

By: Madden

H.B. No. 69

A BILL TO BE ENTITLED

AN ACT

relating to the operation of a system of community supervision.

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

SECTION 1. Section 2(a), Article 42.03, Code of Criminal Procedure, is amended to read as follows:

(a) In all criminal cases the judge of the court in which the defendant was convicted shall give the defendant credit on the defendant's ~~[his]~~ sentence for the time that the defendant has spent in jail or in a court-ordered residential program or facility in said cause~~[, other than confinement served as a condition of community supervision,~~] from the time of the defendant's ~~[his]~~ arrest and confinement until the defendant's ~~[his]~~ sentence by the trial court, including confinement in jail or in a court-ordered residential program or facility ordered as a condition of deferred adjudication community supervision.

SECTION 2. Section 3, Article 42.12, Code of Criminal Procedure, is amended to read as follows:

Sec. 3. JUDGE ORDERED COMMUNITY SUPERVISION. (a) A judge, in the best interest of justice, the public, and the defendant, after conviction or a plea of guilty or nolo contendere, may suspend the imposition of the sentence and place the defendant on community supervision or impose a fine applicable to the offense and place the defendant on community supervision.

(b) In ~~[Except as provided by Subsection (f), in]~~ a felony

1 case the minimum period of community supervision is the same as the
2 minimum term of imprisonment applicable to the offense and the
3 maximum period of community supervision is, subject to the
4 extensions provided by Section 22:

5 (1) 10 years, for a felony listed in Section 3g, a
6 felony for which on conviction registration as a sex offender is
7 required by Chapter 62, a felony under Section 22.01(b)(1), Penal
8 Code, a felony of the third degree under Section 38.14(e), Penal
9 Code, a felony under Section 49.07, Penal Code, a felony punishable
10 under Section 49.09(b), Penal Code, or any other first or second
11 degree felony; and

12 (2) 5 years, for a third degree felony other than a
13 third degree felony otherwise described by Subdivision (1).

14 (c) The maximum period of community supervision in a
15 misdemeanor case is two years, subject to extensions provided by
16 Section 22.

17 ~~(d) [A judge may increase the maximum period of community~~
18 ~~supervision in the manner provided by Section 22(c) or 22A of this~~
19 ~~article.~~

20 ~~[(e)]~~ A defendant is not eligible for community supervision
21 under this section if the defendant ~~[+~~

22 ~~[(1)]~~ is sentenced to a term of imprisonment that
23 exceeds 10 years ~~[, or~~

24 ~~[(2)]~~ is sentenced to serve a term of confinement under
25 ~~Section 12.35, Penal Code].~~

26 (e) ~~[(f)]~~ ~~The minimum period of community supervision for a~~
27 ~~felony described by Section 13B(b) is five years and the maximum~~

1 ~~period of supervision is 10 years.~~

2 [~~(g)~~] A judge shall not deny community supervision to a
3 defendant based solely on the defendant's inability to speak, read,
4 write, hear, or understand English.

5 (f) This section applies to offenses listed in Section 3g
6 only to the extent that Subsection (b) establishes minimum and
7 maximum periods of community supervision for those offenses.

8 SECTION 3. (a) Section 4(b), Article 42.12, Code of
9 Criminal Procedure, is amended to read as follows:

10 (b) If the jury recommends to the judge that the judge place
11 the defendant on community supervision, the judge shall place the
12 defendant on community supervision for any period permitted under
13 Section 3(b) or 3(c) [~~of this article~~], as appropriate, subject to
14 the extensions provided by Section 22.

