

By: Allen of Dallas

H.B. No. 1920

A BILL TO BE ENTITLED

1 AN ACT

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

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

5 SECTION 1. Section 509.003, Government Code, is amended by  
6 amending Subsection (a) and adding Subsection (e) to read as  
7 follows:

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

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

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

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

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

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

21 (6) minimum standards for a system of progressive  
22 sanctions for defendants who violate conditions of community  
23 supervision based on the severity of the behavior that violates a  
24 condition of community supervision, the defendant's history of

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

8 (e) The minimum standards established under Subsection  
9 (a)(6) must include:

10 (1) an admonishment for the court to give the  
11 defendant at the time of sentencing regarding the system of  
12 progressive sanctions;

13 (2) a systematic approach to address violations  
14 promptly in an effort to deter future violations;

15 (3) an incentive program for defendants who comply  
16 with conditions of supervision that is reviewed and administered by  
17 the court;

18 (4) a plan for reduced or increased supervision and  
19 monitoring of the defendant based on the assessed needs and risks of  
20 the defendant; and

21 (5) an evaluation of defendants who do not respond to  
22 the system of progressive sanctions, but do not commit another  
23 offense, so that they are subject to short-term incarceration in a  
24 secure residential facility and on completion are eligible to be  
25 discharged from supervision.

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

1 (b) A community justice plan required under this section  
2 must include:

3 (1) a statement of goals and priorities and of  
4 commitment by the community justice council, the district judges  
5 who manage the department, and the department to achieve a targeted  
6 level of alternative sanctions, including a commitment to meet or  
7 exceed the minimum standards established by the division for a  
8 system of sanctions for defendants who violate conditions of  
9 community supervision;

10 (2) a description of methods for measuring the success  
11 of programs provided by the department or provided by an entity  
12 served by the department; ~~and~~

13 (3) a proposal for the use of state jail felony  
14 facilities and, at the discretion of the community justice council,  
15 a regional proposal for the construction, operation, maintenance,  
16 or management of a state jail felony facility by a county, a  
17 community supervision and corrections department, or a private  
18 vendor under a contract with a county or a community supervision and  
19 corrections department; and

20 (4) a system of sanctions, to be used by judges,  
21 magistrates, and supervision officers for defendants who violate  
22 conditions of community supervision, that meets the minimum  
23 standards established by the division for a system of sanctions.

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

26 (f) A judge, supervision officer, or magistrate who  
27 modifies conditions of community supervision under this section

1 after a violation of a condition of community supervision shall  
2 attempt to comply with the system of sanctions adopted as part of  
3 the community justice plan for the community supervision and  
4 corrections department supervising the defendant.

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

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

15 ~~[(1) a requirement that the defendant perform~~  
16 ~~community service for a number of hours specified by the court under~~  
17 ~~Section 16 of this article, or an increase in the number of hours~~  
18 ~~that the defendant has previously been required to perform under~~  
19 ~~those sections in an amount not to exceed double the number of hours~~  
20 ~~permitted by Section 16,~~

21 ~~[(2) an increase in the period of community~~  
22 ~~supervision, in the manner described by Subsection (b) of this~~  
23 ~~section,~~

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

26 ~~[(4) the placement of the defendant in a substance~~  
27 ~~abuse felony punishment program operated under Section 493.009,~~

1 Government Code, if:

2 ~~[(A) the defendant is convicted of a felony other~~  
3 ~~than:~~

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

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

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

9 ~~[(i) drug or alcohol abuse significantly~~  
10 ~~contributed to the commission of the crime or violation of~~  
11 ~~community supervision; and~~

12 ~~[(ii) the defendant is a suitable candidate~~  
13 ~~for treatment, as determined by the suitability criteria~~  
14 ~~established by the Texas Board of Criminal Justice under Section~~  
15 ~~493.009(b), Government Code].~~

16 (b) If the community justice plan for the community  
17 supervision and corrections department supervising the defendant  
18 provides that the judge as a sanction for violation of a condition  
19 of community supervision [~~judge imposes a sanction under Subsection~~  
20 ~~(a)(4) of this section, the judge shall also impose a condition~~  
21 ~~requiring the defendant on successful completion of the program to~~  
22 ~~participate in a drug or alcohol abuse continuum of care program.~~

23 ~~[(c) The judge]~~ may extend a period of community supervision  
24 under this section, the judge may extend the period as often as the  
25 judge determines is necessary, but the period of community  
26 supervision in a first, second, or third degree felony case may not  
27 exceed 10 years and, except as otherwise provided by this

