

By: Smith of Tarrant

H.B. No. 2929

A BILL TO BE ENTITLED

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AN ACT

relating to the payment of fines, court costs, and restitution imposed on a defendant in a criminal case.

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

SECTION 1. Article 42.037(g), Code of Criminal Procedure, is amended to read as follows:

(g)(1) The court may require a defendant to make restitution under this article within a specified period or in specified installments.

~~(2)~~ The end of the period or the last installment may not be later than:

(A) the end of the period of community supervision ~~[probation]~~, if community supervision ~~[probation]~~ is ordered;

(B) five years after the end of the term of imprisonment imposed, if the court does not order community supervision ~~[probation]~~; or

(C) five years after the date of sentencing in any other case.

(2) The court may require a defendant to report to an in-house or other collection department to establish an agreement to make restitution under this article.

(3) If the court does not provide otherwise, the defendant shall make restitution immediately.

1           (4) Except as provided by Subsection (n), the order of  
2 restitution must require the defendant to make restitution directly  
3 to the victim or other person eligible for restitution under this  
4 article or to deliver the amount or property due as restitution to a  
5 community supervision and corrections department for transfer to  
6 the victim or person.

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

9           (c) On expiration of a community supervision period imposed  
10 under Subsection (a) of this section, if the judge has not proceeded  
11 to adjudication of guilt, the judge shall dismiss the proceedings  
12 against the defendant and discharge him, except that the judge may  
13 not dismiss the proceedings and discharge a defendant under this  
14 subsection if the defendant fails to pay a previously assessed  
15 fine, costs, or restitution and the judge determines that  
16 continuing the period of supervision increases the likelihood that  
17 the defendant will fully pay the fine, costs, or restitution. The  
18 judge may dismiss the proceedings and discharge a defendant, other  
19 than a defendant charged with an offense requiring the defendant to  
20 register as a sex offender under Chapter 62 or a defendant who fails  
21 to fully pay any applicable fine, costs, or restitution the  
22 defendant has the ability and is likely to pay~~[, as added by Chapter~~  
23 ~~668, Acts of the 75th Legislature, Regular Session, 1997]~~, prior to  
24 the expiration of the term of community supervision if in the  
25 judge's opinion the best interest of society and the defendant will  
26 be served. The judge may not dismiss the proceedings and discharge  
27 a defendant charged with an offense requiring the defendant to

1 register under Chapter 62, or discharge a defendant who fails to  
2 fully pay any applicable fine, costs, or restitution the defendant  
3 has the ability and is likely to pay [~~as added by Chapter 668, Acts~~  
4 ~~of the 75th Legislature, Regular Session, 1997~~]. Except as  
5 provided by Section 12.42(g), Penal Code, a dismissal and discharge  
6 under this section may not be deemed a conviction for the purposes  
7 of disqualifications or disabilities imposed by law for conviction  
8 of an offense. For any defendant who receives a dismissal and  
9 discharge under this section:

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

14 (2) if the defendant is an applicant for a license or  
15 is a licensee under Chapter 42, Human Resources Code, the Texas  
16 Department of Human Services may consider the fact that the  
17 defendant previously has received community supervision with a  
18 deferred adjudication of guilt under this section in issuing,  
19 renewing, denying, or revoking a license under that chapter; and

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

27 SECTION 3. Section 15(b), Article 42.12, Code of Criminal

1 Procedure, is amended to read as follows:

2 (b)(1) The minimum period of community supervision a judge  
3 may impose under this section is two years. The maximum period of  
4 community supervision a judge may impose under this section is five  
5 years, except that the judge may extend the maximum period of  
6 community supervision under this section to not more than 10 years  
7 or to the period required by Subdivision (2). A judge may extend a  
8 period of community supervision under this section at any time  
9 during the period of community supervision, or if a motion for  
10 revocation of community supervision is filed before the period of  
11 community supervision ends, before the first anniversary of the  
12 expiration of the period of community supervision.

13 (2) The judge shall extend the period of community  
14 supervision under this section for any period the judge determines  
15 is necessary if:

16 (A) the defendant fails to pay a previously  
17 assessed fine, costs, or restitution; and

18 (B) the judge determines that extending the  
19 period of supervision increases the likelihood that the defendant  
20 will fully pay the fine, costs, or restitution.