15 (b) Section 4(d), Article 42.12, Code of Criminal
16 Procedure, as amended by House Bill No. 1759, Acts of the 79th
17 Legislature, Regular Session, 2005, effective September 1, 2005, is
18 amended to read as follows:

19 (d) A defendant is not eligible for community supervision
20 under this section if the defendant:

21 (1) is sentenced to a term of imprisonment that
22 exceeds 10 years;

23 (2) is convicted of a state jail felony for which
24 suspension of the imposition of the sentence occurs automatically
25 under Section 15(a);

26 (3) does not file a sworn motion under Subsection (e)
27 of this section or for whom the jury does not enter in the verdict a

1 finding that the information contained in the motion is true; [~~or~~]

2 (4) is adjudged guilty of an offense for which
3 punishment is increased under Section 481.134(c), (d), (e), or (f),
4 Health and Safety Code, if it is shown that the defendant has been
5 previously convicted of an offense for which punishment was
6 increased under any one of those subsections; or

7 (5) is adjudged guilty of an offense under Section
8 19.02, Penal Code.

9 SECTION 4. Section 5(a), Article 42.12, Code of Criminal
10 Procedure, is amended to read as follows:

11 (a) Except as provided by Subsection (d) of this section,
12 when in the judge's opinion the best interest of society and the
13 defendant will be served, the judge may, after receiving a plea of
14 guilty or plea of nolo contendere, hearing the evidence, and
15 finding that it substantiates the defendant's guilt, defer further
16 proceedings without entering an adjudication of guilt, and place
17 the defendant on community supervision. A judge may place on
18 community supervision under this section a defendant charged with
19 an offense under Section 21.11, 22.011, or 22.021, Penal Code,
20 regardless of the age of the victim, or a defendant charged with a
21 felony described by Section 13B(b) of this article, only if the
22 judge makes a finding in open court that placing the defendant on
23 community supervision is in the best interest of the victim. The
24 failure of the judge to find that deferred adjudication is in the
25 best interest of the victim is not grounds for the defendant to set
26 aside the plea, deferred adjudication, or any subsequent conviction
27 or sentence. After placing the defendant on community supervision

1 under this section, the judge shall inform the defendant orally or
2 in writing of the possible consequences under Subsection (b) of
3 this section of a violation of community supervision. If the
4 information is provided orally, the judge must record and maintain
5 the judge's statement to the defendant. The failure of a judge to
6 inform a defendant of possible consequences under Subsection (b) of
7 this section is not a ground for reversal unless the defendant shows
8 that he was harmed by the failure of the judge to provide the
9 information. The minimum and maximum terms of a period of community
10 supervision under this section are the same terms provided under
11 Section 3(b), subject to the extensions provided by Section 22. [~~In~~
12 ~~a felony case, the period of community supervision may not exceed 10~~
13 ~~years. For a defendant charged with a felony under Section 21.11,~~
14 ~~22.011, or 22.021, Penal Code, regardless of the age of the victim,~~
15 ~~and for a defendant charged with a felony described by Section~~
16 ~~13B(b) of this article, the period of community supervision may not~~
17 ~~be less than five years.] In a misdemeanor case, the period of
18 community supervision may not exceed two years, subject to the
19 extensions provided by Section 22. [~~A judge may increase the~~
20 ~~maximum period of community supervision in the manner provided by~~
21 ~~Section 22(c) or 22A of this article.] The judge may impose a fine
22 applicable to the offense and require any reasonable conditions of
23 community supervision, including mental health treatment under
24 Section 11(d) of this article, that a judge could impose on a
25 defendant placed on community supervision for a conviction that was
26 probated and suspended, including confinement. The provisions of
27 Section 15 of this article specifying whether a defendant convicted~~~~

1 of a state jail felony is to be confined in a county jail or state
2 jail felony facility and establishing the minimum and maximum terms
3 of confinement as a condition of community supervision apply in the
4 same manner to a defendant placed on community supervision after
5 pleading guilty or nolo contendere to a state jail felony. However,
6 upon written motion of the defendant requesting final adjudication
7 filed within 30 days after entering such plea and the deferment of
8 adjudication, the judge shall proceed to final adjudication as in
9 all other cases.

