

1-1 By: Dutton (Senate Sponsor - Whitmire) H.B. No. 888
1-2 (In the Senate - Received from the House April 2, 2003;
1-3 April 7, 2003, read first time and referred to Committee on
1-4 Criminal Justice; May 21, 2003, reported favorably by the
1-5 following vote: Yeas 7, Nays 0; May 21, 2003, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to progressive sanctions programs for juvenile offenders.

1-9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-10 SECTION 1. Section 53.013, Family Code, is amended to read
1-11 as follows:

1-12 Sec. 53.013. PROGRESSIVE SANCTIONS PROGRAM. [~~(a)~~] Each
1-13 juvenile board may adopt a progressive sanctions program using the
1-14 model [~~guidelines~~] for progressive sanctions in Chapter 59.

1-15 [~~(b) A juvenile court or probation department that deviates
1-16 from the guidelines under Section 59.003 shall state in writing the
1-17 reasons for the deviation and submit the statement to the juvenile
1-18 board regardless of whether the juvenile board has adopted a
1-19 progressive sanctions program.~~]

1-20 SECTION 2. The heading to Chapter 59, Family Code, is
1-21 amended to read as follows:

1-22 CHAPTER 59. PROGRESSIVE SANCTIONS MODEL [~~GUIDELINES~~]

1-23 SECTION 3. Section 59.001, Family Code, is amended to read
1-24 as follows:

1-25 Sec. 59.001. PURPOSES. The purposes of the progressive
1-26 sanctions model [~~guidelines~~] are to:

1-27 (1) ensure that juvenile offenders face uniform and
1-28 consistent consequences and punishments that correspond to the
1-29 seriousness of each offender's current offense, prior delinquent
1-30 history, special treatment or training needs, and effectiveness of
1-31 prior interventions;

1-32 (2) balance public protection and rehabilitation
1-33 while holding juvenile offenders accountable;

1-34 (3) permit flexibility in the decisions made in
1-35 relation to the juvenile offender to the extent allowed by law;

1-36 (4) consider the juvenile offender's circumstances;
1-37 [~~and~~]

1-38 (5) recognize that departure of a disposition from
1-39 this model is not necessarily undesirable and in some cases is
1-40 highly desirable; and

1-41 (6) improve juvenile justice planning and resource
1-42 allocation by ensuring uniform and consistent reporting of
1-43 disposition decisions at all levels.

1-44 SECTION 4. The heading of Section 59.003, Family Code, is
1-45 amended to read as follows:

1-46 Sec. 59.003. SANCTION LEVEL ASSIGNMENT MODEL [~~GUIDELINES~~].

1-47 SECTION 5. Sections 59.003(e), (f), and (g), Family Code,
1-48 are amended to read as follows:

1-49 (e) [~~Except as otherwise provided by this subsection, a
1-50 juvenile court or probation department that deviates from the
1-51 guidelines under this section shall state in writing its reasons
1-52 for the deviation and submit the statement to the juvenile board
1-53 regardless of whether a progressive sanctions program has been
1-54 adopted by the juvenile board. Nothing in this chapter prohibits
1-55 the imposition of appropriate sanctions that are different from
1-56 those provided at any sanction level. A juvenile court that makes a
1-57 disposition required by this title that deviates from the
1-58 guidelines under this section is not required to report the
1-59 disposition as a deviation.~~]

1-60 [~~(f)~~] The probation department may, in accordance with
1-61 Section 54.05, request the extension of a period of probation
1-62 specified under sanction levels one through five if the
1-63 circumstances of the child warrant the extension.

1-64 (f) [~~(g)~~] Before the court assigns the child a sanction

2-1 level that involves the revocation of the child's probation and the
2-2 commitment of the child to the Texas Youth Commission, the court
2-3 shall hold a hearing to modify the disposition as required by
2-4 Section 54.05.

2-5 SECTION 6. Section 59.006(a), Family Code, is amended to
2-6 read as follows:

2-7 (a) For a child at sanction level three, the juvenile court
2-8 may:

2-9 (1) place the child on probation for not less than six
2-10 months [~~or more than 12 months~~];

2-11 (2) require the child to make restitution to the
2-12 victim of the child's conduct or perform community service
2-13 restitution appropriate to the nature and degree of harm caused and
2-14 according to the child's ability;

2-15 (3) impose specific restrictions on the child's
2-16 activities and requirements for the child's behavior as conditions
2-17 of probation;

2-18 (4) require a probation officer to closely monitor the
2-19 child's activities and behavior;

2-20 (5) require the child or the child's parents or
2-21 guardians to participate in programs or services designated by the
2-22 court or probation officer; and

2-23 (6) if appropriate, impose additional conditions of
2-24 probation.

