

AN ACT

relating to the creation of a specialty court for certain public safety employees who commit a criminal offense; imposing fees for participation and testing, counseling, and treatment.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle K, Title 2, Government Code, is amended by adding Chapter 129 to read as follows:

CHAPTER 129. PUBLIC SAFETY EMPLOYEES TREATMENT COURT PROGRAM

Sec. 129.001. DEFINITION. In this chapter, "public safety employee" means a peace officer, firefighter, detention officer, county jailer, or emergency medical services employee of this state or a political subdivision of this state.

Sec. 129.002. PUBLIC SAFETY EMPLOYEES TREATMENT COURT PROGRAM DEFINED; PROCEDURES FOR CERTAIN DEFENDANTS. (a) In this chapter, "public safety employees treatment court program" means a program that has the following essential characteristics:

(1) the integration of services in the processing of cases in the judicial system;

(2) the use of a nonadversarial approach involving

prosecutors and defense attorneys to promote public safety and to protect the due process rights of program participants;

(3) early identification and prompt placement of eligible participants in the program;

(4) access to a continuum of alcohol, controlled substance, mental health, and other related treatment and rehabilitative services;

(5) careful monitoring of treatment and services provided to program participants;

(6) a coordinated strategy to govern program responses to participants' compliance;

(7) ongoing judicial interaction with program participants;

(8) monitoring and evaluation of program goals and effectiveness;

(9) continuing interdisciplinary education to promote effective program planning, implementation, and operations;

(10) development of partnerships with public agencies and community organizations; and

(11) inclusion of a participant's family members who agree to be involved in the treatment and services provided to the participant under the program.

(b) If a defendant successfully completes a public safety employees treatment court program, after notice to the attorney representing the state and a hearing in the public safety employees treatment court at which that court determines that a dismissal is in the best interest of justice, the court in which the criminal case is pending shall dismiss the case against the defendant.

Sec. 129.003. AUTHORITY TO ESTABLISH PROGRAM; ELIGIBILITY.

(a) The commissioners court of a county may establish a public safety employees treatment court program for persons arrested for or charged with any misdemeanor or felony offense. A defendant is eligible to participate in a public safety employees treatment court program established under this chapter only if the attorney representing the state consents to the defendant's participation in the program and if the court in which the criminal case is pending finds that the defendant is a current or former public safety employee who:

(1) suffers from a brain injury, mental illness, or mental disorder, including post-traumatic stress disorder, that:

(A) occurred during or resulted from the defendant's duties as a public safety employee; and

(B) affected the defendant's criminal conduct at issue in the case; or

(2) is a defendant whose participation in a public safety employees treatment court program, considering the circumstances of the defendant's conduct, personal and social background, and criminal history, is likely to achieve the objective of ensuring public safety through rehabilitation of the public safety employee in the manner provided by Section 1.02(1), Penal Code.

(b) The court in which the criminal case is pending shall allow an eligible defendant to choose whether to proceed through the public safety employees treatment court program or otherwise through the criminal justice system.

(c) Proof of matters described by Subsection (a) may be submitted to the court in which the criminal case is pending in any form the court determines to be appropriate, including medical records or testimony or affidavits of other public safety employees. The court's findings must accompany any docketed case.

Sec. 129.004. DUTIES OF PUBLIC SAFETY EMPLOYEES TREATMENT COURT PROGRAM. (a) A public safety employees treatment court program established under this chapter must:

(1) ensure that a defendant eligible for participation in the program is provided legal counsel before volunteering to proceed through the program and while participating in the program;

(2) allow a participant to withdraw from the program at any time before a trial on the merits has been initiated;

(3) provide a participant with a court-ordered individualized treatment plan indicating the services that will be provided to the participant; and

(4) ensure that the jurisdiction of the public safety employees treatment court continues for a period of not less than six months but does not continue beyond the period of community supervision for the offense charged.

(b) A public safety employees treatment court program established under this chapter shall make, establish, and publish local procedures to ensure maximum participation of eligible defendants in the county or counties in which those defendants reside.

(c) A public safety employees treatment court program may allow a participant to comply with the participant's court-ordered individualized treatment plan or to fulfill certain other court obligations through the use of videoconferencing software or other Internet-based communications.

(d) This chapter does not prevent the initiation of procedures under Chapter 46B, Code of Criminal Procedure.

Sec. 129.005. ESTABLISHMENT OF REGIONAL PROGRAM. (a) The

commissioners courts of two or more counties may elect to establish a regional public safety employees treatment court program under this chapter for the participating counties.

