

SUBJECT: Operations of personal bond offices

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 7 ayes — Hinojosa, Dunnam, Green, Keel, Nixon, Smith, Wise

0 nays

2 absent — Garcia, Talton

SENATE VOTE: On final passage, Local and Uncontested Calendar, May 6 — 30-0

WITNESSES: No public hearing

BACKGROUND: Code of Criminal Procedure, art. 17.42 authorizes counties and judicial districts to establish personal bond offices to gather and review information that would have a bearing on whether a criminal defendant would comply with the conditions of a personal bond. The findings are reported to the court before which the case is pending.

If a person is released on a personal bond on recommendation of the bond office, courts are required to assess a personal bond fee of \$20 or 3 percent of the amount of bail assessed, whichever is greater. The fee can be waived for good cause.

DIGEST: SB 799 would change the name of personal bond offices to pretrial services offices. Pretrial services offices would be authorized to operate programs to supervise persons released on personal, cash, or surety bonds, as well as programs that test for controlled substances.

Courts that use a pretrial services office to release a defendant on personal bond or to provide supervision of a defendant released on personal, cash, or surety bonds would have to assess either a personal bond fee or a supervision fee for a defendant released on personal bond and would be authorized to assess a supervision fee for a defendant released on surety or cash bonds.

The amount of the bond fee would have to be \$20 or 3 percent of the amount bail, whichever is greater. A monthly supervision fee could not be less than

\$25 or more than \$40 for each month the defendant was under supervision of the pretrial services office. Courts could waive the fee if good cause was shown or require payment of the fee as a condition of release, a condition of the bond, or court costs.

Courts would be authorized to require defendants to pay the costs incurred by a pretrial services office for electronic monitoring, controlled substance testing, or to provide the defendant with an interlock ignition device or other services.

SB 799 would require information gathered by a pretrial services office to be reported to each court in the county or judicial district having criminal jurisdiction.

SB 799 would give judges of the district and statutory county courts that are served by a pretrial services office the right to participate in the management of the office.

The bill would take effect September 1, 1999, and would apply only to persons released on bond or placed on community supervision on or after that date.

**SUPPORTERS
SAY:**

SB 799 would change the name of personal bond offices to pretrial services offices to better reflect their duties. These offices collect information for all types of bonds and have duties beyond collecting the information. SB 799 would give the offices explicit authority to operate the type of supervision programs that increasingly are being used by courts to monitor defendants released on bond.

SB 799 would allow the offices to recoup part of their costs by authorizing courts to assess supervision fees and fees incurred by the offices for electronic monitoring, testing, or other services. These costs should be borne by the person causing the expense, not the taxpayers.

SB 799 would not cause situations where defendants were held in jail rather than being released on bond. Case law prohibits using fees to keep someone incarcerated. Defendants would not necessarily end up paying huge fees to the pretrial services offices. In some jurisdictions, cases involving lower-level offenses in which small bonds are assessed can be disposed of in fewer than

two months. In addition, some counties have policies that supervision fees cannot be more than a bond. SB 799 would leave decisions about such policies at the local level, where they belong.

The bill would require information to be given to all courts having criminal jurisdiction to ensure that both the trial court and the court originally setting the bond would be given the information. Allowing judges to participate in the management of the offices would result in closer coordination between the offices and the entity they work for, the courts.

**OPPONENTS
SAY:**

Allowing increased fees for criminal defendants could be unfair to defendants who often are of modest means. SB 799 could lead to a situation in which persons were charged more in supervision and bond fees from the pretrial office than they have been assessed for their bond. This could occur if, for example, a defendant released on a \$500 cash bond was not brought to trial for 18 months. This has occurred in some jurisdictions. A limit should be set on what percent of a bond the supervision fees could total.