10 SECTION 5. Section 15(a)(1), Article 42.12, Code of
11 Criminal Procedure, is amended to read as follows:

12 (1) On conviction of a state jail felony under Section
13 481.115(b), 481.1151(b)(1), 481.116(b), 481.121(b)(3), or
14 481.129(g)(1), Health and Safety Code, that is punished under
15 Section 12.35(a), Penal Code, the judge shall suspend the
16 imposition of the sentence and place the defendant on community
17 supervision, unless the defendant has previously been convicted of
18 a felony, other than a felony punished under Section 12.44(a),
19 Penal Code, in which event the judge may suspend the imposition of
20 the sentence and place the defendant on community supervision or
21 may order the sentence to be executed. The provisions of this
22 subdivision requiring the judge to suspend the imposition of the
23 sentence and place the defendant on community supervision do not
24 apply to a defendant who under Section 481.1151(b)(1), Health and
25 Safety Code, possessed more than five abuse units of the controlled
26 substance or under Section 481.121(b)(3), Health and Safety Code,
27 possessed more than one pound of marihuana.

1 SECTION 6. Sections 15(h)(2) and (3), Article 42.12, Code
2 of Criminal Procedure, are amended to read as follows:

3 (2) A judge may credit against any time a defendant is
4 required to serve in a state jail felony facility time served by the
5 defendant in a county jail or a court-ordered residential program
6 or facility from the time of the defendant's arrest and confinement
7 until sentencing by the trial court, including any time spent in
8 custody waiting to enter a court-ordered residential program or
9 facility, but only if the defendant successfully completes the
10 court-ordered residential program after sentencing.

11 (3) A judge shall credit against any time a defendant
12 is subsequently required to serve in a state jail felony facility
13 after revocation of community supervision any time served by the
14 defendant in a state jail felony facility or court-ordered
15 residential program or facility after sentencing.

16 SECTION 7. Section 16(a), Article 42.12, Code of Criminal
17 Procedure, is amended to read as follows:

18 (a) A judge may [~~shall~~] require as a condition of community
19 supervision[~~7~~] that the defendant work a specified number of hours
20 at a community service project or projects for an organization or
21 organizations approved by the judge and designated by the
22 department. The judge may not require that a defendant work at a
23 community service project if [~~7-unless~~] the judge determines and
24 notes on the order placing the defendant on community supervision
25 that:

26 (1) the defendant is physically or mentally incapable
27 of participating in the project;

1 (2) participating in the project will work a hardship
2 on the defendant or the defendant's dependents;

3 (3) the defendant is to be confined in a substance
4 abuse punishment facility as a condition of community supervision;
5 or

6 (4) there is other good cause shown.

7 SECTION 8. Sections 20(a) and (b), Article 42.12, Code of
8 Criminal Procedure, are amended to read as follows:

9 (a) At any time[7] after the defendant has satisfactorily
10 completed one-third of the original community supervision period or
11 two years of community supervision, whichever is less, the period
12 of community supervision may be reduced or terminated by the judge.
13 On completion of one-half of the original community supervision
14 period, the judge shall review the defendant's record and consider
15 whether to reduce or terminate the period of community supervision,
16 unless the defendant is delinquent in paying required restitution,
17 finances, costs, or fees that the defendant has the ability to pay or
18 the defendant has not completed court-ordered counseling or
19 treatment. Before conducting the review, the judge shall notify
20 the attorney representing the state and the defendant. If a
21 defendant's community supervision record is not reviewed on
22 completion of one-half of the original community supervision period
23 because the defendant is delinquent in paying restitution, fines,
24 costs, or fees or has not completed court-ordered counseling or
25 treatment, not later than 12 months after the defendant has paid the
26 restitution, fines, costs, or fees or completed the counseling or
27 treatment the judge shall review the defendant's community

