

By: Allen

H.B. No. 1514

A BILL TO BE ENTITLED

AN ACT

relating to the imposition of sanctions on defendants who violate conditions of community supervision.

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

SECTION 1. Section 509.003(a), Government Code, is amended to read as follows:

(a) The division shall propose and the board shall adopt reasonable rules establishing:

(1) minimum standards for programs, community corrections facilities and other facilities, equipment, and other aspects of the operation of departments;

(2) a list and description of core services that should be provided by each department;

(3) methods for measuring the success of community supervision and corrections programs, including methods for measuring rates of diversion, program completion, and recidivism;

(4) a format for community justice plans; ~~and~~

(5) minimum standards for the operation of substance abuse facilities and programs funded through the division; and

(6) minimum standards for a system of sanctions for defendants who violate conditions of community supervision based on the severity of the behavior that violates a condition of community supervision, the defendant's history of compliance with or violation of conditions of community supervision, the offense for

1 which the defendant was placed on community supervision, public
2 safety, the availability of appropriate local sanctions, and the
3 availability of county jail beds or beds in facilities operated by
4 or for the Texas Department of Criminal Justice for defendants
5 whose release on community supervision is revoked.

6 SECTION 2. Section 509.007(b), Government Code, is amended
7 to read as follows:

8 (b) A community justice plan required under this section
9 must include:

10 (1) a statement of goals and priorities and of
11 commitment by the community justice council, the district judges
12 who manage the department, and the department to achieve a targeted
13 level of alternative sanctions, including a commitment to meet or
14 exceed the minimum standards established by the division for a
15 system of sanctions for defendants who violate conditions of
16 community supervision;

17 (2) a description of methods for measuring the success
18 of programs provided by the department or provided by an entity
19 served by the department; ~~and~~

20 (3) a proposal for the use of state jail felony
21 facilities and, at the discretion of the community justice council,
22 a regional proposal for the construction, operation, maintenance,
23 or management of a state jail felony facility by a county, a
24 community supervision and corrections department, or a private
25 vendor under a contract with a county or a community supervision and
26 corrections department; and

27 (4) a system of sanctions, to be used by judges,

1 magistrates, and supervision officers for defendants who violate
2 conditions of community supervision, that meets the minimum
3 standards established by the division for a system of sanctions.

4 SECTION 3. Section 10, Article 42.12, Code of Criminal
5 Procedure, is amended by adding Subsection (f) to read as follows:

6 (f) A judge, supervision officer, or magistrate who
7 modifies conditions of community supervision under this section
8 after a violation of a condition of community supervision shall
9 attempt to comply with the system of sanctions adopted as part of
10 the community justice plan for the community supervision and
11 corrections department supervising the defendant.

12 SECTION 4. Section 22, Article 42.12, Code of Criminal
13 Procedure, is amended to read as follows:

14 Sec. 22. CONTINUATION OR MODIFICATION. (a) If after a
15 hearing under Section 21 of this article a judge continues or
16 modifies community supervision after determining that the
17 defendant violated a condition of community supervision, the judge
18 shall attempt to comply with the system of sanctions adopted as part
19 of the community justice plan for the community supervision and
20 corrections department supervising the defendant ~~[may impose any~~
21 ~~other conditions the judge determines are appropriate, including:~~

22 ~~[(1) a requirement that the defendant perform~~
23 ~~community service for a number of hours specified by the court under~~
24 ~~Section 16 of this article, or an increase in the number of hours~~
25 ~~that the defendant has previously been required to perform under~~
26 ~~those sections in an amount not to exceed double the number of hours~~
27 ~~permitted by Section 16,~~

1 ~~[(2) an increase in the period of community~~
2 ~~supervision, in the manner described by Subsection (b) of this~~
3 ~~section;~~

4 ~~[(3) an increase in the defendant's fine, in the manner~~
5 ~~described by Subsection (d) of this section; or~~

6 ~~[(4) the placement of the defendant in a substance~~
7 ~~abuse felony punishment program operated under Section 493.009,~~
8 ~~Government Code, if:~~

9 ~~[(A) the defendant is convicted of a felony other~~
10 ~~than:~~

11 ~~[(i) a felony under Section 21.11, 22.011,~~
12 ~~or 22.021, Penal Code; or~~

