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H.B. No. 2193

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, or any other first or second degree felony;
8 and

9 (2) 5 years, for a third degree felony other than a
10 third degree felony otherwise described by Subdivision (1).

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

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

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

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

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

23 (e) ~~[(f)]~~ ~~The minimum period of community supervision for a~~
24 ~~felony described by Section 13B(b) is five years and the maximum~~
25 ~~period of supervision is 10 years.~~

26 ~~[(g)]~~ A judge shall not deny community supervision to a
27 defendant based solely on the defendant's inability to speak, read,

1 write, hear, or understand English.

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

5 SECTION 3. Sections 4(b) and (d), Article 42.12, Code of
6 Criminal Procedure, are amended to read as follows:

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

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

14 (1) is sentenced to a term of imprisonment that
15 exceeds 10 years;

16 (2) is convicted of a state jail felony for which
17 suspension of the sentence occurs automatically under Section 15(a)
18 [~~is sentenced to serve a term of confinement under Section 12.35,~~
19 ~~Penal Code~~];

20 (3) does not file a sworn motion under Subsection (e)
21 of this section or for whom the jury does not enter in the verdict a
22 finding that the information contained in the motion is true; [~~or~~]

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

1 (5) is adjudged guilty of an offense under Section
2 19.02, Penal Code.

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

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

1 this section is not a ground for reversal unless the defendant shows
2 that he was harmed by the failure of the judge to provide the
3 information. The minimum and maximum terms of a period of community
4 supervision under this section are the same terms provided under
5 Section 3(b), subject to the extensions provided by Section 22. [~~In~~
6 ~~a felony case, the period of community supervision may not exceed 10~~
7 ~~years. For a defendant charged with a felony under Section 21.11,~~
8 ~~22.011, or 22.021, Penal Code, regardless of the age of the victim,~~
9 ~~and for a defendant charged with a felony described by Section~~
10 ~~13B(b) of this article, the period of community supervision may not~~
11 ~~be less than five years.] In a misdemeanor case, the period of
12 community supervision may not exceed two years, subject to the
13 extensions provided by Section 22. [~~A judge may increase the~~
14 ~~maximum period of community supervision in the manner provided by~~
15 ~~Section 22(c) or 22A of this article.] The judge may impose a fine
16 applicable to the offense and require any reasonable conditions of
17 community supervision, including mental health treatment under
18 Section 11(d) of this article, that a judge could impose on a
19 defendant placed on community supervision for a conviction that was
20 probated and suspended, including confinement. The provisions of
21 Section 15 of this article specifying whether a defendant convicted
22 of a state jail felony is to be confined in a county jail or state
23 jail felony facility and establishing the minimum and maximum terms
24 of confinement as a condition of community supervision apply in the
25 same manner to a defendant placed on community supervision after
26 pleading guilty or nolo contendere to a state jail felony. However,
27 upon written motion of the defendant requesting final adjudication~~~~

1 filed within 30 days after entering such plea and the deferment of
2 adjudication, the judge shall proceed to final adjudication as in
3 all other cases.

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

6 (1) On conviction of a state jail felony under Section
7 481.115(b), 481.1151(b)(1), 481.116(b), 481.121(b)(3), or
8 481.129(g)(1), Health and Safety Code, that is punished under
9 Section 12.35(a), Penal Code, the judge shall suspend the
10 imposition of the sentence and place the defendant on community
11 supervision, unless the defendant has previously been convicted of
12 a felony, other than a felony punished under Section 12.44(a),
13 Penal Code, in which event the judge may suspend the imposition of
14 the sentence and place the defendant on community supervision or
15 may order the sentence to be executed. The provisions of this
16 subdivision requiring the judge to suspend the imposition of the
17 sentence and place the defendant on community supervision do not
18 apply to a defendant who under Section 481.1151(b)(1), Health and
19 Safety Code, possessed more than five abuse units of the controlled
20 substance or under Section 481.121(b)(3), Health and Safety Code,
21 possessed more than one pound of marihuana.