1 supervision record and consider whether to terminate or reduce the
2 period of community supervision. A judge may not refuse to
3 terminate a period of community supervision solely on the ground
4 that the defendant is indigent and unable to pay restitution,
5 finances, costs, or fees. If the judge determines that the defendant
6 has failed to satisfactorily fulfill the conditions of community
7 supervision, the judge shall advise the defendant in writing of the
8 requirements for satisfactorily fulfilling those conditions. Upon
9 the satisfactory fulfillment of the conditions of community
10 supervision, and the expiration of the period of community
11 supervision, the judge, by order duly entered, shall amend or
12 modify the original sentence imposed, if necessary, to conform to
13 the community supervision period and shall discharge the defendant.
14 If the judge discharges the defendant under this section, the judge
15 may set aside the verdict or permit the defendant to withdraw the
16 defendant's [~~his~~] plea, and shall dismiss the accusation,
17 complaint, information or indictment against the defendant, who
18 shall thereafter be released from all penalties and disabilities
19 resulting from the offense or crime of which the defendant [~~he~~] has
20 been convicted or to which the defendant [~~he~~] has pleaded guilty,
21 except that:

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

25 (2) if the defendant is an applicant for a license or
26 is a licensee under Chapter 42, Human Resources Code, the Texas
27 Department of Human Services may consider the fact that the

1 defendant previously has received community supervision under this
2 article in issuing, renewing, denying, or revoking a license under
3 that chapter.

4 (b) This section does not apply to a defendant convicted of
5 an offense under Sections 49.04-49.08, Penal Code, a defendant
6 convicted of an offense for which on conviction registration as a
7 sex offender is required under Chapter 62, or a defendant convicted
8 of a felony described by Section 3g~~[, as added by Chapter 668, Acts~~
9 ~~of the 75th Legislature, Regular Session, 1997, or a defendant~~
10 ~~convicted of an offense punishable as a state jail felony]~~.

11 SECTION 9. Section 22(c), Article 42.12, Code of Criminal
12 Procedure, is amended to read as follows:

13 (c) The judge may extend a period of community supervision
14 on a showing of good cause under this section as often as the judge
15 determines is necessary, but the period of community supervision in
16 a first, second, or third degree felony case may not exceed 10 years
17 and, except as otherwise provided by this subsection, the period of
18 community supervision in a misdemeanor case may not exceed three
19 years. The judge may extend the period of community supervision in
20 a misdemeanor case for any period the judge determines is
21 necessary, not to exceed an additional two years beyond the
22 three-year limit, if the defendant fails to pay a previously
23 assessed fine, costs, or restitution and the judge determines that
24 extending the period of supervision increases the likelihood that
25 the defendant will fully pay the fine, costs, or restitution. A
26 court may extend a period of community supervision under this
27 section at any time during the period of supervision or, if a motion

1 for revocation of community supervision is filed before the period
2 of supervision ends, before the first anniversary of the date on
3 which the period of supervision expires.

4 SECTION 10. Section 23(b), Article 42.12, Code of Criminal
5 Procedure, is amended to read as follows:

6 (b) No part of the time that the defendant is on community
7 supervision shall be considered as any part of the time that he
8 shall be sentenced to serve, except that on revocation, the judge
9 may credit to the defendant time served by the defendant as a
10 condition of community supervision in a county jail, community
11 corrections facility, or court-ordered residential program or
12 facility, but only if the defendant successfully completes the
13 court-ordered residential program after sentencing. The right of
14 the defendant to appeal for a review of the conviction and
15 punishment, as provided by law, shall be accorded the defendant at
16 the time he is placed on community supervision. When he is notified
17 that his community supervision is revoked for violation of the
18 conditions of community supervision and he is called on to serve a
19 sentence in a jail or in the institutional division of the Texas
20 Department of Criminal Justice, he may appeal the revocation.

