

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 3691
By: Gallego (Carona)
Criminal Justice
5/21/2011
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

C.S.H.B. 3691 amends current law relating to community supervision and corrections departments and community justice plans.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Texas Board of Criminal Justice is modified in SECTION 1 (Section 76.002, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 76.002, Government Code, by amending Subsection (e) and adding Subsection (f), as follows:

(e) Requires, rather than authorizes, the Texas Board of Criminal Justice (TBCJ) to adopt rules allowing community supervision and corrections departments (CSCDs) to contract with one another for services or facilities or to contract as provided by Subsection (f).

(f) Authorizes programs and services, in lieu of establishing a CSCD as required by Subsection (a) (relating to requiring the district judge or district judges trying criminal cases in each judicial district and the statutory county court judges trying criminal cases in the county or counties served by the judicial district to perform establish a community supervision and corrections department), to be provided under this chapter in a judicial district through a contract with a CSCD established for another judicial district.

SECTION 2. Amends Section 76.003(b), Government Code, to provide that a community justice council should consist of certain persons or their designees, including the community supervision and corrections department director.

SECTION 3. Amends Chapter 492, Government Code, by adding Section 492.017, as follows:

Sec. 492.017. LEGISLATIVE APPROPRIATIONS REQUEST. (a) Requires TBCJ to require the Texas Department of Criminal Justice (TDCJ) to submit each legislative appropriations request, accompanied by the most recent report prepared by the community justice assistance division of TDCJ under Section 509.004(c), to TBCJ for approval before TDCJ submits the appropriations request to the Legislative Budget Board (LBB).

(b) Requires TBCJ, in deciding whether to approve a legislative appropriations request submitted under Subsection (a), to consider the most recent report prepared by the community justice assistance division of TDCJ under Section 509.004(c).

SECTION 4. Amends Chapter 493, Government Code, by adding Section 493.0081, as follows:

Sec. 493.0081. LEGISLATIVE APPROPRIATIONS REQUEST. Requires TDCJ to include in each legislative appropriations request submitted to LBB the information

contained in the most recent report prepared by the community justice assistance division of TDCJ (CJAD) under Section 509.004(c).

SECTION 5. Amends Section 509.004, Government Code, by adding Subsections (c), (d), and (e), as follows:

(c) Requires CJAD to prepare a report that contains a detailed summary of the programs and services provided by CSCDs, as described in each community justice plan submitted to CJAD under Section 509.007. Requires that the report include:

(1) all financial information relating to the programs and services described in each community justice plan; and

(2) information concerning the amount of state aid and funding that is not state aid used to support each program or service provided by a CSCD.

(d) Requires CJAD, as soon as practicable after the completion of the report, to submit the report prepared under Subsection (c) to TBCJ and the executive director of TDCJ.

(e) Requires CJAD, not later than the date on which TDCJ is required to submit TDCJ's legislative appropriations request to LBB, to submit the report prepared under Subsection (c) to LBB.

SECTION 6. Amends Section 509.007, Government Code, as follows:

Sec. 509.007. COMMUNITY JUSTICE PLAN. (a) Requires the community justice council to submit a revised plan to CJAD each even-numbered year not later than March 1, rather than each odd-numbered year by a date designated by the division.

(b) Requires that a community justice plan required under this section include a description of the programs and services CSCD provides or intends to provide, including a separate description of any programs or services CSCD intends to provide to enhance public safety, reduce recidivism, strengthen the investigation and prosecution of criminal offenses, improve programs and services available to victims of crime, and increase the amount of retribution collected from persons supervised by CSCD; and an outline of CSCD's projected programmatic and budgetary needs, based on the programs and services CSCD provides and intends to provide.

SECTION 7. Amends Chapter 509, Government Code, by adding Section 509.0071, as follows:

Sec. 509.0071. COMMITMENT REDUCTION PLAN. (a) Authorizes a CSCD or a regional partnership of CSCDs, in addition to submitting a community justice plan to CJAD under Section 509.007, to submit a commitment reduction plan to CJAD not later than the 60th day after the date on which the time for gubernatorial action on the state budget has expired under Section 14 (Approval or Disapproval of Bills; Return and Reconsideration; Failure to Return; Disapproval of Items of Appropriation), Article IV (Executive Department), Texas Constitution.