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

24 (2) A judge may credit against any time a defendant is
25 required to serve in a state jail felony facility time served by the
26 defendant in a county jail or a court-ordered residential program
27 or facility from the time of the defendant's arrest and confinement

1 until sentencing by the trial court, including any time spent in
2 custody waiting to enter a court-ordered residential program or
3 facility, but only if the defendant successfully completes the
4 court-ordered residential program after sentencing.

5 (3) A judge shall credit against any time a defendant
6 is subsequently required to serve in a state jail felony facility
7 after revocation of community supervision any time served by the
8 defendant in a state jail felony facility or court-ordered
9 residential program or facility after sentencing.

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

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

20 (1) the defendant is physically or mentally incapable
21 of participating in the project;

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

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

27 (4) there is other good cause shown.

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

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

1 supervision, the judge shall advise the defendant in writing of the
2 requirements for satisfactorily fulfilling those conditions. Upon
3 the satisfactory fulfillment of the conditions of community
4 supervision, and the expiration of the period of community
5 supervision, the judge, by order duly entered, shall amend or
6 modify the original sentence imposed, if necessary, to conform to
7 the community supervision period and shall discharge the defendant.
8 If the judge discharges the defendant under this section, the judge
9 may set aside the verdict or permit the defendant to withdraw the
10 defendant's [~~his~~] plea, and shall dismiss the accusation,
11 complaint, information or indictment against the defendant, who
12 shall thereafter be released from all penalties and disabilities
13 resulting from the offense or crime of which the defendant [~~he~~] has
14 been convicted or to which the defendant [~~he~~] has pleaded guilty,
15 except that:

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

19 (2) if the defendant is an applicant for a license or
20 is a licensee under Chapter 42, Human Resources Code, the Texas
21 Department of Human Services may consider the fact that the
22 defendant previously has received community supervision under this
23 article in issuing, renewing, denying, or revoking a license under
24 that chapter.

25 (b) This section does not apply to a defendant convicted of
26 an offense under Sections 49.04-49.08, Penal Code, a defendant
27 convicted of an offense for which on conviction registration as a

1 sex offender is required under Chapter 62, or a defendant convicted
2 of a felony described by Section 3g~~[, as added by Chapter 668, Acts~~
3 ~~of the 75th Legislature, Regular Session, 1997, or a defendant~~
4 ~~convicted of an offense punishable as a state jail felony]~~.

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

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

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

27 (b) No part of the time that the defendant is on community

1 supervision shall be considered as any part of the time that he
2 shall be sentenced to serve, except that on revocation, the judge
3 may credit to the defendant time served by the defendant as a
4 condition of community supervision in a county jail, community
5 corrections facility, or court-ordered residential program or
6 facility, but only if the defendant successfully completes the
7 court-ordered residential program after sentencing. The right of
8 the defendant to appeal for a review of the conviction and
9 punishment, as provided by law, shall be accorded the defendant at
10 the time he is placed on community supervision. When he is notified
11 that his community supervision is revoked for violation of the
12 conditions of community supervision and he is called on to serve a
13 sentence in a jail or in the institutional division of the Texas
14 Department of Criminal Justice, he may appeal the revocation.

15 SECTION 11. Subchapter A, Chapter 102, Code of Criminal
16 Procedure, is amended by adding Article 102.0178 to read as
17 follows:

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

22 (1) Chapter 49, Penal Code; or

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

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

27 (c) For purposes of this article, a person is considered to

1 have been convicted if:

2 (1) a sentence is imposed;

3 (2) the defendant receives community supervision or
4 deferred adjudication; or

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

6 (d) Court costs under this article are collected in the same
7 manner as other fines or costs. An officer collecting the costs
8 shall keep separate records of the funds collected as costs under
9 this article and shall deposit the funds in the county or municipal
10 treasury, as appropriate.

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

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

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

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

21 (g) If no funds due as costs under this article are
22 deposited in a county or municipal treasury in a calendar quarter,
23 the custodian of the treasury shall file the report required for the
24 quarter in the regular manner and must state that no funds were
25 collected.

