

- SUBJECT:** Authorizing DWI courts
- COMMITTEE:** Corrections — community substitute recommended
- VOTE:** 4 ayes — Madden, Hochberg, Dunnam, Jones
0 nays
3 absent — McReynolds, Haggerty, Oliveira
- WITNESSES:** For — Rodney Thompson, Angelina County Community supervision and Corrections Dept.; Ana Yanez-Correa, Texas Criminal Justice Coalition; (*Registered, but did not testify:* Will Harrell, ACLU, NAACP, LULAC; Nicole American Civil Liberties Union of Texas; Susie Shields, Association for Substance Abuse Providers)

Against — None

On — Donald Lee, Texas Conference of Urban Counties
- BACKGROUND:** Health and Safety Code, sec. 469.002 authorizes counties to establish drug courts for persons arrested for or convicted of alcohol or drug offenses or other nonviolent offenses in which alcohol or drugs contributed to the offense. Sec. 469.006 requires counties with populations of more than 550,000 to establish drug court programs. If one of these counties does not establish a drug court program, it is ineligible to receive state funds for a probation department and grants administered by the criminal justice division of the Governor's Office.

Offenders can be charged a program fee up to \$1,000 and fees for urinalysis testing and counseling, and can be required to pay treatment costs, based on an ability to pay. At the discretion of the judge, fees can be paid on a payment schedule.
- DIGEST:** CSHB 1875 would authorize county commissioners courts to establish drug court programs exclusively for persons arrested for, charged with, or convicted of offenses involving driving while intoxicated.

A DWI court established under the bill would have at least 50 participants during its first four months of operations. Counties that have established drug court programs but do not establish a separate DWI court would have to have procedures so that persons arrested for, charged with, or convicted of a second or subsequent offense participated in the county's existing drug court program.

Judges administering drug court programs could suspend certain current-law requirements that the person being placed on probation for DWI work a specified number of community service hours. If a drug court participant completed the drug court program, judges could excuse the participant from a community service requirement that had been suspended.

Judges administering a DWI court would have authority to order that an occupational drivers' license be issued to DWI court participants whose license had been suspended administratively or as the result of a conviction for certain intoxication offenses.

The bill would take effect September 1, 2007, and would apply to persons entering drug court programs on or after that date, regardless of when an offense was committed.

**SUPPORTERS
SAY:**

CSHB 1875 would give counties more flexibility to implement drug court programs to meet the needs of DWI offenders. While the currently operating drug courts have been successful, they have limited options when handling DWI offenders, and this can contribute to reluctance by judges and offenders to use these courts. The bill would not require any county to create a drug court, but would make the ones that are created more effective.

CSHB 1875 would give drug courts more options for handling DWI offenders so that counties would be encouraged to create the courts and offenders would have incentives to participate in them. Participation should be encouraged because it involves treatment, something that a large number of DWI offenders currently do not receive when they are given only jail time for their offenses. Allowing judges to suspend certain community service requirements that apply only to DWI offenders and to grant occupational licenses to participants would be strong motivation for offenders to successfully complete the programs.

It would be appropriate to enact these special provisions for DWI court participants because these requirements would be unique to these type of offenders. The bill would ensure that repeat offenders get a chance at rehabilitation through the courts by requiring counties to have procedures that would give second-offense DWI offenders access to a drug court if the county chose not to offer a specific DWI court.

The DWI courts that would be authorized under the bill would, like all drug courts, involve supervision of offenders through intensive interaction with judges, routine drug testing, immediate sanctions for undesirable behavior, and incentives for good behavior, and this approach has proven successful. Drug courts are less expensive than incarcerating offenders, and they also help reduce demand for beds in the future because they result in fewer offenders committing new offenses. State correctional facilities are operating at capacity now, and the Legislature needs to do all it can to ensure that only offenders who truly need to be incarcerated are sent to prison.

In one study of Texas drug courts, 12 percent of offenders participating in the courts were incarcerated in prison within three years of entering a drug court compared with about 27 percent of a comparison group, according to a 2003 report by the now-defunct Criminal Justice Policy Council. Only about 3.4 percent of offenders completing a drug court program were in prison three years after entering the program, according to the report. A 2005 study from the U.S. General Accountability Office found that the drug courts it assessed led to reductions in recidivism and a positive cost/benefit ratio for participants, criminal justice systems, and society.

CSHB 1875 would set a minimum number of participants for drug courts to ensure it got a strong start. This requirement would be lower than the 100-participant requirement applied to new, mandated drug courts due to the higher costs of establishing a DWI court.

The recommendations in CSHB 1875 came from the LBB's January 2007 Texas State Government Effectiveness and Efficiency report.

**OPPONENTS
SAY:**

CSHB 1875 is unnecessary because under the current broad authority to operate drug courts, counties can operate DWI courts and DWI offenders can be routed into general drug courts. It may not be appropriate to allow judges to override other statutes such as those requiring community service or license suspensions for offenders routed into DWI courts.

Setting a requirement that new DWI courts have a minimum number of 50 participants could make it difficult to establish in some counties.

NOTES:

The provisions of CSHB 1875, without the requirement that DWI courts have a minimum of 50 participants, were added to HB 530 by Madden, which deals with drug courts. HB 530 passed the House by 145-0 on April 25 and is pending in the Senate Criminal Justice Committee.