

By: Whitmire

S.B. No. 1266

A BILL TO BE ENTITLED

AN ACT

relating to the exercise of judicial discretion with respect to the administration of community supervision.

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

SECTION 1. Sections 3(b) and (d), Article 42.12, Code of Criminal Procedure, are amended to read as follows:

(b) Except as provided by Section 3g of this article, ~~[Subsection (f), in a felony case the minimum period of community supervision is the same as the minimum term of imprisonment applicable to the offense and]~~ the maximum period of community supervision in a felony case is five [10] years, except that the judge may impose a maximum of five one-year extensions for good cause stated in the record of the case. The judge may not impose more than one extension per hearing held under Section 21.

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

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

Sec. 3g. ~~[LIMITATION ON]~~ JUDGE ORDERED COMMUNITY SUPERVISION FOR CERTAIN OFFENSES. (a) In a felony case in which the defendant is convicted of an offense listed in Subdivision (1) or for which the judgment contains an affirmative finding under Subdivision (2), the maximum period of community supervision that

1 may be imposed in the manner provided by Section 3(a) is 10 years.
2 This subsection applies to [~~The provisions of Section 3 of this~~
3 ~~article do not apply~~]:

4 (1) a case involving [~~to a defendant adjudged guilty~~
5 ~~of~~] an offense under:

6 (A) Section 19.02, Penal Code (Murder);

7 (B) Section 19.03, Penal Code (Capital murder);

8 (C) Section 21.11(a)(1), Penal Code (Indecency
9 with a child);

10 (D) Section 20.04, Penal Code (Aggravated
11 kidnapping);

12 (E) Section 22.021, Penal Code (Aggravated
13 sexual assault);

14 (F) Section 29.03, Penal Code (Aggravated
15 robbery);

16 (G) Chapter 481, Health and Safety Code, for
17 which punishment is increased under:

18 (i) Section 481.140, Health and Safety
19 Code; or

20 (ii) Section 481.134(c), (d), (e), or (f),
21 Health and Safety Code, if it is shown that the defendant has been
22 previously convicted of an offense for which punishment was
23 increased under any of those subsections; or

24 (H) Section 22.011, Penal Code (Sexual assault);

25 or

26 (2) a case in which the trial court makes an
27 affirmative finding [~~to a defendant when it is shown~~] that a deadly

1 weapon as defined in Section 1.07, Penal Code, was used or exhibited
2 during the commission of a felony offense or during immediate
3 flight therefrom, and that the defendant used or exhibited the
4 deadly weapon or was a party to the offense and knew that a deadly
5 weapon would be used or exhibited~~[. On an affirmative finding under~~
6 ~~this subdivision],~~ in which event the trial court shall enter the
7 finding in the judgment of the court. On an affirmative finding
8 that the deadly weapon was a firearm, the court shall enter that
9 finding in the [its] judgment of the court.

10 (b) If there is an affirmative finding under Subsection
11 (a)(2) in the trial of a felony of the second degree or higher that
12 the deadly weapon used or exhibited was a firearm and the defendant
13 is granted community supervision, the court may order the defendant
14 confined in the institutional division of the Texas Department of
15 Criminal Justice as provided by Section 6 of this article ~~[for not~~
16 ~~less than 60 and not more than 120 days. At any time after the~~
17 ~~defendant has served 60 days in the custody of the institutional~~
18 ~~division, the sentencing judge, on his own motion or on motion of~~
19 ~~the defendant, may order the defendant released to community~~
20 ~~supervision. The institutional division shall release the~~
21 ~~defendant to community supervision after he has served 120 days].~~

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

24 (b) If the jury recommends to the judge that the judge place
25 the defendant on community supervision, the judge shall place the
26 defendant on community supervision for any period authorized
27 ~~[permitted]~~ under Section 3 or 3g ~~[3(b) or 3(c)]~~ of this article, as

1 appropriate.

2 (c) A judge may increase the maximum period of community
3 supervision in the manner provided by [~~Section 22(c) or~~] Section
4 22A of this article.

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

7 (1) is sentenced to a term of imprisonment that
8 exceeds 10 years;

9 (2) is sentenced to serve a term of confinement under
10 Section 12.35, Penal Code; or

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

14 [~~(4)~~] is adjudged guilty of an offense for which
15 punishment is increased under Section 481.134(c), (d), (e), or (f),
16 Health and Safety Code, if it is shown that the defendant has been
17 previously convicted of an offense for which punishment was
18 increased under any one of those subsections.