26 (h) The comptroller shall deposit the funds received under
27 this article to the credit of the drug court account in the general

1 revenue fund to help fund drug court programs established under
2 Chapter 469, Health and Safety Code. The legislature shall
3 appropriate money from the account solely to the criminal justice
4 division of the governor's office for distribution to drug court
5 programs that apply for the money.

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

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

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

13 (1) the integration of alcohol and other drug
14 treatment services in the processing of cases in the judicial
15 system;

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

19 (3) early identification and prompt placement of
20 eligible participants in the program;

21 (4) access to a continuum of alcohol, drug, and other
22 related treatment and rehabilitative services;

23 (5) monitoring of abstinence through weekly alcohol
24 and other drug testing;

25 (6) a coordinated strategy to govern program responses
26 to participants' compliance;

27 (7) ongoing judicial interaction with program

1 participants;

2 (8) monitoring and evaluation of program goals and
3 effectiveness;

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

6 (10) development of partnerships with public agencies
7 and community organizations.

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

19 (c) On ex parte petition or other request of a defendant,
20 the court shall enter an order of nondisclosure under Section
21 411.081, Government Code, as if the defendant had received a
22 discharge and dismissal under Section 5(c), Article 42.12, Code of
23 Criminal Procedure, with respect to all records and files related
24 to the defendant's arrest for the offense for which the defendant
25 entered the drug court program if the defendant:

26 (1) has not been previously convicted of a felony
27 offense; and

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

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

6 Sec. 469.002. AUTHORITY TO ESTABLISH PROGRAM. The [~~Except~~
7 ~~as provided by Section 469.006, the~~] commissioners court of a
8 county may establish the following types of [a] drug court
9 programs:

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

12 (A) [~~(1)~~] an offense in which an element of the
13 offense is the use or possession of alcohol or the use, possession,
14 or sale of a controlled substance, a controlled substance analogue,
15 or marihuana; or

16 (B) [~~(2)~~] an offense in which the use of alcohol
17 or a controlled substance is suspected to have significantly
18 contributed to the commission of the offense and the offense did not
19 involve:

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

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

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

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

1 (A) delinquent conduct, including habitual
2 felony conduct, or conduct indicating a need for supervision in
3 which an element of the conduct is the use or possession of alcohol
4 or the use, possession, or sale of a controlled substance, a
5 controlled substance analogue, or marihuana; or

6 (B) delinquent conduct, including habitual
7 felony conduct, or conduct indicating a need for supervision in
8 which the use of alcohol or a controlled substance is suspected to
9 have significantly contributed to the commission of the conduct and
10 the conduct did not involve:

11 (i) carrying, possessing, or using a
12 firearm or other dangerous weapon;

13 (ii) the use of force against the person of
14 another; or

15 (iii) the death of or serious bodily injury
16 to another;

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

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

26 (5) programs for other persons not precisely described
27 by Subdivisions (1)-(4) who may benefit from a program that has the

1 essential characteristics described by Section 469.001.

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

4 (c) A drug court program established under Section 469.002
5 may:

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

8 (2) provide information regarding the performance of
9 the program to the division on request.

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

12 Sec. 469.004. FEES. (a) A drug court program established
13 under Section 469.002 may collect from a participant in the
14 program:

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

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

21 ~~[(A) based on the participant's ability to pay,~~
22 ~~and~~

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

25 (b) Fees collected under this section may be paid on a
26 periodic basis or on a deferred payment schedule at the discretion
27 of the judge, magistrate, or program director administering the

1 program. The fees must be:

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

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

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

8 Sec. 469.006. PROGRAM IN CERTAIN COUNTIES MANDATORY. (a)
9 The commissioners court of a county with a population of more than
10 200,000 ~~[550,000]~~ shall establish a drug court program under
11 Subdivision (1) of Section 469.002.

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

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

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

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

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

3 (2) grants for substance abuse treatment programs
4 administered by the criminal justice division of the governor's
5 office.

