

## **BILL ANALYSIS**

Senate Research Center

H.B. 3244  
By: Gray (Whitmire)  
Criminal Justice  
5-17-97  
Engrossed

### **DIGEST**

Currently, the Texas Department of Criminal Justice-Community Justice Assistance Division administers the Treatment Alternative to Incarceration Program (TAIP), which provides screening, assessment, and substance abuse treatment to any person arrested for an offense greater than a Class C misdemeanor involving alcohol or drugs. The program provides judges with a sentencing option in lieu of incarceration for chemically dependent offenders. The program is also an early intervention program for minor offenses related to substance abuse. Current law requires defendants to be assessed rather than evaluated. Assessment is a diagnosis on chemical dependency status and the level of treatment needed. An evaluation reviews not only chemical dependency status, but also how a person's criminality influences the appropriate type of treatment. The Texas Department of Criminal Justice (TDCJ) also administers another substance abuse treatment program for offenders known as the Substance Abuse Felony Punishment (SAFP) program, which provides nine months of treatment in a therapeutic community environment followed by residential and out-patient treatment upon release. Current law requires TDCJ to provide not less than 5,200 SAFP beds; however, TDCJ has received funding for only 4,500 SAFP beds.

H.B. 3244 would recodify the TAIP statute from the Code of Criminal Procedure to the Government Code and make the language consistent with the sections of the Code of Criminal Procedure pertaining to presentence investigations and DWI community supervision. These two sections require community supervision officers to perform substance abuse evaluations, rather than assessments, of criminal defendants, and to report the results to the court. This bill would also eliminate the requirement that TDCJ provide at least 5,200 SAFP beds, leaving the size of the SAFP program to be governed by the General Appropriations Act.

### **PURPOSE**

As proposed, H.B. 3244 provides for the efficient use of services and facilities for adult offenders determined to have alcohol or drug abuse problems.

### **RULEMAKING AUTHORITY**

Rulemaking authority is granted to the institutional division of the Texas Department of Criminal Justice in SECTION 4 (Section 501.0931(g), Government Code).

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 76, Government Code, by adding Section 76.017, as follows:

Sec. 76.017. TREATMENT ALTERNATIVE TO INCARCERATION PROGRAM. Authorizes the community supervision and corrections department of the Texas Department of Criminal Justice established under this chapter (department) to establish a treatment alternative to incarceration program in each county served by the department according to standards adopted by the community justice assistance division of the Texas Department of Criminal Justice (division). Authorizes the department to enter into an interlocal cooperation agreement with one or more other departments in order to establish this program on a regional basis. Requires the program to fulfill certain requirements. Sets forth the procedure for determining if a person should be referred for treatment. Authorizes the department to contract for the provision of treatment services. Establishes the provisions regarding payment

of any treatment program recommended under this section. Sets forth the persons to which an employee of the department or a treatment provider either administering this program or providing services is authorized to disclose information regarding the treatment of a person participating in this program.

SECTION 2. Amends Section 493.009(g), Government Code, to delete the provision requiring the Texas Department of Criminal Justice (TDCJ) to provide at least 5,200 beds for the purpose of operating the program for persons required to participate in the program.

SECTION 3. Amends Section 501.093(f), Government Code, to authorize the institutional division of TDCJ (institutional division) to require that inmates selected by the institutional division attend a substance abuse treatment program. Deletes existing text requiring the institutional division to make a substance abuse treatment program available to inmates considered appropriate and eligible candidates by the institutional division.

SECTION 4. Amends Section 501.0931(g), Government Code, to require the institutional division to adopt a procedure for determining which inmates may be required to participate in the program. Makes conforming changes.

SECTION 5. Amends Section 509.003, Government Code, by adding Subsection (d), to require the institutional division to develop a screening and evaluation procedure for use in accordance with Section 76.017. Requires the institutional division to determine if a single screening and evaluation procedure may be used in each program. Requires the institutional division, if the institutional division determines that a single procedure is not feasible, to identify and approve procedures that may be used.

SECTION 6. (a) Provides that in addition to substantive changes made by this Act, this Act conforms Chapter 76, Government Code, to Section 3.0151, Chapter 321, Acts of the 74th Legislature, Regular Session, 1995; and Section 509.003, Government Code, to Section 3.0091, Chapter 321, Acts of the 74th Legislature, Regular Session, 1995.

(b) Repealer: Section 3.0151, Chapter 321, Acts of the 74th Legislature, Regular Session, 1995 (Treatment Alternative to Incarceration Program).

(c) Provides that to the extent of any conflict, this section prevails over another Act of the 75th Legislature, Regular Session, 1997, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 7. Emergency clause.  
Effective date: upon passage.