

SUBJECT: Authorizing associate judges program for drug courts in smaller counties

COMMITTEE: Corrections — favorable, without amendment

VOTE: 8 ayes — McReynolds, Madden, Hodge, Marquez, Martinez, S. Miller, Ortiz, Sheffield

0 nays

3 absent — Dutton, England, Kolkhorst

WITNESSES: For — Teresa Williams, Dallas County CSCD; Ana Yanez-Correa, Texas Criminal Justice Coalition; (*Registered, but did not testify*: Allen Place, Texas Criminal Defense Lawyers Association; Matthew Simpson, The ACLU of Texas; Sally Velasquez, Texas Probation Association; Clifford Gay; Mark Mendez)

Against — None

On — Carl Reynolds, Office of Court Administration/Judicial Council; Robert Francis; (*Registered, but did not testify*: Donald Lee, Texas Conference of Urban Counties)

BACKGROUND: Health and Safety Code, sec. 469.002 authorizes counties to establish drug courts for persons arrested for or convicted of alcohol or drug offenses or other non-violent offenses in which alcohol or drugs contributed to the offense. Under sec. 469.006, certain large counties are required to establish drug court programs. Drug courts are authorized to collect fees from participants in the programs and can receive a portion of the fees collected under Code of Criminal Procedure, art. 102.0178(a) on certain intoxication and drug-related convictions.

DIGEST: HB 3595 would require the presiding judge of each administrative judicial region to confer with the judges in the region with county populations of up to 200,000 to determine which courts wanted the appointment of associate judges to operate drug court programs.

Presiding judges would be required to appoint an associate judge for a drug court if the judge determined that a court wanted one and if the state

provided funding. If an associate judge was appointed for a drug court, all appropriate cases would have to be referred to the court, through either a general order issued by the presiding judge or through an order issued by the judges of each court for which the associate judge was appointed.

The presiding judge could limit associate judge appointments to specified time periods and could end an appointment at any time. Associate judges appointed to operate drug courts under the bill could serve more than one court. Two or more administrative judicial regions' judges could jointly appoint one or more associate judges to serve the regions. HB 3595 would not limit the authority of a presiding judge to assign another judge under the Government Code to operate a drug court program.

The presiding judges in the administrative judicial regions would vote to determine the host county of a drug court judge, subject to the approval of the commissioners court of the proposed host county. The host county would have to provide a courtroom and quarters for the court.

The bill would establish numerous qualifications for drug court judges appointed under the bill. They would have to be U.S. citizens, have lived in Texas for the two years before their appointment, and be qualified to be appointed a judge under specific guidelines in the Government Code or be a licensed attorney who was either a practicing lawyer or a judge for at least four years before the appointment. Other requirements would include not having been defeated for reelection as a judge.

Under HB 3595, a drug court judge could conduct hearings, make rulings, issue summons for witnesses' appearance, and accept pleas. Judges appointed under the bill could not enter any rulings on law or fact that could result in, or require dismissal of, a pending criminal prosecution, but they could make findings, recommendations, and conclusions on those issues. They could not hold a trial on the merits.

Referring courts would be able to modify, correct, reject, reverse, or recommit any action taken by a drug court judge. If the referring court did not take any of these actions within 30 days of the action of a drug court judge, the actions would become the decree of the court. A drug court judge would be able to refer back a case to the referring court upon motion of a party or the judge.

Other provisions. The bill would establish other guidelines for the courts, including:

- the compensation of the drug court judges, including having salaries paid by state funds and having the salaries established by a vote of the presiding judges of the administrative judicial regions;
- requiring court personnel salaries paid by state funds;
- giving drug court judges the same judicial immunity as district judges;
- establishing guidelines for the use of court reporters in the drug courts;
- requiring the Office of Court Administration to assist presiding judges in monitoring the drug court judges compliance with standards, practices, laws, and policies and in other matters relating to the courts and judges;
- authorizing the Office of Court Administration to contract for available state, county, and federal funds and to employ staff to implement the bill;
- authorizing presiding judges of administrative judicial regions, state agencies, and counties to contract for federal funds to reimburse costs and salaries associated with the courts and authorizing them to use state and county funds and public and private grants
- establishing guidelines for the appointment of visiting judges for the drug courts if judges originally appointed could not perform their duties.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2009.

**SUPPORTERS
SAY:**

HB 3595 would help extend the state's drug court program into smaller counties so Texans in these areas could benefit from this innovative approach to handling non-violent drug users. These highly successful and popular courts should not be limited to the state's large counties. Drug courts give offenders supervision to ensure public safety and treatment to reduce addiction and recidivism. National studies have shown drug courts to successfully reduce recidivism by up to 44 percent, thereby increasing public safety. HB 3595 would help equalize access to this resource.

The program authorized by the bill would be modeled after two other associate judge programs in the state — child support associate judges and

child protection associate judges. HB 3595 would provide a way to allow drug courts in rural areas, where many judges are overwhelmed by their current duties and cannot take on the additional responsibility of a drug court.

HB 3595 would not require any jurisdiction to establish a drug court. The courts authorized by HB 3595 could be set up only with the support of local judges and the commissioners court of the host county for the court. The presiding judges would govern these program under the guidelines in HB 3595, and an associate judge would be able to serve as a drug court judge for several counties.

HB 3595 would not commit the state to any future funding and would have a small cost this biennium. Article 11 of House-passed version of SB 1, the general appropriations bill for fiscal 2010-11, contains a contingency rider for the bill of \$294,890, which would allow a pilot program to be established. While the bill would be funded by a small amount of general revenue, the fines that fund other drug courts in the state come from all Texans, including those in rural areas. In 2011, the next Legislature could evaluate the success of HB 3595, and if it was warranted, fund it again or even bring it under the funding mechanisms used for other drug courts. Money spent on drug courts would save Texas money in the long run. It would cost less than incarceration and reduce recidivism.

**OPPONENTS
SAY:**

Drug courts in Texas traditionally are funded primarily by fees and grants, and HB 3595 would step away from this model by creating a purely state-funded program. Although funding for the courts would be limited to what was appropriated, HB 3595 would extend the state's commitment to fund new courts at a time when the state should be cautious about committing to new programs.