

BILL ANALYSIS

C.S.H.B. 1977
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Youth Health & Safety, Select
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Juvenile justice advocates contend that incarcerating young offenders may lead to increased risks of recidivism and an uncertain future. C.S.H.B. 1977 provides for the establishment of a statewide uniform pretrial intervention programs for certain first-time youth offenders, with the goal of proactively keeping these offenders out of the criminal system while still holding them accountable for their actions. The bill also provides for participants to have their records expunged upon successful completion of the program, allowing them to work, pursue higher education, apply for student financial aid, and engage in a host of other activities that lead to a productive and fruitful adult life.

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

Youth Pretrial Intervention Program

C.S.H.B. 1977 amends the Government Code to require the commissioners court of a county to establish a youth pretrial intervention program 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. However, the bill establishes that a commissioners court is not required to establish a specialty court in accordance with the bill's provisions and may require the community supervision and corrections department serving the county to operate a program under specified statutory authority. A program operated by such a department is considered to be a youth pretrial intervention program for purposes of the bill's provisions.

C.S.H.B. 1977 sets out the required essential characteristics of a youth pretrial intervention program and establishes that a defendant is eligible to participate in a program only if:

- the defendant is a child, defined by reference to the juvenile justice code as the following:
 - a person who is 10 years of age or older and under 17 years of age; or
 - a person who is 17 years of age or older and under 18 years of age and who is alleged or found to have engaged in delinquent conduct or conduct indicating a need for supervision as a result of acts committed before becoming 17 years of age; 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. 1977 requires a youth pretrial intervention 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. 1977 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. 1977 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 third degree felony 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 second degree felony 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 first degree felony 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. 1977 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.

The bill's 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. 1977 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;
- 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. 1977 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.

Applicability

C.S.H.B. 1977 applies only to an offense committed on or after the bill's effective date. The bill provides for the continuation of the law in effect before the bill's effective date for purposes of an offense, or any element thereof, that occurred before that date

EFFECTIVE DATE

September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 1977 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute omits a provision from the introduced that authorized the state's attorney to request, in writing, that the court in which the criminal case is pending refuse to allow an eligible defendant to proceed through the youth pretrial intervention program and required the court, on determining that the state's attorney has shown that adequate good cause exists, to require the defendant to proceed through the criminal justice system.

The substitute conditions a defendant's eligibility to participate in a youth pretrial intervention program on the defendant being a child as defined under the juvenile justice code, whereas the introduced conditioned eligibility on the defendant being younger than 18 years of age at the time of the offense.