

- SUBJECT:** Creating a specialty court for certain public safety employees
- COMMITTEE:** Judiciary and Civil Jurisprudence — favorable, without amendment
- VOTE:** 7 ayes — Smithee, Farrar, Gutierrez, Laubenberg, Murr, Neave, Schofield
- 1 nay — Rinaldi
- 1 absent — Hernandez
- WITNESSES:** For — (*Registered, but did not testify:* Chris Jones, Combined Law Enforcement Associations of Texas (CLEAT))
- Against — Ed Heimlich, Citizens United for Accountable Government
- On — (*Registered, but did not testify:* William Mills, Sheriff Association; Darwin Hamilton)
- DIGEST:** HB 3391 would authorize a county commissioners court to establish a public safety employees treatment court program, or two or more courts could coordinate to establish a regional program. The public safety employees treatment court program would be a specialty court that existed for persons arrested or charged with a misdemeanor or felony. Those eligible to participate in the program would be peace officers, firefighters, detention officers, county jailers, or emergency medical services employees of the state or a political subdivision who met certain criteria.
- An eligible defendant would have to choose to participate or otherwise go through the criminal justice system. The attorney representing the state would be required to consent to the participation. To be eligible, the defendant would have to be a current or former public safety employee:
- who suffered from a brain injury, mental illness, or mental disorder that occurred during or resulted from the defendant's duties as a public safety employee and affected the criminal conduct at issue; and

- whose participation in the program was likely to achieve the objective of ensuring public safety through rehabilitation.

The bill would outline the duties of a public safety employees treatment court program. These would include ensuring a defendant was provided legal counsel before volunteering for the program, providing participants with individualized treatment plans, allowing a participant to withdraw at any time before a trial on the merits had been initiated, and ensuring the jurisdiction of the program continued for a period of at least six months but not longer than the period of community supervision for the offense charged. Programs would have to establish and publish local procedures aimed to ensure maximum participation of eligible defendants. A program could allow participants to comply with the treatment plan or fulfill certain other court obligations through the use of videoconferencing or other internet-based communications.

The bill would allow a program to transfer responsibility for supervising a defendant to another public safety employees treatment court program in the county where the defendant worked or lived if the defendant and both programs consented. Responsibility for the defendant would return to the original program if the defendant did not complete the program.

If the defendant was charged with an offense in a county without a program, the court where the case was pending could place the defendant in a program in a county where the defendant worked or resided if the defendant agreed to the placement.

If a defendant successfully completed a public safety employees treatment court program, after notice to the attorney representing the state and a hearing in the treatment court where it was determined that a dismissal was in the best interest of justice, the court in which the criminal case was pending would be required to dismiss the case.

A treatment court program would be authorized to collect a program fee of not more than \$1,000 from participants, as well as a testing, counseling, and treatment fee in an amount necessary to cover costs. Fees could be

paid on a periodic or deferred payment schedule and would have to be based on the participant's ability to pay. HB 3391 also would add the public safety employees treatment court program to the specialty courts receiving funding from certain civil penalties and from the \$60 court cost conferred on individuals convicted of certain intoxication and drug convictions.

The governor's Specialty Courts Advisory Council would make recommendations to the criminal justice division on best practices for public safety employees treatment court programs.

This bill would take effect September 1, 2017.

**SUPPORTERS
SAY:**

HB 3391 would closely mirror the existing veterans treatment court program and create the same opportunity for Texas public safety servants who were arrested or charged with an offense to receive individualized treatment and potentially have their cases dismissed. Public safety professionals such as firefighters, peace officers, and detention officers face high levels of danger and stress, and they deserve recognition of that fact and help with any corresponding negative mental health effects.

HB 3391 would provide an option for otherwise upstanding citizens to participate in a program to address the root cause of their work-related mental health issues. The bill would afford them the chance to once again become productive members of society.

**OPPONENTS
SAY:**

HB 3391 would set apart a class of Texans to receive special privileges and treatment for types of mental conditions that those in the private sector can suffer from just as easily. The bill could put public safety employees above the law by allowing the consequences of their criminal conduct to be less than those of others. The foundation of the law is that all people should be treated equally, and HB 3391 would be outside the role that a limited government should play in providing equal justice.

NOTES:

The Legislative Budget Board's fiscal note estimates that the bill would have a positive, but indeterminate, fiscal impact to the state depending on

the number of program participants and associated revenue from fees.