

BILL ANALYSIS

Senate Research Center
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S.B. 1584
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Jail diversion initiatives, like community supervision (a.k.a. probation), redirect individuals from jails as soon as possible, or at least significantly reduce time spent in a correctional facility. Community supervision is a critical alternative to incarceration, where people can access community-based services while being held accountable for meeting strict requirements. Rigorous supervision can ensure people adhere to treatment regimens and housing and employment requirements. Thus, playing an important role in reducing human suffering and containing costs, community supervision programs divert individuals from correctional facilities into more cost-effective and clinically appropriate community-based services—keeping individuals in their homes and communities and out of the jails and prisons.

However, it is critical that community supervision departments have the ability and resources to provide individuals with support services and structure to address the root causes of their criminal behavior. Services for successful diversion include mental health and or substance abuse treatment, education assistance, job training and placement, housing assistance, and other life skills training. Validated risk assessments promote public safety and improve rehabilitative outcomes for people on community supervision, which goes beyond measuring the risk of reoffending, and helps probation departments to identify and address the specific factors that might lead to further involvement with the criminal justice system.

The majority of community supervision placements are for drug-related offenses, yet the conditions of community supervision often place unrealistic demands on people who are battling addiction and mental illness. It is not surprising, therefore, that the majority of individuals revoked to state jail or prison are those convicted of drug possession.

Furthermore, current state law allows a presiding judge to establish certain conditions of community supervision, such as to require the individual to pay fees and fines associated with the offense and court proceeding. Such costs can be exceptionally difficult for low-income individuals to succeed on community supervision. Individuals involved with the criminal justice system often face barriers to employment and housing due to their offense and/or conviction, which creates a downward cyclical effect that can lead to the individuals on community supervision to not being able to pay the required fees; thus, returning to jail and/or prison.

First, S.B. 1584 amends Article 42A.301, Code of Criminal Procedure, to require that the conditions of community supervision be based on an individualized assessment of risk and needs, and should be intended to address the factors that lead to criminal involvement (e.g., mental health and/or substance use).

Second, the bill requires that conditions be minimal and non-duplicative to achieve rehabilitation with consideration given to the defendant's ability to satisfy these conditions and meet work, education, community service, and financial obligations.

In the list of conditions which the judge may require the defendant to fulfill, the bill amends the requirement to submit to alcohol and drug testing by adding that testing would only be required if: (1) the risk and needs assessment indicated that alcohol and/or drug use contributed to the committing of the offense or (2) the defendant is at risk of using such substances, thereby increasing their likeliness to reoffend.

Lastly, S.B. 1584 prohibits a judge from imposing fees, fines, and costs associated with the offense, court costs, or fees if it is determined that the defendant does not have the ability to pay.

As proposed, S.B. 1584 amends current law relating to the conditions of community supervision.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 42A.301, Code of Criminal Procedure, as follows:

Art. 42A.301. BASIC DISCRETIONARY CONDITIONS. (a) Creates this subsection from existing text. Requires the judge of the court having jurisdiction of the case to determine the conditions of community supervision based on the results of a risk and needs assessment conducted with respect to the defendant, rather than requiring the judge of the court having jurisdiction of the case to determine the conditions of community supervision. Requires the assessment to be conducted using an instrument that is validated for the purpose of assessing the risks and needs of a defendant placed on community supervision. Authorizes the judge to impose any reasonable condition that is not duplicative of another condition and that is designed to protect or restore the community, protect or restore the victim, or punish, rehabilitate, or reform the defendant. Provides that in determining the conditions, the judge:

(1) is authorized only to impose the least restrictive condition necessary to achieve the purpose for which the condition is imposed; and

(2) is required to consider the extent to which the conditions impact the defendant's work, education, and community service schedule or obligations, and ability to meet financial obligations.

(b) Creates the subsection from existing text. Authorizes the conditions of community supervision to include conditions requiring the defendant to, among certain other actions, submit to testing for alcohol or controlled substances if the defendant's risk and needs assessment indicated that the use of alcohol or a controlled substance contributed to the commission of the offense or would increase the likelihood that the defendant will commit another offense.

(c) Prohibits the judge, in imposing the conditions of community supervision, from ordering the defendant to pay any amount, including an amount to reimburse any cost, unless the judge determines that the defendant is financially able to pay the amount.

SECTION 2. Provides that the change in law made by this Act applies to a defendant placed on community supervision on or after the effective date of this Act, regardless of whether the offense for which the defendant was placed on community supervision was committed before, on, or after the effective date of this Act.

SECTION 3. Effective date: September 1, 2017.