

By: Allen of Dallas

H.B. No. 1917

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the procedures for reducing or terminating a term of  
3 community supervision imposed on a criminal defendant.

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

5 SECTION 1. Section 5(c), Article 42.12, Code of Criminal  
6 Procedure, is amended to read as follows:

7 (c) After the defendant satisfactorily completes one-fourth  
8 of the original period of community supervision imposed under  
9 Subsection (a), the defendant by written motion may request the  
10 judge to reduce or terminate the period of community supervision.  
11 After the defendant satisfactorily completes one-third of the  
12 original period of community supervision imposed under Subsection  
13 (a) or two years of community supervision, whichever is less, if a  
14 written motion has been filed under this subsection, the judge  
15 shall review the case and may reduce or terminate the period of  
16 community supervision. After the defendant satisfactorily  
17 completes six years of a period of community supervision that as  
18 originally imposed was longer than six years, regardless of whether  
19 a written motion has been filed under this subsection, unless in the  
20 judge's opinion the best interest of society and the defendant will  
21 be served if the defendant remains under supervision, the judge  
22 shall dismiss the proceedings and discharge the defendant. On  
23 expiration of the original period of [a] community supervision  
24 [period] imposed under Subsection (a) [of this section], if the

1 judge has not proceeded to an adjudication of guilt, the judge shall  
2 dismiss the proceedings [~~against the defendant~~] and discharge the  
3 defendant [~~him~~]. For the purposes of this subsection, the original  
4 period of community supervision imposed under Subsection (a) begins  
5 on the date the judgment is entered in the case placing the  
6 defendant on community supervision. [~~The judge may dismiss the~~  
7 ~~proceedings and discharge a defendant, other than a defendant~~  
8 ~~charged with an offense requiring the defendant to register as a sex~~  
9 ~~offender under Chapter 62, as added by Chapter 668, Acts of the 75th~~  
10 ~~Legislature, Regular Session, 1997, prior to the expiration of the~~  
11 ~~term of community supervision if in the judge's opinion the best~~  
12 ~~interest of society and the defendant will be served.] The judge  
13 may not dismiss the proceedings and discharge a defendant charged  
14 with an offense requiring the defendant to register as a sex  
15 offender under Chapter 62 before the expiration of the original  
16 period of community supervision imposed under Subsection (a) [~~as~~  
17 ~~added by Chapter 668, Acts of the 75th Legislature, Regular~~  
18 ~~Session, 1997]. A defendant may annually file a written motion  
19 under this subsection. The Texas Department of Criminal Justice  
20 shall develop and make available on request a form to assist a  
21 defendant in filing the motion. In determining whether to reduce or  
22 terminate a period of community supervision under this subsection,  
23 a judge shall consider the defendant's compliance with the  
24 conditions of community supervision and, with respect to any  
25 condition requiring the defendant to pay fines, court costs, or  
26 restitution, shall consider the defendant's ability to pay. If the  
27 judge requires a defendant, other than a defendant charged with an~~~~

1 offense requiring the defendant to register as a sex offender under  
2 Chapter 62, to remain under supervision, the judge shall enter a  
3 written statement in the records of the case specifying the grounds  
4 for the judge's decision and shall admonish the defendant that the  
5 judge will consider whether the defendant has made progress toward  
6 eliminating those grounds for denial in arriving at any subsequent  
7 decision to reduce or terminate the period of community  
8 supervision. Except as provided by Section 12.42(g), Penal Code, a  
9 dismissal and discharge under this section may not be deemed a  
10 conviction for the purposes of disqualifications or disabilities  
11 imposed by law for conviction of an offense. For any defendant who  
12 receives a dismissal and discharge under this section:

13 (1) upon conviction of a subsequent offense, the fact  
14 that the defendant had previously received community supervision  
15 with a deferred adjudication of guilt shall be admissible before  
16 the court or jury to be considered on the issue of penalty;

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 with a  
21 deferred adjudication of guilt under this section in issuing,  
22 renewing, denying, or revoking a license under that chapter; and

23 (3) if the defendant is a person who has applied for  
24 registration to provide mental health or medical services for the  
25 rehabilitation of sex offenders, the Interagency Council on Sex  
26 Offender Treatment may consider the fact that the defendant has  
27 received community supervision under this section in issuing,

1 renewing, denying, or revoking a license or registration issued by  
2 that council.