19 SECTION 4. Sections 5(a) and (c), Article 42.12, Code of
20 Criminal Procedure, are amended to read as follows:

21 (a) Except as provided by Subsection (d) of this section,
22 when in the judge's opinion the best interest of society and the
23 defendant will be served, the judge may, after receiving a plea of
24 guilty or plea of nolo contendere, hearing the evidence, and
25 finding that it substantiates the defendant's guilt, defer further
26 proceedings without entering an adjudication of guilt, and place
27 the defendant on community supervision. A judge may place on

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

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

18 (c) On expiration of a community supervision period imposed
19 under Subsection (a) of this section, if the judge has not proceeded
20 to adjudication of guilt, the judge shall dismiss the proceedings
21 against the defendant and discharge him. The judge may dismiss the
22 proceedings and discharge a defendant~~[, other than a defendant~~
23 ~~charged with an offense requiring the defendant to register as a sex~~
24 ~~offender under Chapter 62, as added by Chapter 668, Acts of the 75th~~
25 ~~Legislature, Regular Session, 1997,]~~ prior to the expiration of the
26 term of community supervision if in the judge's opinion the best
27 interest of society and the defendant will be served. ~~[The judge~~

1 ~~may not dismiss the proceedings and discharge a defendant charged~~
2 ~~with an offense requiring the defendant to register under Chapter~~
3 ~~62, as added by Chapter 668, Acts of the 75th Legislature, Regular~~
4 ~~Session, 1997.]~~ Except as provided by Section 12.42(g), Penal
5 Code, a dismissal and discharge under this section may not be deemed
6 a conviction for the purposes of disqualifications or disabilities
7 imposed by law for conviction of an offense. For any defendant who
8 receives a dismissal and discharge under this section:

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

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

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

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

1 (a) For the purposes of this section, the jurisdiction of a
2 court in which a sentence requiring imprisonment in the
3 institutional division of the Texas Department of Criminal Justice
4 is imposed by the judge of the court shall continue for two years
5 [~~180 days~~] from the date the execution of the sentence actually
6 begins. Before the expiration of two years [~~180 days~~] from the date
7 the execution of the sentence actually begins, the judge of the
8 court that imposed the [~~such~~] sentence may on the judge's [~~his~~] own
9 motion, on the motion of the attorney representing the state, or on
10 the written motion of the defendant, suspend further execution of
11 the sentence and place the defendant on community supervision under
12 the terms and conditions of this article, if in the opinion of the
13 judge the defendant would not benefit from further imprisonment
14 and:

15 (1) the defendant is otherwise eligible for community
16 supervision under this article; and

17 (2) the defendant had never before been incarcerated
18 in a penitentiary serving a sentence for a felony.

19 SECTION 6. Section 8(a), Article 42.12, Code of Criminal
20 Procedure, is amended to read as follows:

21 (a) For the purposes of this section, the jurisdiction of a
22 court in which a sentence requiring imprisonment in the
23 institutional division of the Texas Department of Criminal Justice
24 is imposed for conviction of a felony shall continue for 180 days
25 from the date on which the convicted person is received into custody
26 by the institutional division. After the expiration of 75 days but
27 prior to the expiration of 180 days from the date on which the

1 convicted person is received into custody by the institutional
2 division, the judge of the court that imposed the sentence may
3 suspend further execution of the sentence imposed and place the
4 person on community supervision under the terms and conditions of
5 this article, if in the opinion of the judge the person would not
6 benefit from further imprisonment. The court shall clearly
7 indicate in its order recommending the placement of the person in
8 the state boot camp program that the court is not retaining
9 jurisdiction over the person for the purposes of Section 6 of this
10 article. A court may recommend a person for placement in the state
11 boot camp program only if:

12 (1) the person is otherwise eligible for community
13 supervision under this article, except that the person remains
14 eligible for purposes of this subsection if the person is sentenced
15 to a term of confinement under Section 12.35, Penal Code; and

16 (2) the person is 17 years of age or older but younger
17 than 26 years and is physically and mentally capable of
18 participating in a program that requires strenuous physical
19 activity[~~and~~

