

- SUBJECT:** Basing conditions of community supervision on risk assessments
- COMMITTEE:** Corrections — committee substitute recommended
- VOTE:** 6 ayes — White, Allen, S. Davis, Romero, Sanford, Tinderholt  
1 nay — Schaefer
- WITNESSES:** For — Zenobia Joseph; Reginald Smith, Communities for Recovery; Douglas Smith, Texas Criminal Justice Coalition; (*Registered, but did not testify*: Katy Reagan, Alliance for Safety & Justice; Nicholas Hudson, American Civil Liberties Union of Texas; Chas Moore, Austin Justice Coalition; Lauren Oertel, Austin Justice Coalition; Annette Price, Austin/Travis County Reentry; Kathryn Freeman, Christian Life Commission; Traci Berry, Goodwill Central Texas; Latosha Taylor, Grassroots Leadership; Will Francis, National Association of Social Workers - Texas Chapter; Jorge Renaud, Texas Advocates for Justice; Cathy DeWitt, Texas Association of Business; Lori Henning, Texas Association of Goodwills; Trey Owens, Texas Criminal Justice Coalition; Rebecca Bernhardt, Texas Fair Defense Project; Greg Glod, Texas Public Policy Foundation; William Kelly)
- Against — (*Registered, but did not testify*: Bill Lewis, Mothers Against Drunk Driving)
- On — Ruben Gonzalez, 432nd Judicial District Court; Leighton Iles, Tarrant County CSCD; Manny Rodriguez, Texas Department of Criminal Justice
- BACKGROUND:** Code of Criminal Procedure 42A.301 gives judges authority to set conditions of community supervision (probation). Judges can impose any reasonable condition designed to protect or restore the community, protect or restore the victim, or punish, rehabilitate, or reform the defendant.
- DIGEST:** CSHB 2883 would require that conditions of probation imposed by judges be based on the results of a risk and needs assessment of the defendant.

The assessment would have to be done using an instrument that was validated to assess the risk and needs of a defendant placed on probation.

The conditions imposed by judges could not be duplicative of another condition. When determining conditions, judges would have to consider the extent to which a condition impacted a defendant's work, education, and community service schedules or obligations and their ability to meet financial obligations.

Before requiring defendants to receive certain types of treatment, judges would have to consider the results of an evaluation done to determine the appropriate type and level of treatment to address a defendant's alcohol or drug dependency. This would have to be done before judges could require that a defendant receive treatment in a state-funded substance abuse treatment program, a substance abuse felony program operated by the Texas Department of Criminal Justice, or a program provided while in a community corrections facility.

The bill would take effect September 1, 2017, and would apply to defendants placed on probation on or after that date.

**SUPPORTERS  
SAY:**

CSSB 2883 would promote public safety and improve rehabilitation of offenders by ensuring that judges considered risk assessments when setting conditions of probation. Excessive or inappropriate conditions can hinder rehabilitation and make it hard for defendants to meet the terms of their probation. Use of risk assessments by judges when setting conditions would ensure departments identify and address specific factors that relate to individuals and would help funnel resources to the proper areas. Ensuring that conditions are non-duplicative and take into consideration probationers work, education, and community service schedules would help defendants successfully complete probation and become rehabilitated. Many entities may already be using risk assessment that meet the bill's guidelines, and CSHB 2883 would help make sure that these best practices occur statewide.

CSHB 2883 would not infringe on judicial discretion in setting probation

conditions. The bill would require only that judges base decisions on a risk assessment and that judges consider other factors in probationers' lives, such as work schedules. Judges would retain discretion to set and change conditions and to consider all relevant information.

**OPPONENTS  
SAY:**

CSHB 2883 could possibly infringe on judges' discretion to order conditions of probation. Full discretion is important to ensure that the conditions imposed on defendants are appropriate and take into account all relevant factors. A judge may feel that certain conditions are appropriate and necessary given a defendant's background, offense, or other factors, even if not based on a risk assessment. In other cases, a plea agreement may have been reached that included a condition not indicated by an assessment.

**NOTES:**

A Senate companion, SB 1584 by Garcia, was approved by the Senate on April 27 and reported favorably from the House Corrections Committee on May 2.