

By: Haggerty

H.B. No. 105

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the operation of community supervision and corrections
3 departments and to the early release of a defendant from community
4 supervision.

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

6 SECTION 1. Section 5(c), Article 42.12, Code of Criminal
7 Procedure, is amended to read as follows:

8 (c) Unless in the judge's opinion the best interest of
9 society and the defendant will be served if the defendant remains
10 under supervision, the judge shall dismiss the proceedings and
11 discharge a defendant, other than a defendant charged with a
12 misdemeanor or an offense requiring the defendant to register as a
13 sex offender under Chapter 62, on the defendant's successful
14 completion of one-third of the original period of community
15 supervision imposed under Subsection (a) and payment to the court
16 of a one-time supervision termination fee in the amount of \$500.
17 For the purposes of this subsection, the original period of
18 community supervision imposed begins on the date the judgment is
19 entered in the case placing the defendant on community supervision.
20 With respect to a defendant who is charged with a misdemeanor or is
21 required to remain under supervision [~~On expiration of a community~~
22 ~~supervision period imposed under Subsection (a) of this section],
23 if the judge has not proceeded to an adjudication of guilt, the
24 judge shall dismiss the proceedings against the defendant and~~

1 discharge the defendant on expiration of the period of community
2 supervision imposed under Subsection (a) [him]. The judge may
3 dismiss the proceedings and discharge a defendant charged with a
4 misdemeanor, other than [~~a defendant charged with~~] an offense
5 requiring the defendant to register as a sex offender under Chapter
6 62, [~~as added by Chapter 668, Acts of the 75th Legislature, Regular~~
7 ~~Session, 1997,~~] prior to the expiration of the term of community
8 supervision if in the judge's opinion the best interest of society
9 and the defendant will be served. The judge may not dismiss the
10 proceedings and discharge a defendant charged with an offense
11 requiring the defendant to register under Chapter 62 before the
12 expiration of the period of community supervision imposed under
13 Subsection (a) [~~, as added by Chapter 668, Acts of the 75th~~
14 Legislature, Regular Session, 1997]. If the judge requires a
15 defendant, other than a defendant charged with a misdemeanor or an
16 offense requiring the defendant to register as a sex offender under
17 Chapter 62, to remain under supervision, the judge shall enter a
18 written statement in the records of the case specifying the grounds
19 for the judge's opinion that the best interest of society and the
20 defendant will be served if the defendant remains under
21 supervision. Except as provided by Section 12.42(g), Penal Code, a
22 dismissal and discharge under this section may not be deemed a
23 conviction for the purposes of disqualifications or disabilities
24 imposed by law for conviction of an offense. For any defendant who
25 receives a dismissal and discharge under this section:

26 (1) upon conviction of a subsequent offense, the fact
27 that the defendant had previously received community supervision

1 with a deferred adjudication of guilt shall be admissible before
2 the court or jury to be considered on the issue of penalty;

3 (2) if the defendant is an applicant for a license or
4 is a licensee under Chapter 42, Human Resources Code, the Texas
5 Department of Human Services may consider the fact that the
6 defendant previously has received community supervision with a
7 deferred adjudication of guilt under this section in issuing,
8 renewing, denying, or revoking a license under that chapter; and

9 (3) if the defendant is a person who has applied for
10 registration to provide mental health or medical services for the
11 rehabilitation of sex offenders, the Interagency Council on Sex
12 Offender Treatment may consider the fact that the defendant has
13 received community supervision under this section in issuing,
14 renewing, denying, or revoking a license or registration issued by
15 that council.

16 SECTION 2. Section 19(b), Article 42.12, Code of Criminal
17 Procedure, is amended to read as follows:

18 (b) The judge shall deposit [~~the fees received under~~
19 ~~Subsection (a) of this section~~] in the special fund of the county
20 treasury, to be used for the same purposes for which state aid may
21 be used under Chapter 76, Government Code:

- 22 (1) fees received under Subsection (a); and
23 (2) supervision termination fees received under
24 Section 5 and Section 20.

