

By: Dutton

H.B. No. 888

A BILL TO BE ENTITLED

AN ACT

relating to progressive sanctions programs for juvenile offenders.

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

SECTION 1. Section 53.013, Family Code, is amended to read as follows:

Sec. 53.013. PROGRESSIVE SANCTIONS PROGRAM. ~~[(a)]~~ Each juvenile board may adopt a progressive sanctions program using the model ~~[guidelines]~~ for progressive sanctions in Chapter 59.

~~[(b) A juvenile court or probation department that deviates from the guidelines under Section 59.003 shall state in writing the reasons for the deviation and submit the statement to the juvenile board regardless of whether the juvenile board has adopted a progressive sanctions program.]~~

SECTION 2. The heading to Chapter 59, Family Code, is amended to read as follows:

CHAPTER 59. PROGRESSIVE SANCTIONS MODEL ~~[GUIDELINES]~~

SECTION 3. Section 59.001, Family Code, is amended to read as follows:

Sec. 59.001. PURPOSES. The purposes of the progressive sanctions model ~~[guidelines]~~ are to:

(1) ensure that juvenile offenders face uniform and consistent consequences and punishments that correspond to the seriousness of each offender's current offense, prior delinquent history, special treatment or training needs, and effectiveness of

1 prior interventions;

2 (2) balance public protection and rehabilitation
3 while holding juvenile offenders accountable;

4 (3) permit flexibility in the decisions made in
5 relation to the juvenile offender to the extent allowed by law;

6 (4) consider the juvenile offender's circumstances;
7 ~~[and]~~

8 (5) recognize that departure of a disposition from
9 this model is not necessarily undesirable and in some cases is
10 highly desirable; and

11 (6) improve juvenile justice planning and resource
12 allocation by ensuring uniform and consistent reporting of
13 disposition decisions at all levels.

14 SECTION 4. The heading of Section 59.003, Family Code, is
15 amended to read as follows:

16 Sec. 59.003. SANCTION LEVEL ASSIGNMENT MODEL ~~[GUIDELINES]~~.

17 SECTION 5. Sections 59.003(e), (f), and (g), Family Code,
18 are amended to read as follows:

19 (e) ~~[Except as otherwise provided by this subsection, a~~
20 ~~juvenile court or probation department that deviates from the~~
21 ~~guidelines under this section shall state in writing its reasons~~
22 ~~for the deviation and submit the statement to the juvenile board~~
23 ~~regardless of whether a progressive sanctions program has been~~
24 ~~adopted by the juvenile board. Nothing in this chapter prohibits~~
25 ~~the imposition of appropriate sanctions that are different from~~
26 ~~those provided at any sanction level. A juvenile court that makes a~~
27 ~~disposition required by this title that deviates from the~~

1 ~~guidelines under this section is not required to report the~~
2 ~~disposition as a deviation.~~

3 ~~[(f)]~~ The probation department may, in accordance with
4 Section 54.05, request the extension of a period of probation
5 specified under sanction levels one through five if the
6 circumstances of the child warrant the extension.

7 (f) ~~[(g)]~~ Before the court assigns the child a sanction
8 level that involves the revocation of the child's probation and the
9 commitment of the child to the Texas Youth Commission, the court
10 shall hold a hearing to modify the disposition as required by
11 Section 54.05.

12 SECTION 6. Section 59.006(a), Family Code, is amended to
13 read as follows:

14 (a) For a child at sanction level three, the juvenile court
15 may:

16 (1) place the child on probation for not less than six
17 months ~~[or more than 12 months]~~;

18 (2) require the child to make restitution to the
19 victim of the child's conduct or perform community service
20 restitution appropriate to the nature and degree of harm caused and
21 according to the child's ability;

22 (3) impose specific restrictions on the child's
23 activities and requirements for the child's behavior as conditions
24 of probation;

25 (4) require a probation officer to closely monitor the
26 child's activities and behavior;

27 (5) require the child or the child's parents or

1 guardians to participate in programs or services designated by the
2 court or probation officer; and

3 (6) if appropriate, impose additional conditions of
4 probation.