20 [~~(3) the person is not convicted of an offense~~
21 ~~punishable as a state jail felony].~~

22 SECTION 7. Sections 9(a), (j), and (k), Article 42.12, Code
23 of Criminal Procedure, are amended to read as follows:

24 (a) Except as provided by Subsection (g) of this section,
25 before the imposition of sentence by a judge in a felony case, and
26 except as provided by Subsection (b) of this section, before the
27 imposition of sentence by a judge in a misdemeanor case, the judge

1 shall direct a supervision officer to report to the judge in writing
2 on the circumstances of the offense with which the defendant is
3 charged, [~~the amount of restitution necessary to adequately~~
4 ~~compensate a victim of the offense,~~] the criminal and social
5 history of the defendant, and any other information relating to the
6 defendant or the offense requested by the judge. The judge may
7 request [~~It is not necessary~~] that the report contain a sentencing
8 recommendation, [~~but the report must contain~~] a proposed client
9 supervision plan describing programs and sanctions that the
10 community supervision and corrections department would provide the
11 defendant if the judge suspended the imposition of the sentence or
12 granted deferred adjudication, or both.

13 (j) The judge by order may direct that any information and
14 records that are not privileged and that are relevant to a report
15 required by Subsection (a) or Subsection (k) of this section be
16 released to an officer conducting a presentence investigation under
17 Subsection (a) [~~(i)~~] of this section or a postsentence report under
18 Subsection (k) of this section. The judge may also issue a subpoena
19 to obtain that information. A report and all information obtained
20 in connection with a presentence investigation or postsentence
21 report are confidential and may be released only:

22 (1) to those persons and under those circumstances
23 authorized under [~~Subsections (d), (e), (f), (h), (k), and (l) of~~]
24 this section;

25 (2) pursuant to Section 614.017, Health and Safety
26 Code; or

27 (3) as directed by the judge for the effective

1 supervision of the defendant.

2 (k) If a presentence report in a felony case is not required
3 under this section, the judge may direct the officer to prepare a
4 postsentence report containing the same information that would have
5 been included in [~~required for~~] the presentence report, other than
6 a proposed client supervision plan and any information that is
7 reflected in the judgment. If the postsentence report is ordered,
8 the officer shall send the report to the clerk of the court not
9 later than the 30th day after the date on which sentence is
10 pronounced or deferred adjudication is granted, and the clerk shall
11 deliver the postsentence report with the papers in the case to a
12 designated officer of the Texas Department of Criminal Justice, as
13 described by Section 8(a), Article 42.09.

14 SECTION 8. Section 10(e), Article 42.12, Code of Criminal
15 Procedure, is amended to read as follows:

16 (e) If a supervision officer or magistrate modifies the
17 conditions of community supervision, the officer or magistrate
18 shall deliver a copy of the modified conditions to the defendant,
19 shall file a copy of the modified conditions with the sentencing
20 court, and shall note the date of delivery of the copy in the
21 defendant's file. If the defendant agrees to the modification in
22 writing, the officer or magistrate shall file a copy of the modified
23 conditions with the district clerk and the conditions shall be
24 enforced as modified. If the defendant does not agree to the
25 modification in writing, the supervision officer or magistrate
26 shall refer the case to the judge of the court for modification [~~in~~
27 ~~the manner provided by Section 22 of this article~~].

1 SECTION 9. Section 11(a), Article 42.12, Code of Criminal
2 Procedure, is amended to read as follows:

3 ~~[(a)]~~ The judge of the court having jurisdiction of the case
4 shall determine the conditions of community supervision and may, at
5 any time, during the period of community supervision alter or
6 modify the conditions. The judge may impose any reasonable
7 condition that is designed to protect or restore the community,
8 protect or restore the victim, or punish, rehabilitate, or reform
9 the defendant. ~~[Conditions of community supervision may include,
10 but shall not be limited to, the conditions that the defendant
11 shall:~~

12 ~~[(1) Commit no offense against the laws of this State
13 or of any other State or of the United States;~~

14 ~~[(2) Avoid injurious or vicious habits;~~

15 ~~[(3) Avoid persons or places of disreputable or
16 harmful character;~~

17 ~~[(4) Report to the supervision officer as directed by
18 the judge or supervision officer and obey all rules and regulations
19 of the community supervision and corrections department;~~

