

By: Morales Shaw, et al.

H.B. No. 1977

Substitute the following for H.B. No. 1977:

By: Thompson of Harris

C.S.H.B. No. 1977

A BILL TO BE ENTITLED

AN ACT

relating to the creation of a pretrial intervention program for certain youth offenders; authorizing a fee.

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

ARTICLE 1. PRETRIAL INTERVENTION PROGRAM

SECTION 1.01. Subtitle K, Title 2, Government Code, is amended by adding Chapter 127 to read as follows:

CHAPTER 127. PRETRIAL INTERVENTION PROGRAM FOR CERTAIN YOUTH OFFENDERS

Sec. 127.001. YOUTH PRETRIAL INTERVENTION PROGRAM DEFINED; PROCEDURES FOR CERTAIN DEFENDANTS. (a) In this chapter, "youth pretrial intervention program" means a program that has the following essential characteristics:

(1) the integration of services in the processing of cases in the judicial system;

(2) the use of a nonadversarial approach involving prosecutors and defense attorneys to promote public safety and to protect the due process rights of program participants;

(3) early identification and prompt placement of eligible participants in the program;

(4) access to a continuum of alcohol, controlled substance, mental health, and other related treatment and rehabilitative services;

(5) careful monitoring of treatment and services

1 provided to program participants;

2 (6) a coordinated strategy to govern program responses
3 to participants' compliance;

4 (7) ongoing judicial interaction with program
5 participants;

6 (8) monitoring and evaluation of program goals and
7 effectiveness;

8 (9) continuing interdisciplinary education to promote
9 effective program planning, implementation, and operations;

10 (10) development of partnerships with public agencies
11 and community organizations; and

12 (11) inclusion of a participant's family members who
13 agree to be involved in the treatment and services provided to the
14 participant under the program.

15 (b) If a defendant successfully completes a youth pretrial
16 intervention program, after notice to the attorney representing the
17 state and a hearing in the youth pretrial intervention court at
18 which that court determines that a dismissal is in the best interest
19 of justice, the youth pretrial intervention court shall provide to
20 the court in which the criminal case is pending information about
21 the dismissal and shall include all of the information required
22 about the defendant for a petition for expunction under Section
23 2(b), Article 55.02, Code of Criminal Procedure. The court in which
24 the criminal case is pending shall dismiss the case against the
25 defendant and:

26 (1) if that trial court is a district court, the court
27 may, with the consent of the attorney representing the state, enter

1 an order of expunction on behalf of the defendant under Section
2 1a(a-3), Article 55.02, Code of Criminal Procedure; or

3 (2) if that trial court is not a district court, the
4 court may, with the consent of the attorney representing the state,
5 forward the appropriate dismissal and expunction information to
6 enable a district court with jurisdiction to enter an order of
7 expunction on behalf of the defendant under Section 1a(a-3),
8 Article 55.02, Code of Criminal Procedure.

9 Sec. 127.002. ESTABLISHMENT OF PROGRAM; DEFENDANT
10 ELIGIBILITY. (a) The commissioners court of a county shall,
11 subject to Subsection (d), establish a youth pretrial intervention
12 program for persons arrested for or charged with an offense that is
13 punishable as a Class B misdemeanor or any higher category of
14 offense, other than an offense listed in Article 42A.054(a), Code
15 of Criminal Procedure.

16 (b) A defendant is eligible to participate in a youth
17 pretrial intervention program established under this chapter only
18 if:

19 (1) the defendant is a child as defined by Section
20 51.02, Family Code; and

21 (2) the defendant has not previously been convicted of
22 or placed on deferred adjudication community supervision for an
23 offense other than a traffic offense that is punishable by fine
24 only.

25 (c) The court in which the criminal case is pending shall
26 allow an eligible defendant to choose whether to proceed through
27 the youth pretrial intervention program or otherwise through the

1 criminal justice system.

