

BILL ANALYSIS

H.B. 1389
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Corrections
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Concerns have been raised about the high percentage of women in Texas prisons who are mothers, many of whom were the primary caretaker of their children prior to their incarceration. Reports suggest that foster placements occur at significant annual cost to the state and can result in myriad avoidable problems for the affected children, such as behavioral problems, speech and language delays, and other physical and mental health issues. H.B. 1389 seeks to encourage community-based solutions for people who are not a threat to public safety by providing procedures for the placement on community supervision of eligible defendants who are the primary caretaker of a child.

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. 1389 amends the Code of Criminal Procedure to require a court, on written motion of a defendant who is charged with an offense for which the defendant is eligible for deferred adjudication community supervision and who is the primary caretaker of a child and after receiving a plea of guilty or nolo contendere, hearing the evidence, and finding that the evidence substantiates the defendant's guilt, to consider the defendant's status as the primary caretaker of a child. The bill requires the motion to include evidence of the defendant's primary caretaker status and requires the court, as soon as practicable after receipt of such a motion, to make written findings regarding the defendant's primary caretaker status. The bill authorizes the court, on its determination that the defendant is the primary caretaker of a child, to defer further proceedings without entering an adjudication of guilt and place the defendant on deferred adjudication community supervision. The bill authorizes a court, if in the court's opinion the best interest of society, the defendant, and the defendant's child or children will be served, to defer further proceedings without entering an adjudication of guilt and place a defendant who does not make such a written motion on deferred adjudication community supervision after receiving a plea of guilty or nolo contendere, hearing the evidence, and finding that the evidence substantiates the defendant's guilt. The bill authorizes a court placing a defendant who is the caretaker of a child on deferred adjudication community supervision to impose conditions of community supervision that emphasize the defendant's rehabilitation in a community setting and parent-child unity and provide support to the parent-child relationship. The bill prohibits a court placing such a defendant on deferred adjudication community supervision from requiring as a condition of the supervision that the defendant submit to a term of confinement but authorizes the court to order

the defendant to submit to such a term if the court proceeds with an adjudication of guilt for the offense for which the defendant was placed on the supervision.

H.B. 1389 requires a court, on written motion of a defendant who is convicted of an offense for which the defendant is eligible for community supervision and who is the primary caretaker of a child, to consider the defendant's status as the primary caretaker of a child before imposing a sentence requiring confinement. The bill requires the motion to include evidence of the defendant's primary caretaker status and requires the court, as soon as practicable after receipt of such a motion, to make written findings regarding the defendant's primary caretaker status. The bill prohibits the court from imposing a sentence of confinement, including confinement as a condition of community supervision, without first making the written findings. The bill authorizes the court, on its determination that the defendant is the primary caretaker of a child, to suspend the imposition of the sentence and place the defendant on community supervision. The bill authorizes a court, if in the court's opinion the best interest of justice, the public, the defendant, and the defendant's child or children will be served, to suspend the imposition of the sentence and place a defendant who does not make such a written motion on community supervision. The bill authorizes a court placing a defendant who is the caretaker of a child on community supervision to impose conditions of community supervision that emphasize the defendant's rehabilitation in a community setting and parent-child unity and provide support to the parent-child relationship. The bill prohibits a court that places such a defendant on community supervision from requiring as a condition of the supervision that the defendant submit to a term of confinement but authorizes the court to order the defendant to submit to a term of confinement following a determination that the defendant violated a condition of the supervision or if the defendant's community supervision is revoked.

H.B. 1389 defines "primary caretaker of a child" as a person, including a person who has temporarily relinquished custody of the child as a result of pretrial detention, who has assumed or will soon assume responsibility for a dependent child younger than 18 years of age by providing for the child's needs, including housing, health care, financial support, education, family support, or safety.

EFFECTIVE DATE

September 1, 2019.