(b) For purposes of this chapter, each county that elects to establish a regional public safety employees treatment court program under this section is considered to have established the program and is entitled to retain fees under Article 102.0178, Code of Criminal Procedure, in the same manner as if the county had established a public safety employees treatment court program without participating in a regional program.

Sec. 129.006. FEES. (a) A public safety employees treatment court program established under this chapter may collect from a participant in the program:

- (1) a reasonable program fee not to exceed \$1,000; and
- (2) a testing, counseling, and treatment fee in an amount necessary to cover the costs of any testing, counseling, or treatment performed or provided under the program.

(b) Fees collected under this section may be paid on a periodic basis or on a deferred payment schedule at the discretion of the judge, magistrate, or coordinator. The fees must be:

- (1) based on the participant's ability to pay; and
- (2) used only for purposes specific to the program.

Sec. 129.007. COURTESY SUPERVISION. (a) A public safety employees treatment court program that accepts placement of a defendant may transfer responsibility for supervising the defendant's participation in the program to another public safety employees treatment court program that is located in the county where the defendant works or resides. The defendant's supervision may be transferred under this section only with the consent of both public safety employees treatment court programs and the defendant.

(b) A defendant who consents to the transfer of the defendant's supervision must agree to abide by all rules, requirements, and instructions of the public safety employees treatment court program that accepts the transfer.

(c) If a defendant whose supervision is transferred under this section does not successfully complete the program, the public safety employees treatment court program supervising the defendant shall return the responsibility for the defendant's supervision to the public safety employees treatment court program that initiated the transfer.

(d) If a defendant is charged with an offense in a county that does not operate a public safety employees treatment court program, the court in which the criminal case is pending may place the defendant in a public safety employees treatment court program

located in the county where the defendant works or resides,
provided that a program is operated in that county and the
defendant agrees to the placement. A defendant placed in a public
safety employees treatment court program in accordance with this
subsection must agree to abide by all rules, requirements, and
instructions of the program.

SECTION 2. Article 59.062(f), Code of Criminal Procedure, is amended to read as follows:

(f) A civil penalty collected under this article shall be deposited to the credit of the drug court account in the general revenue fund to help fund specialty [~~drug~~] court programs established under Chapter 122, 123, 124, [~~or~~] 125, or 129, Government Code, or former law.

SECTION 3. Article 102.0178(g), Code of Criminal Procedure, is amended to read as follows:

(g) The comptroller shall deposit the funds received under this article to the credit of the drug court account in the general revenue fund to help fund drug court programs established under Chapter 122, 123, 124, [~~or~~] 125, or 129, Government Code, or former law. The legislature shall appropriate money from the account solely to the criminal justice division of the governor's office for distribution to drug court programs that apply for the money.

SECTION 4. Subchapter B, Chapter 103, Government Code, is amended by adding Sections 103.02714 and 103.02715 to read as follows:

Sec. 103.02714. ADDITIONAL MISCELLANEOUS FEES AND COSTS: GOVERNMENT CODE. A program fee for a public safety employees treatment court program established under Section 129.003 shall be collected under Section 129.006 in a reasonable amount not to exceed \$1,000.

Sec. 103.02715. ADDITIONAL MISCELLANEOUS FEES AND COSTS: GOVERNMENT CODE. A participant in a public safety employees treatment court program administered under Chapter 129 shall pay a fee in an amount necessary to cover the costs of any testing, counseling, or treatment performed or provided to the participant under the program.

SECTION 5. Section 772.0061(a)(2), Government Code, is amended to read as follows:

(2) "Specialty court" means:

(A) a commercially sexually exploited persons court program established under Chapter 126 or former law;

(B) a family drug court program established under Chapter 122 or former law;

(C) a drug court program established under Chapter

123 or former law;

(D) a veterans treatment court program established under Chapter 124 or former law; ~~and~~

(E) a mental health court program established under Chapter 125 or former law; and

(F) a public safety employees treatment court program established under Chapter 129.

SECTION 6. Section 772.0061(b), Government Code, is amended to read as follows:

(b) The governor shall establish the Specialty Courts Advisory Council within the criminal justice division established under Section 772.006 to:

(1) evaluate applications for grant funding for specialty courts in this state and to make funding recommendations to the criminal justice division; and

(2) make recommendations to the criminal justice division regarding best practices for specialty courts established under Chapter 122, 123, 124, ~~or~~ 125, or 129 or former law.

SECTION 7. This Act takes effect September 1, 2017.

President of the Senate

Speaker of the House

I certify that H.B. No. 3391 was passed by the House on May 12, 2017, by the following vote: Yeas 128, Nays 14, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 3391 was passed by the Senate on May 22, 2017, by the following vote: Yeas 25, Nays 6.

Secretary of the Senate

APPROVED:

Date

Governor