

By: Haggerty

H.B. No. 575

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 2006 and 2007.

21           SECTION 5. Section 103.021, Government Code, as amended by  
22 the Final Report Regarding Actions to Conform the Statutory Index  
23 of Court Fees and Costs to the Acts of the 78th Legislature, August  
24 2004, is amended to read as follows:

25           Sec. 103.021. ADDITIONAL FEES AND COSTS IN CRIMINAL OR  
26 CIVIL CASES. An accused or defendant, or a party to a civil suit, as  
27 applicable, shall pay the following fees and costs if ordered by the

1 court or otherwise required:

2 (1) a personal bond fee (Art. 17.42, Code of Criminal  
3 Procedure) . . . the greater of \$20 or three percent of the amount  
4 of the bail fixed for the accused;

5 (2) cost of electronic monitoring as a condition of  
6 release on personal bond (Art. 17.43, Code of Criminal Procedure)  
7 . . . actual cost;

8 (3) a fee for verification of and monitoring of motor  
9 vehicle ignition interlock (Art. 17.441, Code of Criminal  
10 Procedure) . . . not to exceed \$10;

11 (4) repayment of reward paid by a crime stoppers  
12 organization on conviction of a felony (Art. 37.073, Code of  
13 Criminal Procedure) . . . amount ordered;

14 (5) reimbursement to general revenue fund for payments  
15 made to victim of an offense as condition of community supervision  
16 (Art. 42.12, Code of Criminal Procedure) . . . not to exceed \$50 for  
17 a misdemeanor offense or \$100 for a felony offense;

18 (6) payment to a crime stoppers organization as  
19 condition of community supervision (Art. 42.12, Code of Criminal  
20 Procedure) . . . not to exceed \$50;

21 (7) children's advocacy center fee (Art. 42.12, Code  
22 of Criminal Procedure) . . . not to exceed \$50;

23 (8) family violence shelter center fee (Art. 42.12,  
24 Code of Criminal Procedure) . . . not to exceed \$100;

25 (9) community supervision fee (Art. 42.12, Code of  
26 Criminal Procedure) . . . not less than \$25 or more than \$60 per  
27 month;

1           (10) additional community supervision fee for certain  
2 offenses (Art. 42.12, Code of Criminal Procedure) . . . \$5 per  
3 month;

4           (10A) one-time supervision termination fee for  
5 certain defendants (Art. 42.12, Code of Criminal Procedure) . . .  
6 \$500;

7           (11) for certain financially able sex offenders as a  
8 condition of community supervision, the costs of treatment,  
9 specialized supervision, or rehabilitation (Art. 42.12, Code of  
10 Criminal Procedure) . . . all or part of the reasonable and  
11 necessary costs of the treatment, supervision, or rehabilitation as  
12 determined by the judge;

13           (12) fee for failure to appear for trial in a justice  
14 or municipal court if a jury trial is not waived (Art. 45.026, Code  
15 of Criminal Procedure) . . . costs incurred for impaneling the  
16 jury;

17           (13) costs of certain testing, assessments, or  
18 programs during a deferral period (Art. 45.051, Code of Criminal  
19 Procedure) . . . amount ordered;

20           (14) special expense on dismissal of certain  
21 misdemeanor complaints (Art. 45.051, Code of Criminal Procedure)  
22 . . . not to exceed amount of fine assessed;

23           (15) an additional fee:

24           (A) as an administrative fee for requesting a  
25 driving safety course or a course under the motorcycle operator  
26 training and safety program for certain traffic offenses to cover  
27 the cost of administering the article (Art. 45.0511(f)(1), Code of



1 Criminal Procedure) . . . not to exceed \$10; or

2 (B) for requesting a driving safety course or a  
3 course under the motorcycle operator training and safety program  
4 before the final disposition of the case (Art. 45.0511(f)(2), Code  
5 of Criminal Procedure) . . . not to exceed the maximum amount of the  
6 fine for the offense committed by the defendant;

7 (16) a request fee for teen court program (Art.  
8 45.052, Code of Criminal Procedure) . . . not to exceed \$10;

9 (17) a fee to cover costs of required duties of teen  
10 court (Art. 45.052, Code of Criminal Procedure) . . . \$10;