21 SECTION 11. Subchapter A, Chapter 102, Code of Criminal
22 Procedure, is amended by adding Article 102.0178 to read as
23 follows:

24 Art. 102.0178. COSTS ATTENDANT TO CERTAIN INTOXICATION AND
25 DRUG CONVICTIONS. (a) In addition to other costs on conviction
26 imposed by this chapter, a person shall pay \$50 as a court cost on
27 conviction of an offense under:

1 (1) Chapter 49, Penal Code; or

2 (2) Chapter 481, Health and Safety Code.

3 (b) The court shall assess and make a reasonable effort to
4 collect the cost due under this article whether or not any other
5 court cost is assessed or collected.

6 (c) For purposes of this article, a person is considered to
7 have been convicted if:

8 (1) a sentence is imposed;

9 (2) the defendant receives community supervision or
10 deferred adjudication; or

11 (3) the court defers final disposition of the case.

12 (d) Court costs under this article are collected in the same
13 manner as other fines or costs. An officer collecting the costs
14 shall keep separate records of the funds collected as costs under
15 this article and shall deposit the funds in the county or municipal
16 treasury, as appropriate.

17 (e) The custodian of a county or municipal treasury shall:

18 (1) keep records of the amount of funds on deposit
19 collected under this article; and

20 (2) send to the comptroller before the last day of the
21 first month following each calendar quarter the funds collected
22 under this article during the preceding quarter.

23 (f) A county or municipality may retain 10 percent of the
24 funds collected under this article by an officer of the county or
25 municipality as a collection fee if the custodian of the county or
26 municipal treasury complies with Subsection (e).

27 (g) If no funds due as costs under this article are

1 deposited in a county or municipal treasury in a calendar quarter,
2 the custodian of the treasury shall file the report required for the
3 quarter in the regular manner and must state that no funds were
4 collected.

5 (h) The comptroller shall deposit the funds received under
6 this article to the credit of the drug court account in the general
7 revenue fund to help fund drug court programs established under
8 Chapter 469, Health and Safety Code. The legislature shall
9 appropriate money from the account solely to the criminal justice
10 division of the governor's office for distribution to drug court
11 programs that apply for the money.

12 (i) Funds collected under this article are subject to audit
13 by the comptroller.

14 SECTION 12. Section 469.001, Health and Safety Code, is
15 amended to read as follows:

16 Sec. 469.001. DRUG COURT PROGRAM DEFINED; PROCEDURES FOR
17 CERTAIN DEFENDANTS. (a) In this chapter, "drug court program"
18 means a program that has the following essential characteristics:

19 (1) the integration of alcohol and other drug
20 treatment services in the processing of cases in the judicial
21 system;

22 (2) the use of a nonadversarial approach involving
23 prosecutors and defense attorneys to promote public safety and to
24 protect the due process rights of program participants;

25 (3) early identification and prompt placement of
26 eligible participants in the program;

27 (4) access to a continuum of alcohol, drug, and other

1 related treatment and rehabilitative services;

2 (5) monitoring of abstinence through weekly alcohol
3 and other drug testing;

4 (6) a coordinated strategy to govern program responses
5 to participants' compliance;

6 (7) ongoing judicial interaction with program
7 participants;

8 (8) monitoring and evaluation of program goals and
9 effectiveness;

10 (9) continuing interdisciplinary education to promote
11 effective program planning, implementation, and operations; and

12 (10) development of partnerships with public agencies
13 and community organizations.

14 (b) If a defendant enters a drug court program following an
15 arrest for an offense punishable as a state jail felony under
16 Chapter 481, the court, with the consent of the attorney
17 representing the state, may defer the proceedings without accepting
18 a plea of guilty or nolo contendere or entering an adjudication of
19 guilt. If the defendant successfully completes the program, on
20 motion of the attorney representing the state, the court may
21 dismiss the indictment or information charging the defendant with
22 the commission of the offense. If the defendant fails to
23 successfully complete the program, the court may proceed as if the
24 case had never been stayed.

