

AN ACT

relating to conditions of community supervision and procedures applicable to the reduction or termination of a defendant's period of community supervision.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 42A.052(a), Code of Criminal Procedure, is amended to read as follows:

(a) A judge who places a defendant on community supervision may authorize the supervision officer supervising the defendant or a magistrate appointed by the district courts in the county that give preference to criminal cases to modify the conditions of community supervision for the limited purposes [~~purpose~~] of:

(1) transferring the defendant to different programs within the community supervision continuum of programs and sanctions; or

(2) prioritizing the conditions ordered by the court according to the defendant's progress under supervision.

SECTION 2. Article 42A.301(b), Code of Criminal Procedure, is amended to read as follows:

(b) Conditions of community supervision may include conditions requiring the defendant to:

(1) commit no offense against the laws of this state or of any other state or of the United States;

(2) avoid injurious or vicious habits;

1 (3) [~~avoid persons or places of disreputable or~~
2 ~~harmful character, including any person, other than a family member~~
3 ~~of the defendant, who is an active member of a criminal street gang,~~

4 [~~(4)~~] report to the supervision officer as directed by
5 the judge or supervision officer and obey all rules and regulations
6 of the community supervision and corrections department;

7 (4) [~~(5)~~] permit the supervision officer to visit the
8 defendant at the defendant's home or elsewhere;

9 (5) [~~(6)~~] work faithfully at suitable employment to
10 the extent possible;

11 (6) [~~(7)~~] remain within a specified place;

12 (7) [~~(8)~~] pay in one or more amounts:

13 (A) the defendant's fine, if one is assessed; and

14 (B) all court costs, regardless of whether a fine
15 is assessed;

16 (8) [~~(9)~~] support the defendant's dependents;

17 (9) [~~(10)~~] participate, for a period specified by the
18 judge, in any community-based program, including a community
19 service project under Article [42A.304](#);

20 (10) [~~(11)~~] if the judge determines that the defendant
21 has financial resources that enable the defendant to offset in part
22 or in whole the costs of the legal services provided to the
23 defendant in accordance with Article [1.051](#)(c) or (d), including any
24 expenses and costs, reimburse the county in which the prosecution
25 was instituted for the costs of the legal services in an amount that
26 the judge finds the defendant is able to pay, except that the
27 defendant may not be ordered to pay an amount that exceeds:

1 (A) the actual costs, including any expenses and
2 costs, paid by the county for the legal services provided by an
3 appointed attorney; or

4 (B) if the defendant was represented by a public
5 defender's office, the actual amount, including any expenses and
6 costs, that would have otherwise been paid to an appointed attorney
7 had the county not had a public defender's office;

8 (11) [~~(12)~~] if under custodial supervision in a
9 community corrections facility:

10 (A) remain under that supervision;

11 (B) obey all rules and regulations of the
12 facility; and

13 (C) pay a percentage of the defendant's income to
14 the facility for room and board;

15 (12) [~~(13)~~] submit to testing for alcohol or
16 controlled substances;

17 (13) [~~(14)~~] attend counseling sessions for substance
18 abusers or participate in substance abuse treatment services in a
19 program or facility approved or licensed by the Department of State
20 Health Services;

21 (14) [~~(15)~~] with the consent of the victim of a
22 misdemeanor offense or of any offense under Title 7, Penal Code,
23 participate in victim-defendant mediation;

24 (15) [~~(16)~~] submit to electronic monitoring;

25 (16) [~~(17)~~] reimburse the compensation to victims of
26 crime fund for any amounts paid from that fund to or on behalf of a
27 victim, as defined by Article [56B.003](#), of the offense or if no

1 reimbursement is required, make one payment to the compensation to
2 victims of crime fund in an amount not to exceed \$50 if the offense
3 is a misdemeanor or not to exceed \$100 if the offense is a felony;

4 (17) [~~(18)~~] reimburse a law enforcement agency for the
5 analysis, storage, or disposal of raw materials, controlled
6 substances, chemical precursors, drug paraphernalia, or other
7 materials seized in connection with the offense;

8 (18) [~~(19)~~] reimburse all or part of the reasonable
9 and necessary costs incurred by the victim for psychological
10 counseling made necessary by the offense or for counseling and
11 education relating to acquired immune deficiency syndrome or human
12 immunodeficiency virus made necessary by the offense;

13 (19) [~~(20)~~] pay a fine in an amount not to exceed \$50
14 to a crime stoppers organization, as defined by Section 414.001,
15 Government Code, and as certified by the Texas Crime Stoppers
16 Council;

17 (20) [~~(21)~~] submit a DNA sample to the Department of
18 Public Safety under Subchapter G, Chapter 411, Government Code, for
19 the purpose of creating a DNA record of the defendant; and

20 (21) [~~(22)~~] in any manner required by the judge,
21 provide in the county in which the offense was committed public
22 notice of the offense for which the defendant was placed on
23 community supervision.