2 (d) The commissioners court of a county is not required to
3 establish a specialty court in accordance with this chapter and may
4 require the community supervision and corrections department
5 -serving the county to operate a program under the authority of
6 Section 76.011(a). A program that is operated by a community
7 supervision and corrections department is considered to be a youth
8 pretrial intervention program for purposes of this chapter.

9 Sec. 127.003. DUTIES OF YOUTH PRETRIAL INTERVENTION
10 PROGRAM. (a) A youth pretrial intervention program established
11 under this chapter must:

12 (1) ensure that a defendant eligible for participation
13 in the program is provided legal counsel before electing to proceed
14 through the program and while participating in the program;

15 (2) allow a participant to withdraw from the program
16 at any time before a trial on the merits has been initiated; and

17 (3) provide a participant with a court-ordered
18 individualized treatment plan indicating the services that will be
19 provided to the participant.

20 (b) A youth pretrial intervention program established under
21 this chapter shall make, establish, and publish local procedures to
22 ensure maximum participation of eligible defendants in the county
23 or counties in which those defendants reside.

24 (c) A youth pretrial intervention program may allow a
25 participant to comply with the participant's court-ordered
26 individualized treatment plan or to fulfill certain other court
27 obligations through the use of videoconferencing software or other

1 Internet-based communications.

2 (d) This chapter does not prevent the initiation of
3 procedures under Chapter 46B, Code of Criminal Procedure.

4 Sec. 127.004. CONDITIONS OF PROGRAM. (a) A program
5 participant charged with an offense punishable as a Class B
6 misdemeanor may not be required to spend more than one year in the
7 program and may not be required to perform more than 24 hours of
8 community service as part of the program.

9 (b) A program participant charged with an offense
10 punishable as a Class A misdemeanor or state jail felony may not be
11 required to spend more than two years in the program and may not be
12 required to perform more than 24 hours of community service as part
13 of the program.

14 (c) A program participant charged with an offense
15 punishable as a felony of the third degree may not be required to
16 spend more than three years in the program and may not be required
17 to perform more than 50 hours of community service as part of the
18 program.

19 (d) A program participant charged with an offense
20 punishable as a felony of the second degree may not be required to
21 spend more than four years in the program and may not be required to
22 perform more than 75 hours of community service as part of the
23 program.

24 (e) A program participant charged with an offense
25 punishable as a felony of the first degree may not be required to
26 spend more than five years in the program and may not be required to
27 perform more than 100 hours of community service as part of the

1 program.

2 Sec. 127.005. SUPERVISION OF PARTICIPANTS. The community
3 supervision and corrections department serving the county in which
4 the program is operated shall supervise program participants.

5 Sec. 127.006. ESTABLISHMENT OF REGIONAL PROGRAM. The
6 commissioners courts of two or more counties may elect to establish
7 a regional youth pretrial intervention program under this chapter
8 for the participating counties.

9 Sec. 127.007. REIMBURSEMENT FEES. (a) A youth pretrial
10 intervention program established under this chapter may collect
11 from a participant in the program:

12 (1) a reasonable reimbursement fee for the program;
13 and

14 (2) a testing, counseling, and treatment
15 reimbursement fee in an amount necessary to cover the costs of any
16 testing, counseling, or treatment performed or provided under the
17 program.

18 (b) Reimbursement fees collected under this section may be
19 paid on a periodic basis or on a deferred payment schedule at the
20 discretion of the judge, magistrate, or coordinator. The fees must
21 be:

22 (1) based on the participant's ability to pay; and

23 (2) used only for purposes specific to the program.

24 Sec. 127.008. COURTESY SUPERVISION. (a) A youth pretrial
25 intervention program that accepts placement of a defendant may
26 transfer responsibility for supervising the defendant's
27 participation in the program to another youth pretrial intervention

1 program that is located in the county where the defendant works or
2 resides. The defendant's supervision may be transferred under this
3 section only with the consent of both youth pretrial intervention
4 programs and the defendant.

