

By: Moody, Garcia

H.B. No. 1394

A BILL TO BE ENTITLED

AN ACT

relating to the eligibility to participate in certain drug court programs.

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

SECTION 1. Section 123.002, Government Code, is amended to read as follows:

Sec. 123.002. AUTHORITY TO ESTABLISH PROGRAM; ELIGIBILITY.

(a) The commissioners court of a county or governing body of a municipality may establish the following types of drug court programs:

(1) drug courts for persons arrested for, charged with, or convicted of:

(A) an offense in which an element of the offense is the use or possession of alcohol or the use, possession, or sale of a controlled substance, a controlled substance analogue, or marihuana; or

(B) an offense in which the use of alcohol or a controlled substance is suspected to have significantly contributed to the commission of the offense, subject to Subsection

(b) ~~[and the offense did not involve:~~

~~[(i) carrying, possessing, or using a firearm or other dangerous weapon,~~

~~[(ii) the use of force against the person of another, or~~

1 ~~[(iii) the death of or serious bodily~~
2 ~~injury to another]~~;

3 (2) drug courts for juveniles detained for, taken into
4 custody for, or adjudicated as having engaged in:

5 (A) delinquent conduct, including habitual
6 felony conduct, or conduct indicating a need for supervision in
7 which an element of the conduct is the use or possession of alcohol
8 or the use, possession, or sale of a controlled substance, a
9 controlled substance analogue, or marihuana; or

10 (B) delinquent conduct, including habitual
11 felony conduct, or conduct indicating a need for supervision in
12 which the use of alcohol or a controlled substance is suspected to
13 have significantly contributed to the commission of the conduct,
14 subject to Subsection (b) ~~[and the conduct did not involve:~~

15 ~~[(i) carrying, possessing, or using a~~
16 ~~firearm or other dangerous weapon;~~

17 ~~[(ii) the use of force against the person of~~
18 ~~another; or~~

19 ~~[(iii) the death of or serious bodily~~
20 ~~injury to another]~~;

21 (3) reentry drug courts for persons with a
22 demonstrated history of using alcohol or a controlled substance who
23 may benefit from a program designed to facilitate the person's
24 transition and reintegration into the community on release from a
25 state or local correctional facility;

26 (4) family dependency drug treatment courts for family
27 members involved in a suit affecting the parent-child relationship

1 in which a parent's use of alcohol or a controlled substance is a
2 primary consideration in the outcome of the suit; or

3 (5) programs for other persons not precisely described
4 by Subdivisions (1)-(4) who may benefit from a program that has the
5 essential characteristics described by Section 123.001.

6 (b) Unless the attorney representing the state consents to
7 the participation in the applicable drug court program:

8 (1) a person is not eligible to participate in a drug
9 court program established under Subsection (a)(1) for an offense
10 described by Subsection (a)(1)(B) involving:

11 (A) carrying, possessing, or using a firearm or
12 other dangerous weapon;

13 (B) the use of force against the person of
14 another; or

15 (C) serious bodily injury to another; and

16 (2) a juvenile is not eligible to participate in a drug
17 court program established under Subsection (a)(2) for conduct
18 described by Subsection (a)(2)(B) involving:

19 (A) carrying, possessing, or using a firearm or
20 other dangerous weapon; or

21 (B) serious bodily injury to another.

22 SECTION 2. Section 123.006(a), Government Code, is amended
23 to read as follows:

24 (a) The commissioners court of a county with a population of
25 more than 200,000 shall:

26 (1) establish a drug court program under Section
27 123.002(a)(1) [~~123.002(1)~~]; and

1 (2) direct the judge, magistrate, or coordinator to
2 comply with Section 121.002(c)(1).

3 SECTION 3. The change in law made by this Act applies to a
4 defendant who enters a drug court program under Chapter 123,
5 Government Code, regardless of whether the defendant committed the
6 offense for which the defendant enters the program before, on, or
7 after the effective date of this Act.

8 SECTION 4. This Act takes effect September 1, 2023.