24 SECTION 3. Article 42A.303(e), Code of Criminal Procedure,
25 is amended to read as follows:

26 (e) The Department of State Health Services or the community
27 supervision and corrections department supervising the defendant

1 shall develop the continuum of care treatment plan described by
2 Subsection (d)(1).

3 SECTION 4. Articles 42A.403(d-1) and (e), Code of Criminal
4 Procedure, are amended to read as follows:

5 (d-1) The judge shall waive the educational program
6 requirement if the defendant successfully completes ~~[equivalent]~~
7 education at a residential treatment facility under Article
8 42A.4045.

9 (e) The judge shall set out in the judgment, as applicable:

10 (1) the finding of good cause for waiver; or

11 (2) the finding that the defendant has successfully
12 completed ~~[equivalent]~~ education as provided by Article 42A.4045.

13 SECTION 5. Articles 42A.404(b-1) and (c), Code of Criminal
14 Procedure, are amended to read as follows:

15 (b-1) The judge shall waive the educational program
16 requirement if the defendant successfully completes ~~[equivalent]~~
17 education at a residential treatment facility under Article
18 42A.4045.

19 (c) The judge shall set out in the judgment, as applicable:

20 (1) the finding of good cause for waiver; or

21 (2) the finding that the defendant has successfully
22 completed ~~[equivalent]~~ education as provided by Article 42A.4045.

23 SECTION 6. Articles 42A.4045(a) and (b), Code of Criminal
24 Procedure, are amended to read as follows:

25 (a) A judge shall waive the educational requirement under
26 Article 42A.403 or 42A.404 for a defendant who is required to
27 receive treatment as a resident of a substance abuse treatment

1 facility as a condition of community supervision if the defendant
2 successfully completes [~~equivalent~~] education while the defendant
3 is confined to the residential treatment facility.

4 (b) The Department of State Health Services shall approve
5 [~~equivalent~~] education provided at substance abuse treatment
6 facilities.

7 SECTION 7. Articles 42A.406(a) and (b-1), Code of Criminal
8 Procedure, are amended to read as follows:

9 (a) If a defendant is required as a condition of community
10 supervision to attend an educational program under Article 42A.403
11 or 42A.404, or if the court waives the educational program
12 requirement under Article 42A.403 or the defendant successfully
13 completes [~~equivalent~~] education under Article 42A.4045, the court
14 clerk shall immediately report that fact to the Department of
15 Public Safety, on a form prescribed by the department, for
16 inclusion in the defendant's driving record. If the court grants an
17 extension of time in which the defendant may complete the
18 educational program under Article 42A.403, the court clerk shall
19 immediately report that fact to the Department of Public Safety on a
20 form prescribed by the department. The clerk's report under this
21 subsection must include the beginning date of the defendant's
22 community supervision.

23 (b-1) Upon release from a residential treatment facility at
24 which the person successfully completed [~~equivalent~~] education
25 under Article 42A.4045, at the request of the court clerk, the
26 director of the residential treatment facility shall give notice to
27 the Department of Public Safety for inclusion in the person's

1 driving record.

2 SECTION 8. Article 42A.655, Code of Criminal Procedure, is
3 amended to read as follows:

4 Art. 42A.655. ABILITY TO PAY. (a) The court shall consider
5 the defendant's ability to pay before ordering the defendant to
6 make any payments under this chapter.

7 (b) Notwithstanding any other law and subject to Subsection
8 (c), the court shall consider whether the defendant has sufficient
9 resources or income to make any payments under this chapter,
10 excluding restitution but including any fee, fine, reimbursement
11 cost, court cost, rehabilitation cost, program cost, service cost,
12 counseling cost, ignition interlock cost, assessment cost, testing
13 cost, education cost, treatment cost, payment required under
14 Article 42A.652, or any other payment or cost authorized or
15 required under this chapter. The court shall consider under this
16 subsection whether a defendant has sufficient resources or income:

17 (1) before or immediately after placing the defendant
18 on community supervision, including deferred adjudication
19 community supervision; and

20 (2) during the period of community supervision, before
21 or immediately after the court orders or requires the defendant to
22 make any payments under this chapter.

