

By: Whitmire

S.B. No. 1261

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the maximum period of community supervision imposed for
3 the commission of a felony.

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

5 SECTION 1. Section 3(b), Article 42.12, Code of Criminal
6 Procedure, is amended to read as follows:

7 (b) In [~~Except as provided by Subsection (f), in~~] a felony
8 case the minimum period of community supervision is the same as the
9 minimum term of imprisonment applicable to the offense and the
10 maximum period of community supervision is five [~~10~~] years, except
11 that the judge may impose a maximum of five one-year extensions for
12 good cause. The judge may not impose more than one extension per
13 hearing held under Section 21.

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

16 (a) Except as provided by Subsection (d) of this section,
17 when in the judge's opinion the best interest of society and the
18 defendant will be served, the judge may, after receiving a plea of
19 guilty or plea of nolo contendere, hearing the evidence, and
20 finding that it substantiates the defendant's guilt, defer further
21 proceedings without entering an adjudication of guilt, and place
22 the defendant on community supervision. A judge may place on
23 community supervision under this section a defendant charged with
24 an offense under Section 21.11, 22.011, or 22.021, Penal Code,

1 regardless of the age of the victim, or a defendant charged with a
2 felony described by Section 13B(b) of this article, only if the
3 judge makes a finding in open court that placing the defendant on
4 community supervision is in the best interest of the victim. The
5 failure of the judge to find that deferred adjudication is in the
6 best interest of the victim is not grounds for the defendant to set
7 aside the plea, deferred adjudication, or any subsequent conviction
8 or sentence. After placing the defendant on community supervision
9 under this section, the judge shall inform the defendant orally or
10 in writing of the possible consequences under Subsection (b) of
11 this section of a violation of community supervision. If the
12 information is provided orally, the judge must record and maintain
13 the judge's statement to the defendant. The failure of a judge to
14 inform a defendant of possible consequences under Subsection (b) of
15 this section is not a ground for reversal unless the defendant shows
16 that he was harmed by the failure of the judge to provide the
17 information. In a felony case, the period of community supervision
18 may not exceed five ~~[10]~~ years, except that the judge may impose a
19 maximum of five one-year extensions for good cause. The judge may
20 not impose more than one extension per hearing held under Section
21 21. ~~[For a defendant charged with a felony under Section 21.11,~~
22 ~~22.011, or 22.021, Penal Code, regardless of the age of the victim,~~
23 ~~and for a defendant charged with a felony described by Section~~
24 ~~13B(b) of this article, the period of community supervision may not~~
25 ~~be less than five years.]~~ In a misdemeanor case, the period of
26 community supervision may not exceed two years. A judge may
27 increase the maximum period of community supervision in the manner

1 provided by Section 22(c) or 22A of this article. The judge may
2 impose a fine applicable to the offense and require any reasonable
3 conditions of community supervision, including mental health
4 treatment under Section 11(d) of this article, that a judge could
5 impose on a defendant placed on community supervision for a
6 conviction that was probated and suspended, including confinement.
7 The provisions of Section 15 of this article specifying whether a
8 defendant convicted of a state jail felony is to be confined in a
9 county jail or state jail felony facility and establishing the
10 minimum and maximum terms of confinement as a condition of
11 community supervision apply in the same manner to a defendant
12 placed on community supervision after pleading guilty or nolo
13 contendere to a state jail felony. However, upon written motion of
14 the defendant requesting final adjudication filed within 30 days
15 after entering such plea and the deferment of adjudication, the
16 judge shall proceed to final adjudication as in all other cases.

17 SECTION 3. Section 15(b), Article 42.12, Code of Criminal
18 Procedure, is amended to read as follows:

19 (b) The minimum period of community supervision a judge may
20 impose under this section is two years. The maximum period of
21 community supervision a judge may impose under this section is five
22 years, except that the judge may impose a maximum of five one-year
23 extensions for good cause. The judge may not impose more than one
24 extension per hearing held under Section 21 [~~the judge may extend~~
25 ~~the maximum period of community supervision under this section to~~
26 ~~not more than 10 years~~]. A judge may extend a period of community
27 supervision under this section at any time during the period of

1 community supervision, or if a motion for revocation of community
2 supervision is filed before the period of community supervision
3 ends, before the first anniversary of the expiration of the period
4 of community supervision.

5 SECTION 4. 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 ~~under this section as often as the judge determines is necessary,~~
9 ~~but the]~~ period of community supervision in a ~~[first, second, or~~
10 ~~third degree]~~ felony case may not exceed five ~~[10]~~ years ~~[and]~~,
11 except that the judge may impose a maximum of five one-year
12 extensions for good cause. The judge may not impose more than one
13 extension per hearing held under Section 21. Except ~~[except]~~ as
14 otherwise provided by this subsection, the period of community
15 supervision in a misdemeanor case may not exceed three years. The
16 judge may extend the period of community supervision in a
17 misdemeanor case for any period the judge determines is necessary,
18 not to exceed an additional two years beyond the three-year limit,
19 if the defendant fails to pay a previously assessed fine, costs, or
20 restitution and the judge determines that extending the period of
21 supervision increases the likelihood that the defendant will fully
22 pay the fine, costs, or restitution. A court may extend a period of
23 community supervision under this section at any time during the
24 period of supervision or, if a motion for revocation of community
25 supervision is filed before the period of supervision ends, before
26 the first anniversary of the date on which the period of supervision
27 expires.

1 SECTION 5. Sections 1, 3(f), and 22A, Article 42.12, Code of
2 Criminal Procedure, are repealed.

3 SECTION 6. (a) Except as provided by Subsection (b), the
4 change in law made by this Act applies to any defendant who is on
5 community supervision on or after the effective date of this Act,
6 regardless of when the defendant was placed on community
7 supervision.

8 (b) The changes in law made by this Act to Sections 3(b) and
9 5(a), Article 42.12, Code of Criminal Procedure, reducing the
10 maximum period of community supervision, apply only to a defendant
11 placed on community supervision on or after the effective date of
12 this Act.

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