21 SECTION 4. Section 20(a), Article 42.12, Code of Criminal  
22 Procedure, is amended to read as follows:

23 (a) At any time, after the defendant has satisfactorily  
24 completed one-third of the original community supervision period or  
25 two years of community supervision, whichever is less, the period  
26 of community supervision may be reduced or terminated by the judge,  
27 except that the judge may not reduce or terminate the period of

1 community supervision under this subsection if the defendant fails  
2 to pay a previously assessed fine, costs, or restitution and the  
3 judge determines that continuing the period of supervision  
4 increases the likelihood that the defendant will fully pay the  
5 fine, costs, or restitution. Upon the satisfactory fulfillment of  
6 the conditions of community supervision, the full payment of any  
7 applicable fine, costs, or restitution the defendant has the  
8 ability and is likely to pay, and the expiration of the period of  
9 community supervision, the judge, by order duly entered, shall  
10 amend or modify the original sentence imposed, if necessary, to  
11 conform to the community supervision period and shall discharge the  
12 defendant. If the judge discharges the defendant under this  
13 section, the judge may set aside the verdict or permit the defendant  
14 to withdraw his plea, and shall dismiss the accusation, complaint,  
15 information or indictment against the defendant, who shall  
16 thereafter be released from all penalties and disabilities  
17 resulting from the offense or crime of which he has been convicted  
18 or to which he has pleaded guilty, except that:

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

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

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

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

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

24 (c) A judge may extend a period of community supervision  
25 under this section only once; however, the judge may extend a  
26 period of community supervision for a defendant under both Section  
27 22(c) and this section, and the general prohibition in Section

1 22(c) against a period of community supervision in a felony case  
2 exceeding 10 years does not apply to a defendant for whom community  
3 supervision is increased under this section or under both Section  
4 22(c) and this section.

5 SECTION 7. Article 42.15(b), Code of Criminal Procedure, is  
6 amended to read as follows:

7 (b) When imposing a fine and costs a court may direct a  
8 defendant:

9 (1) to pay the entire fine and costs when sentence is  
10 pronounced; [~~or~~]

11 (2) to pay the entire fine and costs at some later  
12 date; [~~or~~]

13 (3) to pay a specified portion of the fine and costs at  
14 designated intervals; or

15 (4) to report to an in-house or other collection  
16 department to establish an agreement to pay the fine and costs.

17 SECTION 8. Section 508.155(c), Government Code, is amended  
18 to read as follows:

19 (c) The division may allow a releasee to serve the remainder  
20 of the releasee's sentence without supervision and without being  
21 required to report if:

22 (1) the releasee has been under supervision for at  
23 least one-half of the time that remained on the releasee's sentence  
24 when the releasee was released from imprisonment;

25 (2) during the period of supervision the releasee's  
26 parole or release to mandatory supervision has not been revoked;

27 and

1 (3) the division determines:

2 (A) that the releasee has made a good faith  
3 effort to comply with any court [~~restitution~~] order requiring  
4 [~~imposed on~~] the releasee to pay a fine, court costs, or restitution  
5 [~~by a court~~]; and

6 (B) that allowing the releasee to serve the  
7 remainder of the releasee's sentence without supervision and  
8 reporting is in the best interest of society.

9 SECTION 9. (a) Except as provided by Subsection (b), the  
10 change in law made by this Act applies only to a person placed on  
11 community supervision, released on parole, or released to mandatory  
12 supervision for an offense committed on or after the effective date  
13 of this Act. A person placed on community supervision, released on  
14 parole, or released to mandatory supervision for an offense that  
15 was committed before the effective date of this Act is governed by  
16 the law in effect on the date the offense was committed, and the  
17 former law is continued in effect for that purpose.

18 (b) The change in law made by this Act in amending Articles  
19 42.037 and 42.15, Code of Criminal Procedure, applies only to an  
20 offense committed on or after the effective date of this Act. An  
21 offense committed before the effective date of this Act is covered  
22 by the law in effect when the offense was committed, and the former  
23 law is continued in effect for that purpose.

24 (c) For purposes of this section, an offense was committed  
25 before the effective date of this Act if any element of the offense  
26 was committed before that date.

27 SECTION 10. This Act takes effect September 1, 2005.