25 (c) On ex parte petition or other request of a defendant,
26 the court shall enter an order of nondisclosure under Section
27 411.081, Government Code, as if the defendant had received a

1 discharge and dismissal under Section 5(c), Article 42.12, Code of
2 Criminal Procedure, with respect to all records and files related
3 to the defendant's arrest for the offense for which the defendant
4 entered the drug court program if the defendant:

5 (1) has not been previously convicted of a felony
6 offense; and

7 (2) is not arrested or convicted for any other felony
8 offense before the second anniversary of the defendant's successful
9 completion of the drug court program.

10 SECTION 13. Section 469.002, Health and Safety Code, is
11 amended to read as follows:

12 Sec. 469.002. AUTHORITY TO ESTABLISH PROGRAM. The [~~Except~~
13 ~~as provided by Section 469.006, the~~] commissioners court of a
14 county may establish the following types of [~~a~~] drug court
15 programs:

16 (1) drug courts for [~~program for~~] persons arrested
17 for, charged with, or convicted of:

18 (A) [~~(1)~~] an offense in which an element of the
19 offense is the use or possession of alcohol or the use, possession,
20 or sale of a controlled substance, a controlled substance analogue,
21 or marihuana; or

22 (B) [~~(2)~~] an offense in which the use of alcohol
23 or a controlled substance is suspected to have significantly
24 contributed to the commission of the offense and the offense did not
25 involve:

26 (i) [~~(A)~~] carrying, possessing, or using a
27 firearm or other dangerous weapon;

1 (ii) [~~B~~] the use of force against the
2 person of another; or

3 (iii) [~~C~~] the death of or serious bodily
4 injury to another;

5 (2) drug courts for juveniles detained for, taken into
6 custody for, or adjudicated as having engaged in:

7 (A) delinquent conduct, including habitual
8 felony conduct, or conduct indicating a need for supervision in
9 which an element of the conduct is the use or possession of alcohol
10 or the use, possession, or sale of a controlled substance, a
11 controlled substance analogue, or marihuana; or

12 (B) delinquent conduct, including habitual
13 felony conduct, or conduct indicating a need for supervision in
14 which the use of alcohol or a controlled substance is suspected to
15 have significantly contributed to the commission of the conduct and
16 the conduct did not involve:

17 (i) carrying, possessing, or using a
18 firearm or other dangerous weapon;

19 (ii) the use of force against the person of
20 another; or

21 (iii) the death of or serious bodily injury
22 to another;

23 (3) reentry drug courts for persons with a
24 demonstrated history of using alcohol or a controlled substance who
25 may benefit from a program designed to facilitate the person's
26 transition and reintegration into the community on release from a
27 state or local correctional facility;

1 (4) family dependency drug treatment courts for family
2 members involved in a suit affecting the parent-child relationship
3 in which a parent's use of alcohol or a controlled substance is a
4 primary consideration in the outcome of the suit; or

5 (5) programs for other persons not precisely described
6 by Subdivisions (1)-(4) who may benefit from a program that has the
7 essential characteristics described by Section 469.001.

8 SECTION 14. Section 469.003, Health and Safety Code, is
9 amended by adding Subsection (c) to read as follows:

10 (c) A drug court program established under Section 469.002
11 may:

12 (1) notify the criminal justice division of the
13 governor's office before or on implementation of the program; and

14 (2) provide information regarding the performance of
15 the program to the division on request.

16 SECTION 15. Section 469.004, Health and Safety Code, is
17 amended to read as follows:

18 Sec. 469.004. FEES. (a) A drug court program established
19 under Section 469.002 may collect from a participant in the
20 program:

21 (1) a reasonable program fee not to exceed \$1,000[~~7~~
22 ~~which may be paid on a periodic basis or on a deferred payment~~
23 ~~schedule at the discretion of the judge, magistrate, or program~~
24 ~~director administering the program]; and~~

25 (2) an alcohol or controlled substance [a urinalysis]
26 testing, [and] counseling, and treatment fee[+]

27 [~~(A) based on the participant's ability to pay,~~

1 and

2 [~~(B)~~] in an amount necessary to cover the costs
3 of the testing, ~~[and]~~ counseling, and treatment.