25 SECTION 3. Section 20, Article 42.12, Code of Criminal
26 Procedure, is amended to read as follows:

27 Sec. 20. REDUCTION OR TERMINATION OF COMMUNITY SUPERVISION.

1 (a) Unless in the judge's opinion the best interest of society and
2 the defendant will be served if the defendant remains under
3 supervision, the judge shall terminate a period of community
4 supervision for a defendant other than a defendant who enters a plea
5 of guilty to or is convicted of a misdemeanor or an offense
6 described by Subsection (b) on the defendant's successful
7 completion of one-third of the original period of community
8 supervision imposed and payment to the court of a one-time
9 supervision termination fee in the amount of \$500. For the purposes
10 of this subsection, the original period of community supervision
11 imposed begins on the date the judgment is entered in the case
12 placing the defendant on community supervision. With respect to a
13 defendant who enters a plea of guilty to or is convicted of a
14 misdemeanor or is required to remain under supervision, the period
15 of community supervision is terminated on ~~[At any time, after the~~
16 ~~defendant has satisfactorily completed one-third of the original~~
17 ~~community supervision period or two years of community supervision,~~
18 ~~whichever is less, the period of community supervision may be~~
19 ~~reduced or terminated by the judge. Upon]~~ the defendant's
20 satisfactory fulfillment of the conditions of community
21 supervision~~[7]~~ and the expiration of the original period of
22 community supervision imposed. The judge may terminate a period of
23 community supervision for a defendant who enters a plea of guilty to
24 or is convicted of a misdemeanor, other than an offense described by
25 Subsection (b), prior to the expiration of the original period of
26 community supervision imposed if the defendant has satisfactorily
27 completed one-third of that period and, in the judge's opinion, the

1 best interest of society and the defendant will be served. On
2 termination of a period of community supervision under this
3 subsection, the judge, by order duly entered, shall amend or modify
4 the original sentence imposed, if necessary, to conform to the
5 community supervision period and shall discharge the defendant. If
6 the judge discharges the defendant under this subsection [~~section~~],
7 the judge may set aside the verdict or permit the defendant to
8 withdraw the defendant's [~~his~~] plea, and shall dismiss the
9 accusation, complaint, information or indictment against the
10 defendant, who shall thereafter be released from all penalties and
11 disabilities resulting from the offense or crime of which the
12 defendant [~~he~~] has been convicted or to which the defendant [~~he~~] has
13 pleaded guilty, except that:

14 (1) proof of the conviction or plea of guilty shall be
15 made known to the judge should the defendant again be convicted of
16 any criminal offense; and

17 (2) if the defendant is an applicant for a license or
18 is a licensee under Chapter 42, Human Resources Code, the Texas
19 Department of Human Services may consider the fact that the
20 defendant previously has received community supervision under this
21 article in issuing, renewing, denying, or revoking a license under
22 that chapter.

23 (b) The judge may not terminate a period of community
24 supervision prior to the expiration of the original period of
25 community supervision imposed if the [~~This section does not apply~~
26 ~~to a~~] defendant enters a plea of guilty to or is convicted of an
27 offense:

1 (1) under Sections 49.04-49.08, Penal Code; or

2 (2) [~~a defendant convicted of an offense~~] for which
3 on conviction registration as a sex offender is required under
4 Chapter 62 [~~as added by Chapter 668, Acts of the 75th Legislature,~~
5 ~~Regular Session, 1997, or a defendant convicted of an offense~~
6 ~~punishable as a state jail felony~~].

7 (c) If the judge requires a defendant, other than a
8 defendant who enters a plea of guilty to or is convicted of a
9 misdemeanor or an offense described by Subsection (b), to remain
10 under supervision, the judge shall enter a written statement in the
11 records of the case specifying the grounds for the judge's opinion
12 that the best interest of society and the defendant will be served
13 if the defendant remains under supervision.

14 SECTION 4. Section 509.011, Government Code, is amended by
15 adding Subsection (i) to read as follows:

16 (i) The amount of per capita funding received from the
17 comptroller based on vouchers prepared and submitted to the
18 comptroller by the division under Subsection (a)(1) may not be less
19 than the amount received from the comptroller under that subsection
20 during fiscal years 2004 and 2005.

21 SECTION 5. This Act takes effect November 1, 2003, and
22 applies only to a defendant who is originally placed on community
23 supervision on or after that date.