20 ~~[(5) Permit the supervision officer to visit him at
21 his home or elsewhere;~~

22 ~~[(6) Work faithfully at suitable employment as far as
23 possible;~~

24 ~~[(7) Remain within a specified place;~~

25 ~~[(8) Pay his fine, if one be assessed, and all court
26 costs whether a fine be assessed or not, in one or several sums;~~

27 ~~[(9) Support his dependents;~~

1 ~~[(10) Participate, for a time specified by the judge~~
2 ~~in any community-based program, including a community-service work~~
3 ~~program under Section 16 of this article;~~

4 ~~[(11) Reimburse the county in which the prosecution~~
5 ~~was instituted for compensation paid to appointed counsel for~~
6 ~~defending him in the case, if counsel was appointed, or if he was~~
7 ~~represented by a county-paid public defender, in an amount that~~
8 ~~would have been paid to an appointed attorney had the county not had~~
9 ~~a public defender;~~

10 ~~[(12) Remain under custodial supervision in a~~
11 ~~community corrections facility, obey all rules and regulations of~~
12 ~~such facility, and pay a percentage of his income to the facility~~
13 ~~for room and board;~~

14 ~~[(13) Pay a percentage of his income to his dependents~~
15 ~~for their support while under custodial supervision in a community~~
16 ~~corrections facility;~~

17 ~~[(14) Submit to testing for alcohol or controlled~~
18 ~~substances;~~

19 ~~[(15) Attend counseling sessions for substance~~
20 ~~abusers or participate in substance abuse treatment services in a~~
21 ~~program or facility approved or licensed by the Texas Commission on~~
22 ~~Alcohol and Drug Abuse;~~

23 ~~[(16) With the consent of the victim of a misdemeanor~~
24 ~~offense or of any offense under Title 7, Penal Code, participate in~~
25 ~~victim-defendant mediation;~~

26 ~~[(17) Submit to electronic monitoring;~~

27 ~~[(18) Reimburse the general revenue fund for any~~

1 ~~amounts paid from that fund to a victim, as defined by Article 56.01~~
2 ~~of this code, of the defendant's offense or if no reimbursement is~~
3 ~~required, make one payment to the fund in an amount not to exceed~~
4 ~~\$50 if the offense is a misdemeanor or not to exceed \$100 if the~~
5 ~~offense is a felony;~~

6 ~~[(19) Reimburse a law enforcement agency for the~~
7 ~~analysis, storage, or disposal of raw materials, controlled~~
8 ~~substances, chemical precursors, drug paraphernalia, or other~~
9 ~~materials seized in connection with the offense;~~

10 ~~[(20) Pay all or part of the reasonable and necessary~~
11 ~~costs incurred by the victim for psychological counseling made~~
12 ~~necessary by the offense or for counseling and education relating~~
13 ~~to acquired immune deficiency syndrome or human immunodeficiency~~
14 ~~virus made necessary by the offense;~~

15 ~~[(21) Make one payment in an amount not to exceed \$50~~
16 ~~to a crime stoppers organization as defined by Section 414.001,~~
17 ~~Government Code, and as certified by the Crime Stoppers Advisory~~
18 ~~Council;~~

19 ~~[(22) Submit a blood sample or other specimen to the~~
20 ~~Department of Public Safety under Subchapter C, Chapter 411,~~
21 ~~Government Code, for the purpose of creating a DNA record of the~~
22 ~~defendant; and~~

23 ~~[(23) In any manner required by the judge, provide~~
24 ~~public notice of the offense for which the defendant was placed on~~
25 ~~community supervision in the county in which the offense was~~
26 ~~committed.]~~

27 SECTION 10. Section 14(b), Article 42.12, Code of Criminal

1 Procedure, is amended to read as follows:

2 (b) A judge may impose the condition of community
3 supervision created under this section if the judge:

4 (1) [~~the judge~~] places the defendant on community
5 supervision under this article; and

6 (2) [~~the defendant is charged with or convicted of a~~
7 ~~felony other than:~~

8 [(A) ~~a felony under Section 21.11, 22.011, or~~
9 ~~22.021, Penal Code; or~~

10 [(B) ~~criminal attempt of a felony under Section~~
11 ~~21.11, 22.011, or 22.021, Penal Code; and~~

12 [(3) ~~the judge~~] makes an affirmative finding that:

13 (A) drug or alcohol abuse significantly
14 contributed to the commission of the crime or violation of
15 community supervision; and

16 (B) the defendant is a suitable candidate for
17 treatment, as determined by the suitability criteria established by
18 the Texas Board of Criminal Justice under Section 493.009(b),
19 Government Code.