23 (c) Subsection (b) does not apply to consideration of a
24 defendant's ability to pay restitution.

25 (d) Notwithstanding any other law, if a defendant is ordered
26 to make a payment included under Subsection (b), the court shall
27 reconsider whether the defendant has sufficient resources or income

1 to make the payment at any hearing held under Article 42A.751(d).

2 (e) A defendant who is ordered to make a payment included
3 under Subsection (b) may, at any time during the defendant's period
4 of community supervision, including deferred adjudication
5 community supervision, but not more than once in any six-month
6 period unless the defendant shows a substantial and compelling
7 reason for making an additional request during that period, file a
8 written statement with the clerk of the court requesting
9 reconsideration of the defendant's ability to make the payment and
10 requesting that the payment be satisfied by an alternative method
11 provided under Subsection (f). On receipt of the statement, the
12 court shall consider whether the defendant's financial status or
13 required payments have changed in such a way that the defendant's
14 ability to make a payment previously ordered by the court is
15 substantially hindered. If after conducting a review under this
16 subsection the court finds that the defendant's ability to make a
17 payment previously ordered by the court is substantially hindered,
18 the court shall determine whether all or a portion of the payment
19 should be satisfied by an alternative method provided under
20 Subsection (f). The court shall notify the defendant and the
21 attorney representing the state of the court's decision regarding
22 whether to allow all or a portion of the payment to be satisfied by
23 an alternative method.

24 (f) Notwithstanding any other law, if the court determines
25 under this article at any time during a defendant's period of
26 community supervision, including deferred adjudication community
27 supervision, that the defendant does not have sufficient resources

1 or income to make a payment included under Subsection (b), the court
2 shall determine whether all or a portion of the payment should be:

3 (1) required to be paid at a later date or in a
4 specified portion at designated intervals;

5 (2) waived completely or partially under Article
6 43.091 or 45.0491;

7 (3) discharged by performing community service under
8 Article 42A.304 or 45.049, as applicable; or

9 (4) satisfied through any combination of methods under
10 Subdivisions (1)-(3).

11 (g) In making a determination under Subsection (f), a court
12 may waive completely or partially a payment required under Article
13 42A.652 only if, after waiving all other applicable payments
14 included under Subsection (b), the court determines that the
15 defendant does not have sufficient resources or income to make the
16 payment.

17 (h) The Office of Court Administration of the Texas Judicial
18 System shall adopt a standardized form that a defendant may use to
19 make a request under Subsection (e) for the reconsideration of the
20 defendant's ability to pay. The form must include:

21 (1) detailed and clear instructions for how to fill
22 out the form and submit a request to the court; and

23 (2) the following statement at the top of the form, in
24 bold type and in any language in which the form is produced:

25 "If at any time while you are on community supervision your ability
26 to pay any fine, fee, program cost, or other payment ordered by the
27 court, other than restitution, changes and you cannot afford to

1 pay, you have the right to request that the court review your
2 payments and consider changing or waiving your payments. You can
3 use this form to make a request for a change in your payments. You
4 cannot use this form to request a change in restitution payments."

5 (i) A supervision officer or the court shall promptly
6 provide a defendant a copy of the form adopted under Subsection (h)
7 on the defendant's request for the form.

8 (j) This subsection applies only to a defendant whose
9 payments are wholly or partly waived under this article. At any
10 time during the defendant's period of community supervision,
11 including deferred adjudication community supervision, the court,
12 on the court's own motion or by motion of the attorney representing
13 the state, may reconsider the waiver of the payment. After
14 providing written notice to the defendant and an opportunity for
15 the defendant to present information relevant to the defendant's
16 ability to pay, the court may order the defendant to pay all or part
17 of the waived amount of the payment only if the court determines
18 that the defendant has sufficient resources or income to pay the
19 amount.