6 SECTION 17. Section 76.002(a), Government Code, is amended
7 to read as follows:

8 (a) The district judge or district judges trying criminal
9 cases in each judicial district and the statutory county court
10 judges trying criminal cases in the county or counties served by the
11 judicial district shall:

12 (1) establish a community supervision and corrections
13 department; and

14 (2) approve the department's budget and community
15 justice plan [~~employ district personnel as necessary to conduct~~
16 ~~presentence investigations, supervise and rehabilitate defendants~~
17 ~~placed on community supervision, enforce the conditions of~~
18 ~~community supervision, and staff community corrections~~
19 ~~facilities~~].

20 SECTION 18. Section 76.003(a), Government Code, is amended
21 to read as follows:

22 (a) A community justice council must be established by the
23 [~~district judge or district~~] judges described by Section 76.002 in
24 each jurisdiction served by a department, unless a board or council
25 that was in existence on September 1, 1991, is performing duties
26 substantially similar to those imposed on a community justice
27 council under this section. The council shall provide continuing

1 policy guidance and direction for the development of community
2 justice plans and community corrections facilities and programs.

3 SECTION 19. Section 76.004, Government Code, is amended to
4 read as follows:

5 Sec. 76.004. DEPARTMENT DIRECTOR; FISCAL OFFICER. (a) The
6 [~~district judge or~~] judges described by Section 76.002 shall
7 appoint a department director who must meet, at a minimum, the
8 eligibility requirements for officers established under Section
9 76.005.

10 (a-1) The department director shall perform or delegate the
11 responsibility for performing the following duties:

12 (1) overseeing the daily operations of the department;

13 (2) preparing annually or biennially a budget for the
14 department;

15 (3) negotiating and entering into contracts on behalf
16 of the department;

17 (4) establishing policies and procedures for all
18 functions of the department;

19 (5) developing personnel policies and procedures,
20 including disciplinary proceedings; and

21 (6) establishing procedures and practices through
22 which the department will address an employment-related grievance.

23 (b) The department director shall employ a sufficient
24 number of officers and other employees to conduct presentence
25 investigations, supervise and rehabilitate defendants placed on
26 community supervision, enforce the conditions of community
27 supervision, and staff community corrections facilities. A person

1 employed under this subsection is an employee of the department and
2 not of the judges or judicial districts [~~perform the professional~~
3 ~~and clerical work of the department~~].

4 (c) The [~~district judge or~~] judges described by Section
5 76.002 may appoint for the department a fiscal officer, other than
6 the county auditor. The fiscal officer is responsible for:

7 (1) managing and protecting funds, fees, state aid,
8 and receipts to the same extent that a county auditor manages county
9 funds and funds of other local entities;

10 (2) ensuring that financial transactions of the
11 department are lawful and allowable; and

12 (3) prescribing accounting procedures for the
13 department.

14 (d) The [~~district judge or~~] judges described by Section
15 76.002 may appoint a person as fiscal officer only after
16 investigating the person and determining that the person is:

17 (1) a person of unquestionably good moral character
18 and intelligence; and

19 (2) a financial officer with at least two years'
20 experience in auditing and accounting.

21 (e) A fiscal officer appointed under this section, before
22 beginning employment and not later than the 20th day after the date
23 of appointment, shall:

24 (1) take an oath stating that the person meets the
25 qualifications required by this section and will not have a
26 personal interest in any contract entered into by the department;
27 and

1 (2) execute a good and sufficient surety bond that:

2 (A) is in the amount of \$5,000 or more;

3 (B) is approved by and payable to the [~~district~~
4 ~~judge or~~] judges described by Section 76.002; and

5 (C) is conditioned on the faithful performance by
6 the fiscal officer of the officer's duties.

7 (f) The [~~district judge or~~] judges described by Section
8 76.002 shall set the annual compensation of a fiscal officer
9 appointed under this section, and the department shall pay all
10 costs related to the functions of the fiscal officer.

