

- SUBJECT:** Creating a pretrial intervention program for certain youth offenders
- COMMITTEE:** Youth Health & Safety, Select — committee substitute recommended
- VOTE:** 7 ayes — S. Thompson, Hull, Allison, Dutton, A. Johnson, T. King, Lozano
- 0 nays
- 2 absent — Capriglione, Landgraf
- WITNESSES:** For — Lyssette Galvan, NAMI Texas (*Registered, but did not testify*: Omodele Ojomo, Autism Society of Texas; Jolene Sanders-Foster, Coalition of Texans with Disabilities; Bryan Mares, National Association of Social Workers-Texas; Elizabeth Henry, RecoveryPeople; Jenny Andrews, Texas Catholic Conference of Bishops; Alexis Bay, Texas Civil Rights Project; and six individuals)
- Against — Jim Allison, County Judges and Commissioners Association of Texas (*Registered, but did not testify*: Carly Blaine; Christine Gwillim; Tal Wildman)
- On — Shannon Edmonds, Texas District and County Attorneys Association (*Registered, but did not testify*: Lindsey Sikes)
- BACKGROUND:** Family Code Sec. 51.02 defines a child as:
- a person who is between 10 and 16 years old; or
 - a person who is 17 years old who is alleged or found to have engaged in delinquent conduct or conduct indicating a need for supervision as a result of acts committed before becoming 17 years of age.
- Some have suggested that creating a pretrial intervention program for certain first-time youthful offenders could decrease the chance that such offenders encounter the criminal justice system while providing appropriate accountability.

DIGEST: CSHB 1977 would create a youth pretrial intervention program that included:

- the integration of services in the processing of cases in the judicial system;
- the use of a non-adversarial approach involving prosecutors and defense attorneys to promote public safety and to protect the due process rights of participants;
- early identification and prompt placement of eligible participants in the program;
- access to a continuum of rehabilitative services and treatment;
- careful monitoring of treatment and services provided to participants;
- a coordinated strategy to govern program responses to participants' compliance;
- ongoing judicial interaction with program participants;
- monitoring and evaluation of program goals and effectiveness;
- continuing interdisciplinary education to promote effective program planning, implementation, and operations;
- development of partnerships with public agencies and community organizations; and
- inclusion of a participant's family members who agreed to be involved in the treatment and services provided to the participant.

Establishment of the program. The commissioners court of a county would be required to establish a youth pretrial intervention program for persons arrested for or charged with an offense that was punishable as a Class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000) or any higher category of offense, other than certain offenses ineligible for judge-ordered community supervision.

A county commissioners court would not be required to establish a specialty court to implement this provision and could require the county community supervision and correction department to operate a program

for the youth's supervision and rehabilitation, which would be considered a youth pretrial intervention program under the bill.

Eligibility. A defendant would be eligible to participate in a youth pretrial intervention program only if the defendant was a child as defined in Family Code sec. 51.02 and had not been previously convicted of or placed on deferred adjudication community supervision for an offense other than a traffic offense punishable by fine only. The court with jurisdiction over the case would be required to allow an eligible defendant to choose whether to proceed through the youth pretrial intervention program or through the criminal justice system.

Duties. A youth pretrial intervention program would be required to ensure that a defendant eligible for participation was provided legal counsel before and throughout program participation. The program also would be required to provide a participant with a court-ordered individualized treatment plan and allow a participant to withdraw from the program at any time. A youth pretrial intervention program could allow a participant to use videoconferencing or other online communications to comply with the treatment plan and other court obligations.

CSHB 1977 would require a youth pretrial intervention program to make, establish, and publish local procedures to ensure maximum participation of eligible defendants in the county in which those defendants resided.

Automatic expunction. A person would be entitled to have all records and files relating to an arrest expunged if the indictment or information charging the person with a misdemeanor or felony was dismissed or quashed because of the person's participation in a youth pretrial intervention program and the following applied:

- the person was released;
- the charge did not result in a final conviction; and
- there was no court-ordered community supervision.

A trial court dismissing a case following a person's successful completion

of a youth pretrial intervention program could, with the consent of the state's attorney, enter an order of expunction within 30 days of the date the court dismissed the case or received information regarding the dismissal, as applicable. A court that entered an order of expunction could not charge any fee or assess any cost for the expunction. Any other fees related to expunction proceedings would be waived.

Other provisions. The bill also would establish the conditions of program participation, including the maximum duration a defendant would be required to spend in the program, respective to the offense.

CSHB 1977 would require the county community supervision and corrections department in which the program was operated to supervise program participants.

Two or more county commissioners courts could elect to establish a regional youth pretrial intervention program for the participating counties. The bill would include provisions relating to the collection of fees for the program.

CSHB 1977 would specify procedures for the transfer of a participant's supervision between programs, under certain conditions. The bill also would include provisions related to the funding of the program.

The bill would take effect September 1, 2023, and would apply only to an offense committed on or after that date.

NOTES:

According to the Legislative Budget Board, the fiscal implications of the bill cannot be determined because the amount and timing of any civil penalties that may be collected are unknown.