5 SECTION 7. Section 59.007(a), Family Code, is amended to
6 read as follows:

7 (a) For a child at sanction level four, the juvenile court
8 may:

9 (1) require the child to participate as a condition of
10 probation for not less than three months or more than 12 months in
11 an intensive services probation program that emphasizes frequent
12 contact and reporting with a probation officer, discipline,
13 intensive supervision services, social responsibility, and
14 productive work;

15 (2) after release from the program described by
16 Subdivision (1), continue the child on probation supervision [~~for~~
17 ~~not less than six months or more than 12 months~~];

18 (3) require the child to make restitution to the
19 victim of the child's conduct or perform community service
20 restitution appropriate to the nature and degree of harm caused and
21 according to the child's ability;

22 (4) impose highly structured restrictions on the
23 child's activities and requirements for behavior of the child as
24 conditions of probation;

25 (5) require a probation officer to closely monitor the
26 child;

27 (6) require the child or the child's parents or

1 guardians to participate in programs or services designed to
2 address their particular needs and circumstances; and

3 (7) if appropriate, impose additional sanctions.

4 SECTION 8. Section 59.008(a), Family Code, is amended to
5 read as follows:

6 (a) For a child at sanction level five, the juvenile court
7 may:

8 (1) as a condition of probation, place the child for
9 not less than six months or more than 12 months in a
10 post-adjudication secure correctional facility;

11 (2) after release from the program described by
12 Subdivision (1), continue the child on probation supervision [~~for~~
13 ~~not less than six months or more than 12 months~~];

14 (3) require the child to make restitution to the
15 victim of the child's conduct or perform community service
16 restitution appropriate to the nature and degree of harm caused and
17 according to the child's ability;

18 (4) impose highly structured restrictions on the
19 child's activities and requirements for behavior of the child as
20 conditions of probation;

21 (5) require a probation officer to closely monitor the
22 child;

23 (6) require the child or the child's parents or
24 guardians to participate in programs or services designed to
25 address their particular needs and circumstances; and

26 (7) if appropriate, impose additional sanctions.

27 SECTION 9. Section 59.012(a), Family Code, is amended to

1 read as follows:

2 (a) The Criminal Justice Policy Council shall analyze
3 trends related to juvenile referrals [~~compliance with the~~
4 ~~progressive sanctions guidelines,~~] and the impact of [~~the~~
5 ~~guidelines and related~~] reforms on recidivism rates using standard
6 scientific sampling or appropriate scientific methodologies to
7 represent statewide patterns. The council shall compile other
8 policy studies as determined by the executive director of the
9 council or as requested by the governor, lieutenant governor, or
10 speaker of the house of representatives to assist in policy
11 development.

12 SECTION 10. Section 59.014, Family Code, is amended to read
13 as follows:

14 Sec. 59.014. APPEAL. A child may not bring an appeal or a
15 postconviction writ of habeas corpus based on:

16 (1) the failure or inability of any person to provide a
17 service listed under Sections 59.004-59.010;

18 (2) the failure of a court or of any person to make a
19 sanction level assignment as provided in Section 59.002 or 59.003;
20 [~~or~~]

21 (3) a departure [~~deviation~~] from the sanction level
22 assignment model [~~guidelines~~] provided by this chapter; or

23 (4) the failure of a juvenile court or probation
24 department to report a departure [~~deviation~~] from the model
25 [~~guidelines as required by Section 59.003(e)~~].

26 SECTION 11. (a) This Act takes effect September 1, 2003.

27 (b) This Act applies only to conduct that occurs on or after

1 the effective date of this Act. Conduct violating the penal law of
2 this state occurs on or after the effective date of this Act if any
3 element of the violation occurs on or after that date.

4 (c) Conduct that occurs before the effective date of this
5 Act is governed by the law in effect at the time the conduct
6 occurred, and that law is continued in effect for that purpose.

7 (d) This Act applies only to an appeal under Section 56.01,
8 Family Code, of an order by a juvenile court rendered on or after
9 the effective date of this Act. An appeal of an order rendered
10 before the effective date of this Act is governed by the law in
11 effect at the time the order was rendered, and that law is continued
12 in effect for that purpose.