20 SECTION 9. Article [42A.701](#), Code of Criminal Procedure, is
21 amended by amending Subsection (b) and adding Subsections (b-1),
22 (b-2), and (d-1) to read as follows:

23 (b) On completion of one-half of the original community
24 supervision period or two years of community supervision, whichever
25 is more, the judge shall review the defendant's record and consider
26 whether to reduce or terminate the period of community supervision,
27 unless the defendant:

1 (1) is delinquent in paying required [~~costs, fines,~~
2 ~~fees, or~~] restitution that the defendant has the ability to pay; or

3 (2) has not completed court-ordered counseling or
4 treatment.

5 (b-1) The supervision officer shall notify the judge as soon
6 as practicable after the date a defendant, who at the time of the
7 review required by Subsection (b) was delinquent in paying
8 restitution or had not completed court-ordered counseling or
9 treatment, completes the remaining court-ordered counseling or
10 treatment and makes the delinquent restitution payments, as
11 applicable, and is otherwise compliant with the conditions of
12 community supervision. On receipt of the notice the judge shall
13 review the defendant's record and consider whether to reduce or
14 terminate the period of community supervision.

15 (b-2) Following a review conducted under Subsection (b) or
16 (b-1), the judge may reduce or terminate the period of community
17 supervision or decide not to reduce or terminate the period of
18 community supervision. In making the determination, the judge may
19 consider any factors the judge considers relevant, including
20 whether the defendant is delinquent in paying court-ordered costs,
21 fines, or fees that the defendant has the ability to pay as provided
22 by Article [42A.655](#).

23 (d-1) If the judge does not terminate the defendant's period
24 of community supervision after conducting a review under this
25 article:

26 (1) the judge shall promptly advise the defendant's
27 supervision officer of the reasons the judge did not terminate the

1 defendant's period of community supervision; and

2 (2) the supervision officer shall promptly advise the
3 defendant in writing of the reasons provided under Subdivision (1).

4 SECTION 10. Articles 42A.702(a) and (d), Code of Criminal
5 Procedure, are amended to read as follows:

6 (a) This article applies only to a defendant who:

7 (1) is granted community supervision, including
8 deferred adjudication community supervision, for an offense
9 punishable as a state jail felony or a felony of the third degree,
10 other than an offense:

11 (A) included as a "reportable conviction or
12 adjudication" under Article 62.001(5);

13 (B) involving family violence as defined by
14 Section 71.004, Family Code;

15 (C) under Section 20.03 or 28.02, Penal Code; or

16 (D) under Chapter 49, Penal Code; and

17 (2) ~~[is not delinquent in paying required costs,~~
18 ~~finer, or fees, and~~

19 ~~(3)]~~ has fully satisfied any order to pay restitution
20 to a victim.

21 (d) A defendant is entitled to time credits toward the
22 completion of the defendant's period of community supervision for
23 the successful completion of treatment or rehabilitation programs
24 as follows:

25 (1) parenting class or parental responsibility
26 program: 30 days;

27 (2) anger management program: 30 days;

- 1 (3) life skills training program: 30 days;
- 2 (4) vocational, technical, or career education or
- 3 training program: 60 days; ~~and~~
- 4 (5) alcohol or substance abuse counseling or
- 5 treatment: 90 days; and
- 6 (6) any other faith-based, volunteer, or
- 7 community-based program ordered or approved by the court: 30 days.

8 SECTION 11. Not later than January 1, 2022, the Office of
9 Court Administration of the Texas Judicial System shall adopt the
10 form required by Article 42A.655(h), Code of Criminal Procedure, as
11 added by this Act.

12 SECTION 12. (a) Except as provided by Subsection (b) of
13 this section, the change in law made by this Act to Chapter 42A,
14 Code of Criminal Procedure, applies to a person on community
15 supervision on or after the effective date of this Act, regardless
16 of whether the person was placed on community supervision before,
17 on, or after the effective date of this Act.

18 (b) Article 42A.702(d)(6), Code of Criminal Procedure, as
19 added by this Act, applies only to a person placed on community
20 supervision on or after the effective date of this Act.

21 SECTION 13. This Act takes effect September 1, 2021.

President of the Senate

Speaker of the House

I certify that H.B. No. 385 was passed by the House on April 30, 2021, by the following vote: Yeas 131, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 385 on May 28, 2021, by the following vote: Yeas 111, Nays 31, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 385 was passed by the Senate, with amendments, on May 24, 2021, by the following vote: Yeas 28, Nays 2.

Secretary of the Senate

APPROVED: _____

Date

Governor