5 (b) A defendant who consents to the transfer of the
6 defendant's supervision must agree to abide by all rules,
7 requirements, and instructions of the youth pretrial intervention
8 program that accepts the transfer.

9 (c) If a defendant whose supervision is transferred under
10 this section does not successfully complete the program, the youth
11 pretrial intervention program supervising the defendant shall
12 return the responsibility for the defendant's supervision to the
13 youth pretrial intervention program that initiated the transfer.

14 SECTION 1.02. Article 59.062(f), Code of Criminal
15 Procedure, is amended to read as follows:

16 (f) A civil penalty collected under this article shall be
17 deposited to the credit of the drug court account in the general
18 revenue fund to help fund specialty court programs established
19 under Chapter 122, 123, 124, 125, 127, or 129, Government Code, or
20 former law.

21 SECTION 1.03. Section 509.011, Government Code, is amended
22 by adding Subsection (a-1) to read as follows:

23 (a-1) The supervision by a department of a participant in a
24 youth pretrial intervention program under Chapter 127 or other law
25 constitutes supervision by the department pursuant to lawful
26 authority for purposes of Subsection (a).

27 SECTION 1.04. Section 772.0061(a)(2), Government Code, is

1 amended to read as follows:

2 (2) "Specialty court" means:

3 (A) a commercially sexually exploited persons
4 court program established under Chapter 126 or former law;

5 (B) a family drug court program established under
6 Chapter 122 or former law;

7 (C) a drug court program established under
8 Chapter 123 or former law;

9 (D) a veterans treatment court program
10 established under Chapter 124 or former law;

11 (E) a mental health court program established
12 under Chapter 125 or former law;

13 (F) a youth pretrial intervention program
14 established under Chapter 127; and

15 (G) [~~(F)~~] a public safety employees treatment
16 court program established under Chapter 129.

17 SECTION 1.05. Section 772.0061(b), Government Code, is
18 amended to read as follows:

19 (b) The governor shall establish the Specialty Courts
20 Advisory Council within the criminal justice division established
21 under Section 772.006 to:

22 (1) evaluate applications for grant funding for
23 specialty courts in this state and to make funding recommendations
24 to the criminal justice division; and

25 (2) make recommendations to the criminal justice
26 division regarding best practices for specialty courts established
27 under Chapter 122, 123, 124, 125, 127, or 129 or former law.

ARTICLE 2. AUTOMATIC EXPUNCTION

SECTION 2.01. Article 55.01(a), Code of Criminal Procedure, is amended to read as follows:

(a) A person who has been placed under a custodial or noncustodial arrest for commission of either a felony or misdemeanor is entitled to have all records and files relating to the arrest expunged if:

(1) the person is tried for the offense for which the person was arrested and is:

(A) acquitted by the trial court, except as provided by Subsection (c);

(B) convicted and subsequently:

(i) pardoned for a reason other than that described by Subparagraph (ii); or

(ii) pardoned or otherwise granted relief on the basis of actual innocence with respect to that offense, if the applicable pardon or court order clearly indicates on its face that the pardon or order was granted or rendered on the basis of the person's actual innocence; or

(C) convicted of an offense committed before September 1, 2021, under Section 46.02(a), Penal Code, as that section existed before that date; or

(2) the person has been released and the charge, if any, has not resulted in a final conviction and is no longer pending and there was no court-ordered community supervision under Chapter 42A for the offense, unless the offense is a Class C misdemeanor, provided that:

1 (A) regardless of whether any statute of
2 limitations exists for the offense and whether any limitations
3 period for the offense has expired, an indictment or information
4 charging the person with the commission of a misdemeanor offense
5 based on the person's arrest or charging the person with the
6 commission of any felony offense arising out of the same
7 transaction for which the person was arrested:

8 (i) has not been presented against the
9 person at any time following the arrest, and:

10 (a) at least 180 days have elapsed
11 from the date of arrest if the arrest for which the expunction was
12 sought was for an offense punishable as a Class C misdemeanor and if
13 there was no felony charge arising out of the same transaction for
14 which the person was arrested;