11 (g) Subsections (c)-(f) do not diminish the rights of the
12 following officers or entities to examine and audit accounts,
13 records, receipts, and expenditures of a department:

14 (1) the county auditor of a county served by the
15 department;

16 (2) the comptroller; [~~and~~]

17 (3) the state auditor; and

18 (4) the division.

19 SECTION 20. Chapter 76, Government Code, is amended by
20 adding Section 76.0045 to read as follows:

21 Sec. 76.0045. JUDICIAL RESPONSIBILITIES; IMMUNITY. (a)
22 The responsibility of a judge described by Section 76.002 for
23 personnel decisions is limited to the appointment of a department
24 director and a fiscal officer.

25 (b) The responsibility of a judge described by Section
26 76.002 for budgetary decisions is limited to:

27 (1) appointment of a fiscal officer; and

1 (2) approval of the department's budget.

2 (c) A judge described by Section 76.002 has judicial
3 immunity in a suit arising from:

4 (1) the performance of a duty described by Section
5 76.002(a); or

6 (2) the appointment of a department director or a
7 fiscal officer or an act or failure to act by a department employee
8 or by a department director or fiscal officer.

9 SECTION 21. Section 76.0051, Government Code, is amended to
10 read as follows:

11 Sec. 76.0051. AUTHORIZATION TO CARRY WEAPON. An officer is
12 authorized to carry a weapon while engaged in the actual discharge
13 of the officer's duties only if:

14 (1) the officer possesses a certificate of firearms
15 proficiency issued by the Commission on Law Enforcement Officer
16 Standards and Education under Section 1701.257, Occupations Code
17 [415.038]; and

18 (2) the director of the department agrees [~~and the~~
19 ~~judges participating in the management of the department agree~~] to
20 the authorization.

21 SECTION 22. Section 76.006, Government Code, is amended by
22 amending Subsections (a) and (h) and adding Subsection (j) to read
23 as follows:

24 (a) Except as provided by Subsection (c), department
25 employees are not state employees. The department shall contract
26 for all employee benefits with one county served by the department
27 and designated for that purpose by the [~~district judge or~~] judges

1 described by Section 76.002. To the extent that employee benefits
2 are provided by a county under this subsection, the employees are
3 governed by personnel policies and benefits equal to personnel
4 policies for and benefits of other employees of that county. This
5 subsection does not apply to employee benefits for group insurance
6 and related coverages provided to employees of a department through
7 the group benefits program for state employees under Chapter 1551,
8 Insurance Code.

9 (h) If under Subsection (a) the [~~district judge or~~] judges
10 described by Section 76.002 change the designation of the county
11 providing employee benefits, the [~~district judge or~~] judges may not
12 subsequently change that designation before the 10th anniversary of
13 the date on which the previous designation was made.

14 (j) The attorney general shall defend a statutory county
15 court judge in an action in state or federal court if:

16 (1) the cause of action is the result of the judge
17 performing a duty described by Section 76.002, 76.003, or 76.004;
18 and

19 (2) the judge requests the attorney general's
20 assistance in the defense.

21 SECTION 23. Section 76.009(a), Government Code, is amended
22 to read as follows:

23 (a) The [~~district judge or~~] judges described by Section
24 76.002 may expend district funds in order to provide expanded
25 facilities, equipment, and utilities if:

26 (1) the department needs to increase its personnel in
27 order to provide more effective services or to meet workload

1 requirements established under Chapter 509;

2 (2) the county or counties certify to the [~~judge or~~
3 judges described by Section 76.002 that they have neither adequate
4 space in county-owned buildings nor adequate funds to lease
5 additional physical facilities, purchase additional equipment, or
6 pay for additional utilities required by the department; and

7 (3) the county or counties provide facilities,
8 equipment, and utilities at or above the levels required by the
9 division.

