

SUBJECT: Considering whether certain defendants were sole caretaker of a child

COMMITTEE: Corrections — committee substitute recommended

VOTE: 7 ayes — White, Allen, Bailes, Bowers, Dean, Morales, Stephenson

0 nays

2 absent — Neave, Sherman

WITNESSES: For — Lauren Johnson, ACLU of Texas; Lindsey Linder, Texas Criminal Justice Coalition; (*Registered, but did not testify*: Traci Berry, Goodwill Central Texas; David Johnson, Grassroots Leadership and Texas Advocates for Justice; Greg Hansch, National Alliance on Mental Illness Texas; Will Francis, National Association of Social Workers-Texas Chapter; Josette Saxton, Texans Care for Children; Lori Henning, Texas Association of Goodwills; Samantha Smothermon, Texas Criminal Justice Coalition; Lauren Oertel, Texas Inmate Families Association; Eric Knustrom, Texas Probation Association)

Against — Elmer Beckworth, Cherokee County District Attorney's Office; (*Registered, but did not testify*: Mike Gomez, Texas Municipal Police Association; Kirsten Ricketts)

On — (*Registered, but did not testify*: Carey Green, Texas Department of Criminal Justice)

BACKGROUND: Code of Criminal Procedure art. 42A.751 authorizes judges to issue warrants when defendants violate conditions of community supervision (probation). Defendants can be arrested and detained in the county jail before being taken before the judge for a determination regarding the violation. Judges then determine whether to revoke, continue, or modify the defendants' community supervision.

Concerns have been raised that when the sole caretaker of a child is jailed for a probation violation, including for a minor traffic offense, the child

may suffer negative effects, including a potential risk of entering the foster care system.

DIGEST:

CSHB 3303 would require courts to consider if a defendant was the sole caretaker of a child when deciding whether to revoke, continue, or modify community supervision for a violation of probation unless the violation involved being arrested for, charged with, or convicted of an offense that was not a fine-only traffic offense. Prosecutors would have to include in a motion to revoke, continue, or modify probation a statement from the defendant's probation officer about whether the defendant was a sole caretaker of a child.

The bill would define "sole caretaker of a child" to mean a person who had assumed or would soon assume sole responsibility for a dependent child younger than 18 years old by providing for the child's needs, including housing, health care, financial support, education, family support, or safety.

The bill would take effect September 1, 2019, and would apply to persons on community supervision on or after that date.