

BILL ANALYSIS

C.S.H.B. 3882
By: Wilson
Corrections
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Director of Government and Legislative Affairs with Texas Citizens United for Rehabilitation of Errants (C.U.R.E.) has brought up the fact that state law relating to veterans treatment court programs restricts participation in these programs to defendants to whom the state's attorney consents, provided the court makes the requisite findings in the case. When the state's attorney has complete power to grant or deny a veteran access to these programs, there can be conflicts of interest at the expense of veterans who are otherwise eligible and could benefit from participating in a treatment program. While it is essential for the state's attorney to have the ability to allow or disallow a veteran access to these programs, there is a need for some means of appeal to address a conflict of interest. C.S.H.B. 3882 seeks to allow a defendant to file a motion with a court if the state's attorney does not consent to the defendant's participation in a veterans treatment court program and to authorize a court to allow such participation while also providing for the ability for the state's attorney to provide reasons for not consenting to the participation.

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

C.S.H.B. 3882 amends the Government Code to authorize a defendant to file a motion requesting the court in which the defendant's criminal case is pending or in which the defendant was convicted or placed on deferred adjudication community supervision, as applicable, to review the defendant's request to participate in a veteran's treatment court program if, not later than the 30th day after the date the defendant makes the request and provides to the court proof of matters establishing the defendant's eligibility to participate in the program, the state's attorney has not consented to the defendant's participation in the program. The bill authorizes a court to allow the defendant to participate in the program if it finds that the defendant otherwise meets the general eligibility requirements of a veterans treatment court program and all other eligibility requirements prescribed by the specific veterans treatment court program in which the defendant seeks to participate. The bill requires the court, before allowing the defendant to participate in a program, to provide to the state's attorney an opportunity to explain the attorney's reason for not consenting to the defendant's participation. The bill requires a court that allows a defendant to participate in such a program without the consent of the state's attorney to provide written notice of that decision to the state's attorney and the defendant not later than the 10th day after the date the court makes the decision.

C.S.H.B. 3882 applies only to a criminal case that is pending on or commences on or after the bill's effective date.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 3882 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.

While both the introduced and substitute authorize a defendant to file a motion relating to their participation in a veterans treatment court program with the court for review if the state's attorney has not consented to that participation, the two versions differ in that authorization as follows:

- the substitute conditions the authorization on the defendant making a request to participate in the program and providing to the court proof of matters establishing the defendant's eligibility for the program and the state's attorney not consenting to the participation by not later than the 30th day after the date the defendant makes the request and provides that proof, whereas the introduced did not include such a condition; and
- the substitute changes the object of the court's review from the state's attorney's decision not to consent to the defendant's participation, as in the introduced, to the defendant's request to participate in the program.

While both the introduced and substitute authorize a court to allow a defendant to participate in the program on finding the defendant otherwise meets the general eligibility requirements for such a program, the substitute also includes among the requisite conditions that the defendant meet all other eligibility requirements prescribed by the specific veterans treatment court program in which the defendant seeks to participate.

The substitute includes the following provisions absent from the introduced:

- a requirement for the court, before allowing a defendant to participate in a program, to provide the state's attorney an opportunity to explain their reason for not consenting to the defendant's participation; and
- a requirement for the court that allows a defendant to participate in the program without the consent of the state's attorney to provide written notice to the state's attorney and the defendant by a specified deadline.