10 SECTION 24. Section 76.010(c), Government Code, is amended
11 to read as follows:

12 (c) The department [~~district judge or judges~~] may authorize
13 expenditures of funds provided by the division to the department
14 for the purposes of providing facilities, equipment, and utilities
15 for community corrections facilities or state jail felony
16 facilities if:

17 (1) the community justice council recommends the
18 expenditures; and

19 (2) the division, or the state jail division in the
20 case of a state jail felony facility, provides funds for the purpose
21 of assisting in the establishment or improvement of the facilities.

22 SECTION 25. Section 102.021, Government Code, is amended to
23 read as follows:

24 Sec. 102.021. COURT COSTS ON CONVICTION. A person
25 convicted of an offense shall pay, in addition to all other costs:

26 (1) court costs on conviction of a felony (Sec.
27 133.102, Local Government Code) . . . \$133;

1 (2) court costs on conviction of a Class A or Class B
2 misdemeanor (Sec. 133.102, Local Government Code) . . . \$83;

3 (3) court costs on conviction of a nonjailable
4 misdemeanor offense, including a criminal violation of a municipal
5 ordinance, other than a conviction of an offense relating to a
6 pedestrian or the parking of a motor vehicle (Sec. 133.102, Local
7 Government Code) . . . \$40;

8 (4) court costs on certain convictions in statutory
9 county courts (Sec. 51.702, Government Code) . . . \$15;

10 (5) court costs on certain convictions in certain
11 county courts (Sec. 51.703, Government Code) . . . \$15;

12 (6) a time payment fee if convicted of a felony or
13 misdemeanor for paying any part of a fine, court costs, or
14 restitution on or after the 31st day after the date on which a
15 judgment is entered assessing the fine, court costs, or restitution
16 (Sec. 133.103, Local Government Code) . . . \$25;

17 (7) a fee for services of prosecutor (Art. 102.008,
18 Code of Criminal Procedure) . . . \$25;

19 (8) fees for services of peace officer:

20 (A) issuing a written notice to appear in court
21 for certain violations (Art. 102.011, Code of Criminal Procedure)
22 . . . \$5;

23 (B) executing or processing an issued arrest
24 warrant or capias (Art. 102.011, Code of Criminal Procedure)
25 . . . \$50;

26 (C) summoning a witness (Art. 102.011, Code of
27 Criminal Procedure) . . . \$5;

1 (D) serving a writ not otherwise listed (Art.
2 102.011, Code of Criminal Procedure) . . . \$35;

3 (E) taking and approving a bond and, if
4 necessary, returning the bond to courthouse (Art. 102.011, Code of
5 Criminal Procedure) . . . \$10;

6 (F) commitment or release (Art. 102.011, Code of
7 Criminal Procedure) . . . \$5;

8 (G) summoning a jury (Art. 102.011, Code of
9 Criminal Procedure) . . . \$5;

10 (H) attendance of a prisoner in habeas corpus
11 case if prisoner has been remanded to custody or held to bail (Art.
12 102.011, Code of Criminal Procedure) . . . \$8 each day;

13 (I) mileage for certain services performed (Art.
14 102.011, Code of Criminal Procedure) . . . \$0.29 per mile; and

15 (J) services of a sheriff or constable who serves
16 process and attends examining trial in certain cases (Art. 102.011,
17 Code of Criminal Procedure) . . . not to exceed \$5;

18 (9) services of a peace officer in conveying a witness
19 outside the county (Art. 102.011, Code of Criminal Procedure)
20 . . . \$10 per day or part of a day, plus actual necessary travel
21 expenses;

22 (10) overtime of peace officer for time spent
23 testifying in the trial or traveling to or from testifying in the
24 trial (Art. 102.011, Code of Criminal Procedure) . . . actual cost;

25 (11) court costs on an offense relating to rules of the
26 road, when offense occurs within a school crossing zone (Art.
27 102.014, Code of Criminal Procedure) . . . \$25;

