information maintained by DPS that relates to a person who is being considered for personal bond or is receiving services from the office. The bill prohibits DPS from charging a fee for providing the criminal history record information and prohibits a person who obtains such information from releasing the information to any person except to a judge or magistrate making a bond determination, if the criminal history is relevant to that determination. However, the bill authorizes a person who obtains such information to disclose to the subject of the information, the state's attorney, or the subject's defense attorney the date and place of any arrest in the subject's criminal history and the offense for which the subject was arrested and the associated dispositions. |
| **EFFECTIVE DATE** September 1, 2023. |