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

15 (c) If the community justice plan for the community  
16 supervision and corrections department supervising the defendant  
17 provides that the judge as a sanction for violation of a condition  
18 of community supervision may increase [~~(d) A judge may impose a~~  
19 ~~sanction on a defendant described by Subsection (a)(3) of this~~  
20 ~~section by increasing~~] the fine imposed on the defendant, the judge  
21 may increase the fine, except that the [~~.—The~~] original fine  
22 imposed on the defendant and an increase in the fine imposed under  
23 this subsection may not exceed the maximum fine for the offense for  
24 which the defendant was sentenced. The judge shall deposit money  
25 received from an increase in the defendant's fine under this  
26 subsection in the special fund of the county treasury to be used for  
27 the same purposes for which state aid may be used under Chapter 76,

1 Government Code.

2 SECTION 5. Section 3(d), Article 42.12, Code of Criminal  
3 Procedure, is amended to read as follows:

4 (d) A judge may increase the maximum period of community  
5 supervision in the manner provided by Section 22[~~(e)~~] or 22A of this  
6 article.

7 SECTION 6. Section 4(c), Article 42.12, Code of Criminal  
8 Procedure, is amended to read as follows:

9 (c) A judge may increase the maximum period of community  
10 supervision in the manner provided by Section 22[~~(e)~~] or Section  
11 22A of this article.

12 SECTION 7. Section 5(a), Article 42.12, Code of Criminal  
13 Procedure, is amended to read as follows:

14 (a) Except as provided by Subsection (d) of this section,  
15 when in the judge's opinion the best interest of society and the  
16 defendant will be served, the judge may, after receiving a plea of  
17 guilty or plea of nolo contendere, hearing the evidence, and  
18 finding that it substantiates the defendant's guilt, defer further  
19 proceedings without entering an adjudication of guilt, and place  
20 the defendant on community supervision. A judge may place on  
21 community supervision under this section a defendant charged with  
22 an offense under Section 21.11, 22.011, or 22.021, Penal Code,  
23 regardless of the age of the victim, or a defendant charged with a  
24 felony described by Section 13B(b) of this article, only if the  
25 judge makes a finding in open court that placing the defendant on  
26 community supervision is in the best interest of the victim. The  
27 failure of the judge to find that deferred adjudication is in the

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



1 jail felony is to be confined in a county jail or state jail felony  
2 facility and establishing the minimum and maximum terms of  
3 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 8. Section 22A(c), Article 42.12, Code of Criminal  
11 Procedure, is amended to read as follows:

12 (c) A judge may extend a period of community supervision  
13 under this section only once; however, the judge may extend a  
14 period of community supervision for a defendant under both Section  
15 22[~~(c)~~] and this section, and the prohibition in Section 22[~~(c)~~]  
16 against a period of community supervision in a felony case  
17 exceeding 10 years does not apply to a defendant for whom community  
18 supervision is increased under this section or under both Section  
19 22[~~(c)~~] and this section.

20 SECTION 9. (a) Not later than January 1, 2006, the  
21 community justice assistance division of the Texas Department of  
22 Criminal Justice shall propose and the Texas Board of Criminal  
23 Justice shall adopt minimum sanction standards required by Section  
24 509.003(a), Government Code, as amended by this Act.

25 (b) Not later than June 1, 2006, a community justice council  
26 shall submit to the community justice assistance division of the  
27 Texas Department of Criminal Justice a revised community justice

1 plan that includes, as required by Section 509.007, Government  
2 Code, as amended by this Act:

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

6 (2) a commitment by the community justice council that  
7 the system meet or exceed standards established by the division and  
8 the board.

9 SECTION 10. Notwithstanding the amendment by this Act to  
10 Section 22, Article 42.12, Code of Criminal Procedure, if a  
11 community justice plan containing a system of sanctions described  
12 by Section 5 of this Act has not been approved by the community  
13 justice assistance division of the Texas Department of Criminal  
14 Justice, a judge who on acceptance of the plan will be subject to  
15 the plan may until the plan is accepted impose as a sanction for  
16 violation of a condition of community supervision any sanction  
17 described by Section 22, Article 42.12, Code of Criminal Procedure,  
18 as that section existed immediately before the effective date of  
19 this Act.

20 SECTION 11. This Act takes effect September 1, 2005.