

- SUBJECT:** Conditions of community supervision for failure to pay child support
- COMMITTEE:** Juvenile Justice and Family Issues — favorable, without amendment
- VOTE:** 6 ayes — Goodman, E. Reyna, P. King, Menendez, Morrison, Naishtat
0 nays
3 absent — A. Reyna, Nixon, Tillery
- WITNESSES:** None
- BACKGROUND:** Under Family Code, chapter 157, if a court finds that a person has failed to obey an order for child support, it may place the person on community supervision (probation). The conditions of probation may include meeting with a probation officer, receiving counseling, and paying child support and court fees. The court also may charge the person on probation a fee as a condition of granting or continuing community supervision.
- DIGEST:** HB 1452 would amend the Family Code to add to the probation conditions that a court may require when a person is delinquent on paying child support. A court could, if appropriate, require the person to seek employment assistance service offered by the Texas Workforce Commission (TWC), which would have to provide job training and related services. The court also could require that the person participate in mediation or other services to alleviate any conditions that prevented the person from paying child support. Domestic relations offices could file a motion alleging that a person had violated the terms of probation.
- The bill also would specify where a court would deposit probation fees according to what kind of agency employed the probation officer. If the officer was employed by a community supervision and corrections agency, the court would have to deposit the fee in the special probation fund of the county treasury. If the officer was employed by a domestic relations office that processes child-support payments and had some enforcement and probation authority, the court would have to deposit the fee either in a general county fund or in an fund established for the domestic relations office.

HB 1452 would take effect September 1, 2001, and would apply only to community supervision ordered and fees paid on or after that date.

SUPPORTERS
SAY:

HB 1452 would allow judges to require job training and participation in mediation services for a person who has failed to obey an order to pay child support. While judges already have broad discretion in setting the conditions of community supervision, HB 1452 would specify that a judge could consider the possible benefits of job training and mediation in these cases.

The bill would not infringe on judicial discretion but would leave decisions about establishing probation conditions to judges, who still would be free to craft specific conditions for each case. The statutes list many optional probation conditions that judges can impose, and these never have been taken to be exclusive or exhaustive lists.

OPPONENTS
SAY:

HB 1452 is unnecessary because judges already have broad authority to impose conditions on probationers. The Code of Criminal Procedure allows judges to impose any reasonable condition designed to protect or restore the community, protect or restore the victim, or punish, rehabilitate, or reform the defendant.

Enumerate specific probation conditions could reduce the discretion of court in setting probation conditions. Some might view lists of possible probation conditions as exclusive, resulting in challenges if courts deviated from the list. Courts could become reluctant to craft conditions that are not on the list, but that could be more appropriate for a specific case.

NOTES:

The companion bill, SB 667 by Van de Putte, has been referred to the Senate Jurisprudence Committee.