- 1 (12) court costs on an offense of passing a school bus
2 (Art. 102.014, Code of Criminal Procedure) . . . \$25;
- 3 (13) court costs on an offense of truancy or
4 contributing to truancy (Art. 102.014, Code of Criminal Procedure)
5 . . . \$20;
- 6 (14) cost for visual recording of intoxication arrest
7 before conviction (Art. 102.018, Code of Criminal Procedure)
8 . . . \$15;
- 9 (15) cost of certain evaluations (Art. 102.018, Code
10 of Criminal Procedure) . . . actual cost;
- 11 (16) additional costs attendant to certain
12 intoxication convictions under Chapter 49, Penal Code, for
13 emergency medical services, trauma facilities, and trauma care
14 systems (Art. 102.0185, Code of Criminal Procedure) . . . \$100;
- 15 (17) cost for DNA testing for certain felonies (Art.
16 102.020, Code of Criminal Procedure) . . . \$250;
- 17 (18) court cost on an offense of public lewdness or
18 indecent exposure (Art. 102.020, Code of Criminal Procedure)
19 . . . \$50;
- 20 (19) court cost on conviction of a misdemeanor under
21 Subtitle C, Title 7, Transportation Code (Sec. 542.403,
22 Transportation Code) . . . \$3;
- 23 (20) cost for impoundment of vehicle (Sec. 601.263,
24 Transportation Code) . . . \$15 per day; ~~and~~
- 25 (21) a civil and criminal enforcement cost on
26 conviction of an offense of, or related to, the nonpayment of a toll
27 in certain counties (Sec. 284.2031, Transportation Code) . . . \$1;

1 and

2 (22) additional costs attendant to convictions under
3 Chapter 49, Penal Code, and under Chapter 481, Health and Safety
4 Code, to help fund drug court programs established under Chapter
5 469, Health and Safety Code (Art. 102.0178, Code of Criminal
6 Procedure) . . . \$50.

7 SECTION 26. Section 509.007, Government Code, is amended to
8 read as follows:

9 Sec. 509.007. COMMUNITY JUSTICE PLAN. (a) The division
10 shall require as a condition to payment of state aid to a department
11 or county under Section 509.011 [~~and eligibility for payment of~~
12 ~~costs under Section 499.124~~] that a community justice plan be
13 submitted for the department. The community justice council shall
14 submit the plan required by this subsection. A community justice
15 council may not submit a plan under this section unless the plan is
16 first approved under Section 76.002 [~~by the district judges who~~
17 ~~manage the department served by the council~~]. The council shall
18 submit a revised plan to the division each odd-numbered year by a
19 date designated by the division. A plan may be amended at any time
20 with the approval of the division.

21 (b) A community justice plan required under this section
22 must include:

23 (1) a statement of goals and priorities and of
24 commitment by the community justice council, the [~~district~~] judges
25 who established the department and approve the department's budget
26 and community justice plan [~~manage the department~~], and the
27 department to achieve a targeted level of alternative sanctions;

1 (2) a description of methods for measuring the success
2 of programs provided by the department or provided by an entity
3 served by the department; and

4 (3) a proposal for the use of state jail felony
5 facilities and, at the discretion of the community justice council,
6 a regional proposal for the construction, operation, maintenance,
7 or management of a state jail felony facility by a county, a
8 community supervision and corrections department, or a private
9 vendor under a contract with a county or a community supervision and
10 corrections department.

11 SECTION 27. Chapter 509, Government Code, is amended by
12 adding Section 509.016 to read as follows:

13 Sec. 509.016. PRISON DIVERSION PILOT PROGRAM. (a) The
14 division shall establish a pilot program that provides grants to
15 selected departments for the implementation of a system of
16 progressive sanctions designed to reduce the revocation rate of
17 defendants placed on community supervision. The division shall
18 give priority in providing grants to departments serving counties
19 in which the revocation rate for defendants on community
20 supervision significantly exceeds the statewide average.