13 ~~[(ii) criminal attempt of a felony under~~
14 ~~Section 21.11, 22.011, or 22.021, Penal Code; and~~

15 ~~[(B) the judge makes an affirmative finding that:~~

16 ~~[(i) drug or alcohol abuse significantly~~
17 ~~contributed to the commission of the crime or violation of~~
18 ~~community supervision; and~~

19 ~~[(ii) the defendant is a suitable candidate~~
20 ~~for treatment, as determined by the suitability criteria~~
21 ~~established by the Texas Board of Criminal Justice under Section~~
22 ~~493.009(b), Government Code].~~

23 (b) If the community justice plan for the community
24 supervision and corrections department supervising the defendant
25 provides that the judge as a sanction for violation of a condition
26 of community supervision [~~judge imposes a sanction under Subsection~~
27 ~~(a)(4) of this section, the judge shall also impose a condition~~

1 ~~requiring the defendant on successful completion of the program to~~
2 ~~participate in a drug or alcohol abuse continuum of care program.~~

3 ~~[(c) The judge]~~ may extend a period of community supervision
4 under this section, the judge may extend the period as often as the
5 judge determines is necessary, but the period of community
6 supervision in a first, second, or third degree felony case may not
7 exceed 10 years and, except as otherwise provided by this
8 subsection, the period of community supervision in a misdemeanor
9 case may not exceed three years. If provided in the community
10 justice plan, the ~~[The]~~ judge may extend the period of community
11 supervision in a misdemeanor case for any period the judge
12 determines is necessary, not to exceed an additional two years
13 beyond the three-year limit, if the defendant fails to pay a
14 previously assessed fine, costs, or restitution and the judge
15 determines that extending the period of supervision increases the
16 likelihood that the defendant will fully pay the fine, costs, or
17 restitution. A court may extend a period of community supervision
18 under this section at any time during the period of supervision or,
19 if a motion for revocation of community supervision is filed before
20 the period of supervision ends, before the first anniversary of the
21 date on which the period of supervision expires.

22 (d) If the community justice plan for the community
23 supervision and corrections department supervising the defendant
24 provides that the judge as a sanction for violation of a condition
25 of community supervision may increase ~~[A judge may impose a~~
26 ~~sanction on a defendant described by Subsection (a)(3) of this~~
27 ~~section by increasing]~~ the fine imposed on the defendant, the judge

1 may increase the fine, except that the [~~.—The~~] original fine
2 imposed on the defendant and an increase in the fine imposed under
3 this subsection may not exceed the maximum fine for the offense for
4 which the defendant was sentenced. The judge shall deposit money
5 received from an increase in the defendant's fine under this
6 subsection in the special fund of the county treasury to be used for
7 the same purposes for which state aid may be used under Chapter 76,
8 Government Code.

9 SECTION 5. (a) Not later than January 1, 2004, the
10 community justice assistance division of the Texas Department of
11 Criminal Justice shall propose and the Texas Board of Criminal
12 Justice shall adopt minimum sanction standards required by Section
13 509.003(a), Government Code, as amended by this Act.

14 (b) Not later than June 1, 2004, a community justice council
15 shall submit to the community justice assistance division of the
16 Texas Department of Criminal Justice a revised community justice
17 plan that includes, as required by Section 509.007, Government
18 Code, as amended by this Act:

19 (1) a system of sanctions to be used by judges,
20 magistrates, and supervising officers in response to violations of
21 conditions of community supervision; and

22 (2) a commitment by the community justice council that
23 the system meet or exceed standards established by the division and
24 the board.

25 SECTION 6. Notwithstanding the amendment by this Act to
26 Section 22, Article 42.12, Code of Criminal Procedure, if a
27 community justice plan containing a system of sanctions described

1 by Section 5 of this Act has not been approved by the community
2 justice assistance division of the Texas Department of Criminal
3 Justice, a judge who on acceptance of the plan will be subject to
4 the plan may until the plan is accepted impose as a sanction for
5 violation of a condition of community supervision any sanction
6 described by Section 22, Article 42.12, Code of Criminal Procedure,
7 as that section existed immediately before the effective date of
8 this Act.

9 SECTION 7. This Act takes effect September 1, 2003.