4 (b) Fees collected under this section may be paid on a
5 periodic basis or on a deferred payment schedule at the discretion
6 of the judge, magistrate, or program director administering the
7 program. The fees must be:

8 (1) ~~[A drug court program may require a participant to~~
9 ~~pay all treatment costs incurred while participating in the~~
10 ~~program,]~~ based on the participant's ability to pay; and

11 (2) used only for purposes specific to the program.

12 SECTION 16. Section 469.006, Health and Safety Code, is
13 amended to read as follows:

14 Sec. 469.006. PROGRAM IN CERTAIN COUNTIES MANDATORY. (a)
15 The commissioners court of a county with a population of more than
16 200,000 ~~[550,000]~~ shall establish a drug court program under
17 Subdivision (1) of Section 469.002.

18 (b) ~~[A drug court program required under this section to be~~
19 ~~established must have at least 100 participants during the first~~
20 ~~four months in which the program is operating.~~

21 [~~(c)~~] A county required under this section to establish a
22 drug court program shall apply for ~~[to the]~~ federal and state
23 ~~[government for any]~~ funds available to pay the costs of the
24 program. The criminal justice division of the governor's office
25 may assist a county in applying for federal funds as required by
26 this subsection~~[, including providing financial assistance to the~~
27 ~~county]~~.

1 (c) Notwithstanding Subsection (a), a county is required to
2 establish a drug program under this section only if the county
3 receives federal or state funding specifically for that purpose.

4 (d) A county that does not establish a drug court program as
5 required by this section and maintain the program is ineligible to
6 receive from the state:

7 (1) funds for a community supervision and corrections
8 department; and

9 (2) grants for substance abuse treatment programs
10 administered by the criminal justice division of the governor's
11 office.

12 SECTION 17. Subchapter B, Chapter 102, Government Code, is
13 amended by adding Section 102.022 to read as follows:

14 Sec. 102.022. COURT COST ON CONVICTION TO SUPPORT DRUG
15 COURT PROGRAM. A person convicted of an offense under Chapter 49,
16 Penal Code, or Chapter 481, Health and Safety Code, shall pay a cost
17 on conviction of \$50, as provided by Article 102.0178, Code of
18 Criminal Procedure.

19 SECTION 18. Chapter 509, Government Code, is amended by
20 adding Section 509.016 to read as follows:

21 Sec. 509.016. PRISON DIVERSION PILOT PROGRAM. (a) The
22 division shall establish a pilot program that provides grants to
23 selected departments for the implementation of a system of
24 progressive sanctions designed to reduce the revocation rate of
25 defendants placed on community supervision. The division shall
26 give priority in providing grants to departments serving counties
27 in which the revocation rate for defendants on community

1 supervision significantly exceeds the statewide average.

2 (b) In determining which departments are proper candidates
3 for grants under this section, the division shall give preference
4 to departments that present to the division a plan that will target
5 medium-risk and high-risk defendants and use progressive sanction
6 models that adhere to the components set forth in Section 469.001,
7 Health and Safety Code. As a condition to receiving a grant, a
8 department must offer a plan that contains some if not all of the
9 following components:

10 (1) reduced and specialized caseloads for supervision
11 officers, which may include electronic monitoring or substance
12 abuse testing of defendants;

13 (2) the creation, designation, and fiscal support of
14 courts and associated infrastructure necessary to increase
15 judicial oversight and reduce revocations;

16 (3) increased monitoring and field contact by
17 supervision officers;

18 (4) shortened terms of community supervision, with
19 increased supervision during the earliest part of the term;

20 (5) graduated sanctions and incentives, offered to a
21 defendant by both the departments and courts served by the
22 department;

23 (6) the use of inpatient and outpatient treatment
24 options, including substance abuse treatment, mental health
25 treatment, and cognitive and behavioral programs for defendants;

26 (7) the use of intermediate sanctions facilities;

27 (8) the use of community corrections beds;

- 1 (9) early termination strategies and capabilities;
2 (10) gang intervention strategies; and
3 (11) risk assessment techniques and reassessment
4 techniques.