21 (b) In determining which departments are proper candidates
22 for grants under this section, the division shall give preference
23 to departments that present to the division a plan that will target
24 medium-risk and high-risk defendants and use progressive sanction
25 models that adhere to the components set forth in Section 469.001,
26 Health and Safety Code. As a condition to receiving a grant, a
27 department must offer a plan that contains some if not all of the

1 following components:

2 (1) reduced and specialized caseloads for supervision
3 officers, which may include electronic monitoring or substance
4 abuse testing of defendants;

5 (2) the creation, designation, and fiscal support of
6 courts and associated infrastructure necessary to increase
7 judicial oversight and reduce revocations;

8 (3) increased monitoring and field contact by
9 supervision officers;

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

12 (5) graduated sanctions and incentives, offered to a
13 defendant by both the departments and courts served by the
14 department;

15 (6) the use of inpatient and outpatient treatment
16 options, including substance abuse treatment, mental health
17 treatment, and cognitive and behavioral programs for defendants;

18 (7) the use of intermediate sanctions facilities;

19 (8) the use of community corrections beds;

20 (9) early termination strategies and capabilities;

21 (10) gang intervention strategies; and

22 (11) risk assessment techniques and reassessment
23 techniques.

24 (c) The division shall, not later than December 1, 2006,
25 provide a report to the board. The report must state the number of
26 departments receiving grants under this section, identify those
27 departments by name, and describe for each department receiving a

1 grant the components of the department's program and the success of
2 the department in reducing revocations. The report must also
3 contain an analysis of the scope, effectiveness, and cost benefit
4 of programs funded by grants provided under this section and a
5 comparison of those programs to similar programs in existence in
6 various departments before March 1, 2005. The division may include
7 in the report any other information the division determines will be
8 beneficial to the board or the legislature. The board shall forward
9 the report to the lieutenant governor and the speaker of the house
10 of representatives not later than December 15, 2006.

11 SECTION 28. Section 132.002, Local Government Code, is
12 amended by adding Subsection (f) to read as follows:

13 (f) The director of a community supervision and corrections
14 department, with the approval of the judges described by Section
15 76.002, Government Code, may authorize a community supervision
16 official who collects fees, fines, court costs, and other charges
17 to:

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

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

22 SECTION 29. The following provisions are repealed:

23 (1) Sections 4(c), 16(b), 18(c), and 22A, Article
24 42.12, Code of Criminal Procedure; and

25 (2) Section 76.002(b), Government Code.

26 SECTION 30. (a) Except as otherwise provided by this
27 subsection, the change in law made by this Act applies to a person

1 who is on community supervision on or after the effective date of
2 this Act, regardless of when the person was initially placed on
3 community supervision. The change in law made by this Act changing
4 the maximum period of community supervision applies only to a
5 defendant initially placed on community supervision on or after the
6 effective date of this Act.

7 (b) The change in law made by this Act in adding Article
8 102.0178, Code of Criminal Procedure, and amending Section 102.021,
9 Government Code, applies only to an offense committed on or after
10 the effective date of this Act. An offense committed before the
11 effective date of this Act is governed by the law in effect when the
12 offense was committed, and the former law is continued in effect for
13 that purpose. For purposes of this subsection, an offense was
14 committed before the effective date of this Act if any element of
15 the offense was committed before that date.

16 (c) The change in law made by this Act in amending Section
17 469.001, Health and Safety Code, applies to a defendant who enters a
18 drug court program under Chapter 469, Health and Safety Code,
19 regardless of whether the defendant committed the offense for which
20 the defendant enters the program before, on, or after the effective
21 date of this Act.

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

- 26 (1) September 1, 2006; or
27 (2) the first anniversary of the initial date on which

1 the federal census indicates that the county's population exceeds
2 200,000.

3 (e) The change in law made by Section 76.0045, Government
4 Code, as added by this Act, applies only to an act or failure to act
5 by a judge, a community supervision or corrections department, or a
6 department director that occurs on or after the effective date of
7 this Act. An act or failure to act by a judge, a community
8 supervision and corrections department, or a department director
9 that occurs before the effective date of this Act is governed by the
10 law in effect on the date the act or failure to act occurred, and the
11 former law is continued in effect for that purpose.

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

18 SECTION 31. This Act takes effect September 1, 2005.