

SUBJECT: Allowing some misdemeanants to elect where to do community service

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 7 ayes — Peña, Riddle, Escobar, Hodge, Mallory Caraway, Pierson,
 Talton

0 nays

2 absent — Vaught, Moreno

SENATE VOTE: On final passage, April 24 — 31-0, on Local and Uncontested Calendar

WITNESSES: None

BACKGROUND: Code of Criminal Procedure, art. 45.051 details how judges may handle misdemeanor cases punished by a fine only in which a criminal defendant pleads guilty or no contest and the judge places the defendant on deferred adjudication probation. Under sec. (b)(10) judges can require defendants to comply with any reasonable condition of probation. If the defendant satisfies the probation terms, the judge may dismiss the complaint without an adjudication of guilt.

DIGEST: SB 691 would allow certain defendants required to perform community service as a condition of being placed under deferred adjudication to elect where to perform their community service if certain conditions were met. This would apply only to defendants who were charged with traffic offenses or possession of alcohol by a minor and who were residents of Texas.

In these cases, court-ordered community service could be performed in either the county where the court was located or, if certain conditions were met, in the county where the defendant lived. For the service to be done in the county where the defendant lived, the organization for which the work was to be performed would have to agree to supervise the defendant and report to the court on the community service work.

If the case involved a minor in possession of alcohol, any community service work done in the county where the minor lived would have to comply with Alcoholic Beverage Code requirements on the type of service and educational programs that would have to be ordered. If the types of services and educational programs required were not available in the county in which the minor lived, the court would be able to order any community service that it considered appropriate for rehabilitative purposes.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2007.