2-25 SECTION 7. Section 59.007(a), Family Code, is amended to
2-26 read as follows:

2-27 (a) For a child at sanction level four, the juvenile court
2-28 may:

2-29 (1) require the child to participate as a condition of
2-30 probation for not less than three months or more than 12 months in
2-31 an intensive services probation program that emphasizes frequent
2-32 contact and reporting with a probation officer, discipline,
2-33 intensive supervision services, social responsibility, and
2-34 productive work;

2-35 (2) after release from the program described by
2-36 Subdivision (1), continue the child on probation supervision [~~for
2-37 not less than six months or more than 12 months~~];

2-38 (3) require the child to make restitution to the
2-39 victim of the child's conduct or perform community service
2-40 restitution appropriate to the nature and degree of harm caused and
2-41 according to the child's ability;

2-42 (4) impose highly structured restrictions on the
2-43 child's activities and requirements for behavior of the child as
2-44 conditions of probation;

2-45 (5) require a probation officer to closely monitor the
2-46 child;

2-47 (6) require the child or the child's parents or
2-48 guardians to participate in programs or services designed to
2-49 address their particular needs and circumstances; and

2-50 (7) if appropriate, impose additional sanctions.

2-51 SECTION 8. Section 59.008(a), Family Code, is amended to
2-52 read as follows:

2-53 (a) For a child at sanction level five, the juvenile court
2-54 may:

2-55 (1) as a condition of probation, place the child for
2-56 not less than six months or more than 12 months in a
2-57 post-adjudication secure correctional facility;

2-58 (2) after release from the program described by
2-59 Subdivision (1), continue the child on probation supervision [~~for
2-60 not less than six months or more than 12 months~~];

2-61 (3) require the child to make restitution to the
2-62 victim of the child's conduct or perform community service
2-63 restitution appropriate to the nature and degree of harm caused and
2-64 according to the child's ability;

2-65 (4) impose highly structured restrictions on the
2-66 child's activities and requirements for behavior of the child as
2-67 conditions of probation;

2-68 (5) require a probation officer to closely monitor the
2-69 child;

3-1 (6) require the child or the child's parents or
3-2 guardians to participate in programs or services designed to
3-3 address their particular needs and circumstances; and

3-4 (7) if appropriate, impose additional sanctions.

3-5 SECTION 9. Section 59.012(a), Family Code, is amended to
3-6 read as follows:

3-7 (a) The Criminal Justice Policy Council shall analyze
3-8 trends related to juvenile referrals[, ~~compliance with the~~
3-9 ~~progressive sanctions guidelines,~~] and the impact of [~~the~~
3-10 ~~guidelines and related~~] reforms on recidivism rates using standard
3-11 scientific sampling or appropriate scientific methodologies to
3-12 represent statewide patterns. The council shall compile other
3-13 policy studies as determined by the executive director of the
3-14 council or as requested by the governor, lieutenant governor, or
3-15 speaker of the house of representatives to assist in policy
3-16 development.

3-17 SECTION 10. Section 59.014, Family Code, is amended to read
3-18 as follows:

3-19 Sec. 59.014. APPEAL. A child may not bring an appeal or a
3-20 postconviction writ of habeas corpus based on:

3-21 (1) the failure or inability of any person to provide a
3-22 service listed under Sections 59.004-59.010;

3-23 (2) the failure of a court or of any person to make a
3-24 sanction level assignment as provided in Section 59.002 or 59.003;
3-25 [~~or~~]

3-26 (3) a departure [~~deviation~~] from the sanction level
3-27 assignment model [~~guidelines~~] provided by this chapter; or

3-28 (4) the failure of a juvenile court or probation
3-29 department to report a departure [~~deviation~~] from the model
3-30 [~~guidelines as required by Section 59.003(e)~~].

3-31 SECTION 11. (a) This Act takes effect September 1, 2003.

3-32 (b) This Act applies only to conduct that occurs on or after
3-33 the effective date of this Act. Conduct violating the penal law of
3-34 this state occurs on or after the effective date of this Act if any
3-35 element of the violation occurs on or after that date.

3-36 (c) Conduct that occurs before the effective date of this
3-37 Act is governed by the law in effect at the time the conduct
3-38 occurred, and that law is continued in effect for that purpose.

3-39 (d) This Act applies only to an appeal under Section 56.01,
3-40 Family Code, of an order by a juvenile court rendered on or after
3-41 the effective date of this Act. An appeal of an order rendered
3-42 before the effective date of this Act is governed by the law in
3-43 effect at the time the order was rendered, and that law is continued
3-44 in effect for that purpose.

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