3 SECTION 2. Section 20, Article 42.12, Code of Criminal  
4 Procedure, is amended to read as follows:

5 Sec. 20. REDUCTION OR TERMINATION OF COMMUNITY SUPERVISION.

6 (a) After the defendant satisfactorily completes one-fourth of the  
7 original period of community supervision imposed, the defendant by  
8 written motion may request the judge to reduce or terminate the  
9 period of community supervision. After [~~At any time, after~~] the  
10 defendant [~~has~~] satisfactorily completes [~~completed~~] one-third of  
11 the original period of community supervision imposed [~~period~~] or  
12 two years of community supervision, whichever is less, if a written  
13 motion has been filed under this subsection, the judge shall review  
14 the case and may reduce or terminate the period of community  
15 supervision [~~may be reduced or terminated by the judge~~]. After the  
16 defendant satisfactorily completes six years of a period of  
17 community supervision that as originally imposed was longer than  
18 six years, regardless of whether a written motion has been filed  
19 under this subsection, unless in the judge's opinion the best  
20 interest of society and the defendant will be served if the  
21 defendant remains under supervision, the judge shall dismiss the  
22 proceedings and discharge the defendant. With respect to a  
23 defendant who is required to remain under supervision, the period  
24 of community supervision is terminated on [~~Upon~~] the satisfactory  
25 fulfillment of the conditions of community supervision[~~7~~] and the  
26 expiration of the original period of community supervision imposed.  
27 For the purposes of this subsection, the original period of

1 community supervision imposed begins on the date the judgment is  
2 entered in the case placing the defendant on community supervision.  
3 A defendant may annually file a written motion under this  
4 subsection. The Texas Department of Criminal Justice shall develop  
5 and make available on request a form to assist a defendant in filing  
6 the motion. In determining whether to reduce or terminate a period  
7 of community supervision under this subsection, a judge shall  
8 consider the defendant's compliance with the conditions of  
9 community supervision and, with respect to any condition requiring  
10 the defendant to pay fines, court costs, or restitution, shall  
11 consider the defendant's ability to pay. If the judge requires a  
12 defendant, other than a defendant described by Subsection (b), to  
13 remain under supervision, the judge shall enter a written statement  
14 in the records of the case specifying the grounds for the judge's  
15 decision and shall admonish the defendant that the judge will  
16 consider whether the defendant has made progress toward eliminating  
17 those grounds for denial in arriving at any subsequent decision to  
18 reduce or terminate the period of community supervision. On  
19 termination of a period of community supervision under this  
20 subsection, the judge, by order duly entered, shall amend or modify  
21 the original sentence imposed, if necessary, to conform to the  
22 community supervision period and shall discharge the defendant. If  
23 the judge discharges the defendant under this subsection [~~section~~],  
24 the judge may set aside the verdict or permit the defendant to  
25 withdraw the defendant's [~~his~~] plea, and shall dismiss the  
26 accusation, complaint, information or indictment against the  
27 defendant, who shall thereafter be released from all penalties and

1 disabilities resulting from the offense or crime of which the  
2 defendant [~~he~~] has been convicted or to which the defendant [~~he~~] has  
3 pleaded guilty, except that:

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

7 (2) if the defendant is an applicant for a license or  
8 is a licensee under Chapter 42, Human Resources Code, the Texas  
9 Department of Human Services may consider the fact that the  
10 defendant previously has received community supervision under this  
11 article in issuing, renewing, denying, or revoking a license under  
12 that chapter.

13 (b) The judge may not terminate a period of community  
14 supervision prior to the expiration of the original period of  
15 community supervision imposed if the [~~This section does not apply~~  
16 ~~to a~~] defendant is convicted of:

17 (1) an offense under Sections 49.04-49.08, Penal Code;

18 (2) [~~, a defendant convicted of~~] an offense for which  
19 on conviction registration as a sex offender is required under  
20 Chapter 62; or

21 (3) [~~, as added by Chapter 668, Acts of the 75th~~  
22 ~~Legislature, Regular Session, 1997, or a defendant convicted of~~] an  
23 offense punishable as a state jail felony.

24 SECTION 3. This Act applies only to a defendant who is  
25 originally placed on community supervision on or after September 1,  
26 2005.

27 SECTION 4. This Act takes effect September 1, 2005.