(b) Authorizes a commitment reduction plan submitted under this section to contain a request for additional state funding in the manner described by Subsection (e). Requires that a commitment reduction plan contain:

(1) a target number by which the county or counties served by the CSCD or regional partnership of CSCDs will, relative to the number of individuals committed in the preceding state fiscal year from the county or counties to TDCJ for offenses not listed in or described by Section 3g (Limitation on Judge Ordered Community Supervision), Article 42.12 (Community Supervision), Code of Criminal Procedure, reduce that

number in the fiscal year for which the commitment reduction plan is submitted by reducing the number of:

(A) direct sentencing commitments;

(B) community supervision revocations; or

(C) direct sentencing commitments and community supervision revocations;

(2) a calculation, based on the most recent Criminal Justice Uniform Cost Report published by LBB, of the savings to the state that will result from the county or counties reaching the target number described by Subdivision (1);

(3) an explanation of the programs and services the CSCD or regional partnership of CSCDs intends to provide using any funding received under Subsection (e)(1), including any programs or services designed to enhance public safety, reduce recidivism, strengthen the investigation and prosecution of criminal offenses, improve programs and services available to victims of crime, and increase the amount of retribution collected from persons supervised by the department or regional partnership of CSCDs;

(4) a pledge by the CSCD or regional partnership of CSCDs to provide accurate data to the division at the time and in the manner required by CJAD;

(5) a pledge to repay the state, not later than the 30th day after the last day of the state fiscal year in which the lump-sum award is made, a percentage of the lump sum received under Subsection (e)(1) that is equal to the percentage by which the county or counties fail to reach the target number described by Subdivision (1), if the county or counties do not reach that target number; and

(6) if the commitment reduction plan is submitted by a regional partnership of CSCDs, an agreement and plan for the receipt, division, and administration of any funding received under Subsection (e).

(c) Provides that for purposes of Subsection (b)(5), if the target number contained in the commitment reduction plan is described by Subsection (b)(1)(B), the county or counties fail to reach the target number if the sum of any increase in the number of direct sentencing commitments and any reduction in community supervision revocations is less than the target number contained in the commitment reduction plan.

(d) Requires that a pledge described by Subsection (b)(4) or (5) be signed by:

(1) the director of the CSCD submitting the commitment reduction plan; or

(2) if the commitment reduction plan is submitted by a regional partnership of CSCDs, a director of one of the CSCDs in the regional partnership submitting the commitment reduction plan.

(e) Authorizes CJAD, after reviewing a commitment reduction plan, if CJAD is satisfied that the plan is feasible and would achieve desirable outcomes, to award to the CSCD or regional partnership of CSCD:

(1) a one-time lump sum in an amount equal to 35 percent of the savings to the state described by Subsection (b)(2); and

(2) on a biennial basis, and from the 65 percent of the savings to the state that remains after payment of the lump sum described by Subdivision (1), the following incentive payments for the CSCD's or regional partnership's performance in the two years immediately preceding the payment:

(A) 15 percent, for reducing the percentage of persons supervised by the department or regional partnership of CSCDs who commit a new felony while under supervision;

(B) five percent, for increasing the percentage of persons supervised by the department or regional partnership of CSCDs who are not delinquent in making any restitution payments; and

(C) five percent, for increasing the percentage of persons supervised by the CSCD or regional partnership of CSCDs who are gainfully employed, as determined by CJAD.

(f) Authorizes a CSCD or regional partnership of CSCDs to use funds received under Subsection (e) to provide any program or service that a CSCD is authorized to provide under other law, including implementing, administering, and supporting evidence-based community supervision strategies, electronic monitoring, substance abuse and mental health counseling and treatment, specialized community supervision caseloads, intermediate sanctions, victims' services, restitution collection, short-term incarceration in county jails, specialized courts, pretrial services and intervention programs, and work release and day reporting centers.

(g) Provides that any funds received by a CSCD or regional partnership of CSCDs under Subsection (e):

(1) are in addition to any per capita or formula funding received under Section 509.011; and

(2) are prohibited from being deducted from any per capita or formula funding received or to be received by:

(A) another department, if the commitment reduction plan is submitted by a CSCD; or

(B) any CSCD, if the commitment reduction plan is submitted by a regional partnership of CSCDs.

(h) Requires CJAD to deduct from future state aid paid to a CSCD, or from any incentive payments under Subsection (e)(2) for which a CSCD is otherwise eligible, an amount equal to the amount of any pledge described by Subsection (b)(5) that remains on the 31st day after the last day of the state fiscal year in which a lump-sum award is made under Subsection (e)(1). Requires CJAD, if the lump-sum award was made to a regional partnership of CSCDs, in accordance with the agreement and plan described by Subsection (b)(6), the amount of the unpaid pledge from the future state aid to each CSCD that is part of the partnership or from any incentive payments under Subsection (e)(2) for which the regional partnership of CSCDs is otherwise eligible.

SECTION 8. Effective date: upon passage or September 1, 2011.