11 (18) a mileage fee for officer performing certain  
12 services (Art. 102.001, Code of Criminal Procedure) . . . \$0.15 per  
13 mile;

14 (19) certified mailing of notice of hearing date (Art.  
15 102.006, Code of Criminal Procedure) . . . \$1, plus postage;

16 (20) certified mailing of certified copies of an order  
17 of expunction (Art. 102.006, Code of Criminal Procedure) . . . \$2,  
18 plus postage;

19 (21) sight orders:

20 (A) if the face amount of the check or sight order  
21 does not exceed \$10 (Art. 102.007, Code of Criminal Procedure)  
22 . . . not to exceed \$10;

23 (B) if the face amount of the check or sight order  
24 is greater than \$10 but does not exceed \$100 (Art. 102.007, Code of  
25 Criminal Procedure) . . . not to exceed \$15;

26 (C) if the face amount of the check or sight order  
27 is greater than \$100 but does not exceed \$300 (Art. 102.007, Code of

1 Criminal Procedure) . . . not to exceed \$30;

2 (D) if the face amount of the check or sight order  
3 is greater than \$300 but does not exceed \$500 (Art. 102.007, Code of  
4 Criminal Procedure) . . . not to exceed \$50; and

5 (E) if the face amount of the check or sight order  
6 is greater than \$500 (Art. 102.007, Code of Criminal Procedure)  
7 . . . not to exceed \$75;

8 (22) a fee for pretrial intervention program (Art.  
9 102.012, Code of Criminal Procedure) . . . not to exceed \$500;

10 (23) parking fee violations for child safety fund in  
11 municipalities with populations:

12 (A) greater than 850,000 (Art. 102.014, Code of  
13 Criminal Procedure) . . . not less than \$2 and not to exceed \$5; and

14 (B) less than 850,000 (Art. 102.014, Code of  
15 Criminal Procedure) . . . not to exceed \$5;

16 (24) an administrative fee for collection of fines,  
17 fees, restitution, or other costs (Art. 102.072, Code of Criminal  
18 Procedure) . . . not to exceed \$2 for each transaction;

19 (25) a court reporter fee when testimony is taken:

20 (A) in a criminal court in Dallas County (Sec.  
21 25.0593, Government Code) . . . \$3;

22 (B) in a county criminal court of appeals in  
23 Dallas County (Sec. 25.0594, Government Code) . . . \$3;

24 (C) in a county court at law in McLennan County  
25 (Sec. 25.1572, Government Code) . . . \$3; and

26 (D) in a county criminal court in Tarrant County  
27 (Sec. 25.2223, Government Code) . . . \$3;

1           (26) a speedy trial filing fee in El Paso County (Sec.  
2 54.745, Government Code) . . . \$100;

3           (27) costs for use of magistrate in Brazos County  
4 (Sec. 54.1116, Government Code) . . . not to exceed \$50;

5           (28) an administrative fee for participation in  
6 certain community supervision programs (Sec. 76.015, Government  
7 Code) . . . not less than \$25 and not more than \$40 per month;

8           (29) in family matters:

9           (A) issuing writ of withholding (Sec. 8.262,  
10 Family Code) . . . \$15;

11           (B) filing copy of writ of withholding to  
12 subsequent employer (Sec. 8.267, Family Code) . . . \$15;

13           (C) issuing and delivering modified writ of  
14 withholding or notice of termination (Sec. 8.302, Family Code)  
15 . . . \$15;

16           (D) issuing and delivering notice of termination  
17 of withholding (Sec. 8.303, Family Code) . . . \$15;

18           (E) issuance of change of name certificate (Sec.  
19 45.106, Family Code) . . . \$10;

20           (F) protective order fee (Sec. 81.003, Family  
21 Code) . . . \$16;

22           (G) filing suit requesting adoption of child  
23 (Sec. 108.006, Family Code) . . . \$15;

24           (H) filing fees for suits affecting parent-child  
25 relationship (Sec. 110.002, Family Code):

26           (i) suit or motion for modification (Sec.  
27 110.002, Family Code) . . . \$15;

