

SUBJECT: Expanding deferred disposition conditions for Class C misdemeanors

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 8 ayes — Hinojosa, Dunnam, Garcia, Green, Keel, Smith, Talton, Wise

0 nays

1 absent — Nixon

SENATE VOTE: On final passage, April 29 — voice vote

WITNESSES: (*On House companion bill, HB 2115:*)
None

BACKGROUND: Under current law, a municipal judge or justice of the peace may place conditions on a defendant convicted of a misdemeanor and placed on deferred adjudication. In deferred adjudication or disposition, the court defers entry of a guilty plea if the defendant agrees to meet certain conditions. The law does not authorize a judge or justice of the peace to require drug testing or treatment or psychological testing in this situation.

A Class C misdemeanor is punishable by a maximum fine of \$500.

DIGEST: SB 185 would amend the Code of Criminal Procedure by authorizing a court, during a deferral period for a Class C misdemeanor, to require a defendant to:

- ! submit to diagnostic testing for alcohol or a controlled substance or drug;
- ! submit to a psychosocial assessment;
- ! participate in alcohol or drug-abuse treatment or education; and
- ! pay the cost of any testing, assessment, or treatment, either directly or through the court as court costs.

SB 185 would take effect September 1, 1999.

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**SUPPORTERS
SAY:**

SB 185 would expand the authority available to municipal judges and justices of the peace to require a defendant to comply with certain conditions during deferred disposition. Authority to require alcohol and drug testing and psychosocial assessment could help identify the underlying problems that lead defendants to commit Class C misdemeanors. For example, in lieu of paying a court fine, a defendant charged with public intoxication could be required to receive treatment or a psychosocial assessment that could help prevent further offenses.

The bill would protect citizens by giving police and prosecutors better tools to keep repeat offenders of public intoxication and disorderly conduct off the streets, while encouraging them to seek substance-abuse treatment. This would help ensure a safer environment for people to walk the streets free from harassment or other offensive behavior by transients and others who are repeat offenders.

**OPPONENTS
SAY:**

While the bill's treatment goals are laudable, SB 185 would provide no financial mechanism for treating the populations that are most likely to be charged with public intoxication and disorderly conduct — the homeless and poor. The court could require a person to pay the costs of diagnostic testing, psychosocial assessment, or drug and alcohol treatment, which could exceed the \$500 fine for a Class C misdemeanor. Homeless people often cannot afford to buy food, let alone pay for expensive drug treatment. The state should provide funding for this purpose for indigent defendants.

SB 185 is unnecessary because judges and parole panels already have broad authority to place conditions on probationers and parolees. It could be inappropriate for the Legislature to continue to enumerate specific probation and parole conditions. There is a danger that lists of possible probation and parole conditions could be viewed by some as exclusive lists, resulting in challenges whenever courts or parole panels deviate from the list. In addition, courts and parole panels could become reluctant to craft conditions that are not on the list but could be more appropriate for a specific case.

NOTES:

A related bill, SB 430 by Barrientos, which would enhance the maximum penalty for Class C misdemeanor disorderly conduct or public intoxication to a \$2,000 fine and/or 180 days in jail if four offenses were committed within two years, also is on today's calendar.

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