5 (c) The division shall, not later than December 1, 2006,
6 provide a report to the board. The report must state the number of
7 departments receiving grants under this section, identify those
8 departments by name, and describe for each department receiving a
9 grant the components of the department's program and the success of
10 the department in reducing revocations. The report must also
11 contain an analysis of the scope, effectiveness, and cost benefit
12 of programs funded by grants provided under this section and a
13 comparison of those programs to similar programs in existence in
14 various departments before March 1, 2005. The division may include
15 in the report any other information the division determines will be
16 beneficial to the board or the legislature. The board shall forward
17 the report to the lieutenant governor and the speaker of the house
18 of representatives not later than December 15, 2006.

19 SECTION 19. Section 132.002, Local Government Code, is
20 amended by adding Subsection (f) to read as follows:

21 (f) The director of a community supervision and corrections
22 department, with the approval of the judges described by Section
23 76.002, Government Code, may authorize a community supervision
24 official who collects fees, fines, court costs, and other charges
25 to:

26 (1) accept payment by credit card of a fee, fine, court
27 cost, or other charge; and

1 (2) collect a fee for processing the payment by credit
2 card.

3 SECTION 20. The following provisions are repealed:

4 (1) Sections 4(c), 16(b), 18(c), and 22A, Article
5 42.12, Code of Criminal Procedure; and

6 (2) Section 16(e), Article 42.12, Code of Criminal
7 Procedure, as added by H.B. No. 39, Acts of the 79th Legislature,
8 Regular Session, 2005, effective September 1, 2005.

9 SECTION 21. (a) Except as otherwise provided by this
10 subsection, the change in law made by this Act applies to a person
11 who is on community supervision on or after the effective date of
12 this Act, regardless of when the person was initially placed on
13 community supervision. The change in law made by this Act changing
14 the maximum period of community supervision applies only to a
15 defendant initially placed on community supervision on or after the
16 effective date of this Act.

17 (b) The change in law made by this Act in adding Article
18 102.0178, Code of Criminal Procedure, and Section 102.022,
19 Government Code, applies only to an offense committed on or after
20 the effective date of this Act. An offense committed before the
21 effective date of this Act is governed by the law in effect when the
22 offense was committed, and the former law is continued in effect for
23 that purpose. For purposes of this subsection, an offense was
24 committed before the effective date of this Act if any element of
25 the offense was committed before that date.

26 (c) The change in law made by this Act in amending Section
27 469.001, Health and Safety Code, applies to a defendant who enters a

1 drug court program under Chapter 469, Health and Safety Code,
2 regardless of whether the defendant committed the offense for which
3 the defendant enters the program before, on, or after the effective
4 date of this Act.

5 (d) The commissioners court of a county required under
6 Section 469.006, Health and Safety Code, as amended by this Act, to
7 establish a drug court program shall establish the program not
8 later than the later of:

9 (1) November 1, 2006; or

10 (2) the first anniversary of the initial date on which
11 the federal census indicates that the county's population exceeds
12 200,000.

13 (e) The community justice assistance division of the Texas
14 Department of Criminal Justice shall develop criteria and review
15 grant proposals, as required by Section 509.016, Government Code,
16 as added by this Act, as soon as possible after the effective date
17 of this Act, and shall begin making grants under that section not
18 later than November 30, 2005.

19 SECTION 22. This Act takes effect November 1, 2005.