- 1 (ii) motion for enforcement (Sec. 110.002,  
2 Family Code) . . . \$15;
- 3 (iii) notice of application for judicial  
4 writ of withholding (Sec. 110.002, Family Code) . . . \$15;
- 5 (iv) motion to transfer (Sec. 110.002,  
6 Family Code) . . . \$15;
- 7 (v) petition for license suspension (Sec.  
8 110.002, Family Code) . . . \$15;
- 9 (vi) motion to revoke a stay of license  
10 suspension (Sec. 110.002, Family Code) . . . \$15; and
- 11 (vii) motion for contempt (Sec. 110.002,  
12 Family Code) . . . \$15;
- 13 (I) order or writ of income withholding to be  
14 delivered to employer (Sec. 110.004, Family Code) . . . not to  
15 exceed \$15;
- 16 (J) filing fee for transferred case (Sec.  
17 110.005, Family Code) . . . \$45;
- 18 (K) filing a writ of withholding (Sec. 158.319,  
19 Family Code) . . . \$15;
- 20 (L) filing a request for modified writ of  
21 withholding or notice of termination (Sec. 158.403, Family Code)  
22 . . . not to exceed \$15;
- 23 (M) filing an administrative writ to employer  
24 (Sec. 158.503, Family Code) . . . not to exceed \$15; and
- 25 (N) genetic testing fees in relation to a child  
26 born to a gestational mother (Sec. 160.762, Family Code) . . . as  
27 assessed by the court;

- 1           (30) in juvenile court:
- 2           (A) fee schedule for deferred prosecution
- 3 services (Sec. 53.03, Family Code) . . . maximum fee of \$15 a month;
- 4           (B) a teen court administration fee (Sec. 54.032,
- 5 Family Code) . . . not to exceed \$10;
- 6           (C) court costs for juvenile probation diversion
- 7 fund (Sec. 54.0411, Family Code) . . . \$20;
- 8           (D) a juvenile delinquency prevention fee (Sec.
- 9 54.0461, Family Code) . . . \$5; and
- 10           (E) a court fee for child's probationary period
- 11 (Sec. 54.061, Family Code) . . . not to exceed \$15 a month;
- 12           (31) a court reporter service fee if the courts have
- 13 official court reporters (Sec. 51.601, Government Code) . . . \$15;
- 14           (32) administrative fee on dismissal of charge of
- 15 driving with an expired motor vehicle registration (Sec. 502.407,
- 16 Transportation Code) . . . not to exceed \$10;
- 17           (33) administrative fee on dismissal of charge of
- 18 driving with an expired driver's license (Sec. 521.026,
- 19 Transportation Code) . . . not to exceed \$10;
- 20           (34) administrative fee on remediation of charge of
- 21 driving with an expired inspection certificate (Sec. 548.605,
- 22 Transportation Code) . . . not to exceed \$10;
- 23           (35) administrative fee for failure to appear for a
- 24 complaint or citation on certain offenses (Sec. 706.006,
- 25 Transportation Code) . . . \$30 for each violation;
- 26           (36) administrative fee for failure to pay or satisfy
- 27 certain judgments (Sec. 706.006, Transportation Code) . . . \$30;

1           (37) fee paid on filing a petition for an order of  
2 nondisclosure of criminal history record information in certain  
3 cases (Sec. 411.081, Government Code) . . . \$28; and

4           (38) on a finding that an animal's owner has cruelly  
5 treated the animal, court costs including:

6                   (A) investigation (Sec. 821.023, Health and  
7 Safety Code) . . . actual costs;

8                   (B) expert witnesses (Sec. 821.023, Health and  
9 Safety Code) . . . actual costs;

10                   (C) housing and caring for the animal during its  
11 impoundment (Sec. 821.023, Health and Safety Code) . . . actual  
12 costs;

13                   (D) conducting any public sale ordered by the  
14 court (Sec. 821.023, Health and Safety Code) . . . actual costs;  
15 and

16                   (E) humanely destroying the animal if  
17 destruction is ordered by the court (Sec. 821.023, Health and  
18 Safety Code) . . . actual costs.

19           SECTION 6. This Act applies only to a defendant who is  
20 originally placed on community supervision on or after September 1,  
21 2005.

22           SECTION 7. This Act takes effect September 1, 2005.