15 (b) at least one year has elapsed from
16 the date of arrest if the arrest for which the expunction was sought
17 was for an offense punishable as a Class B or A misdemeanor and if
18 there was no felony charge arising out of the same transaction for
19 which the person was arrested;

20 (c) at least three years have elapsed
21 from the date of arrest if the arrest for which the expunction was
22 sought was for an offense punishable as a felony or if there was a
23 felony charge arising out of the same transaction for which the
24 person was arrested; or

25 (d) the attorney representing the
26 state certifies that the applicable arrest records and files are
27 not needed for use in any criminal investigation or prosecution,

1 including an investigation or prosecution of another person; or

2 (ii) if presented at any time following the
3 arrest, was dismissed or quashed, and the court finds that the
4 indictment or information was dismissed or quashed because:

5 (a) the person completed a veterans
6 treatment court program created under Chapter 124, Government Code,
7 or former law, subject to Subsection (a-3);

8 (b) the person completed a mental
9 health court program created under Chapter 125, Government Code, or
10 former law, subject to Subsection (a-4);

11 (c) the person completed a youth
12 pretrial intervention program created under Chapter 127,
13 Government Code;

14 (d) the person completed a pretrial
15 intervention program authorized under Section 76.011, Government
16 Code, other than a veterans treatment court program created under
17 Chapter 124, Government Code, or former law, ~~or~~ a mental health
18 court program created under Chapter 125, Government Code, or former
19 law, or a youth pretrial intervention program created under Chapter
20 127, Government Code;

21 (e) ~~(d)~~ the presentment had been
22 made because of mistake, false information, or other similar reason
23 indicating absence of probable cause at the time of the dismissal to
24 believe the person committed the offense; or

25 (f) ~~(e)~~ the indictment or
26 information was void; or

27 (B) prosecution of the person for the offense for

1 which the person was arrested is no longer possible because the
2 limitations period has expired.

3 SECTION 2.02. Section 1a, Article 55.02, Code of Criminal
4 Procedure, is amended by adding Subsection (a-3) to read as
5 follows:

6 (a-3) A trial court dismissing a case following a person's
7 successful completion of a youth pretrial intervention program
8 created under Chapter 127, Government Code, if the trial court is a
9 district court or a district court in the county in which the trial
10 court is located, may, with the consent of the attorney
11 representing the state, enter an order of expunction for a person
12 entitled to expunction under Article 55.01(a)(2)(A)(ii)(c) not
13 later than the 30th day after the date the court dismisses the case
14 or receives the information regarding that dismissal, as
15 applicable. Notwithstanding any other law, a court that enters an
16 order for expunction under this subsection may not charge any fee or
17 assess any cost for the expunction.

18 SECTION 2.03. Article 102.006(b-1), Code of Criminal
19 Procedure, is amended to read as follows:

20 (b-1) The fees under Subsection (a) shall be waived if the
21 petitioner is entitled to expunction:

22 (1) under Article 55.01(a)(2)(A)(ii)(a) after
23 successful completion of a veterans treatment court program created
24 under Chapter 124, Government Code, or former law; ~~or~~

25 (2) under Article 55.01(a)(2)(A)(ii)(b) after
26 successful completion of a mental health court program created
27 under Chapter 125, Government Code, or former law; or

1 (3) under Article 55.01(a)(2)(A)(ii)(c) after
2 successful completion of a youth pretrial intervention program
3 created under Chapter 127, Government Code.

4 ARTICLE 3. TRANSITION; EFFECTIVE DATE

5 SECTION 3.01. The changes in law made by this Act apply only
6 to an offense committed on or after the effective date of this Act.
7 An offense committed before the effective date of this Act is
8 governed by the law in effect on the date the offense was committed,
9 and the former law is continued in effect for that purpose. For
10 purposes of this section, an offense was committed before the
11 effective date of this Act if any element of the offense occurred
12 before that date.

13 SECTION 3.02. This Act takes effect September 1, 2023.