20 SECTION 11. Sections 15(a), (b), (c), and (e), Article
21 42.12, Code of Criminal Procedure, are amended to read as follows:

22 (a)(1) On conviction of a state jail felony [~~under Section~~
23 ~~481.115(b), 481.1151(b)(1), 481.116(b), 481.121(b)(3), or~~
24 ~~481.129(g)(1), Health and Safety Code, that is]~~ punished under
25 Section 12.35(a), Penal Code, the judge [~~shall suspend the~~
26 ~~imposition of the sentence and place the defendant on community~~
27 ~~supervision, unless the defendant has previously been convicted of~~

1 ~~a felony, in which event the judge]~~ may suspend the imposition of
2 the sentence and place the defendant on community supervision or
3 may order the sentence to be executed. ~~[The provisions of this~~
4 ~~subdivision requiring the judge to suspend the imposition of the~~
5 ~~sentence and place the defendant on community supervision do not~~
6 ~~apply to a defendant who under Section 481.1151(b)(1), Health and~~
7 ~~Safety Code, possessed more than five abuse units of the controlled~~
8 ~~substance or under Section 481.121(b)(3), Health and Safety Code,~~
9 ~~possessed more than one pound of marihuana.]~~

10 (2) ~~[On conviction of a state jail felony punished~~
11 ~~under Section 12.35(a), Penal Code, other than a state jail felony~~
12 ~~listed in Subdivision (1), the judge may suspend the imposition of~~
13 ~~the sentence and place the defendant on community supervision or~~
14 ~~may order the sentence to be executed.~~

15 ~~[(3)]~~ The judge may suspend in whole or in part the
16 imposition of any fine imposed on conviction.

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

1 community supervision ends, before the first anniversary of the
2 expiration of the period of community supervision.

3 (c) [~~(1)~~] A judge may impose any condition of community
4 supervision on a defendant that the judge could impose on a
5 defendant placed on supervision for an offense other than a state
6 jail felony [~~, except that the judge may impose on the defendant a
7 condition that the defendant submit to a period of confinement in a
8 county jail under Section 5 or 12 of this article only if the term
9 does not exceed 90 days].~~

10 [~~(2) Except as otherwise provided by Subdivision (3),
11 a judge who places a defendant on community supervision for an
12 offense listed in Subsection (a)(1) shall require the defendant to
13 comply with substance abuse treatment conditions that are
14 consistent with standards adopted by the Texas Board of Criminal
15 Justice under Section 509.015, Government Code.~~

16 [~~(3) A judge is not required to impose conditions
17 described by Subdivision (2) if the judge makes an affirmative
18 finding that the defendant does not require imposition of the
19 conditions to successfully complete the period of community
20 supervision.~~]

21 (e) If a defendant violates a condition of community
22 supervision imposed on the defendant under this article and after a
23 hearing under Section 21 of this article the judge modifies the
24 defendant's community supervision, the judge may impose any
25 sanction the judge determines is appropriate [~~permitted by Section
26 22 of this article, except that if the judge requires a defendant to
27 serve a period of confinement in a state jail felony facility as a~~

1 ~~modification of the defendant's community supervision, the minimum~~
2 ~~term of confinement is 90 days and the maximum term of confinement~~
3 ~~is 180 days].~~

4 SECTION 12. Section 20, Article 42.12, Code of Criminal
5 Procedure, is amended to read as follows:

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

7 [~~a~~] At any time prior to the expiration of the term of community
8 supervision if in the judge's opinion the best interest of society
9 and the defendant will be served, [~~after the defendant has~~
10 ~~satisfactorily completed one-third of the original community~~
11 ~~supervision period or two years of community supervision, whichever~~
12 ~~is less,~~] the period of community supervision may be reduced or
13 terminated by the judge. Upon the satisfactory fulfillment of the
14 conditions of community supervision, and the expiration of the
15 period of community supervision, the judge, by order duly entered,
16 shall amend or modify the original sentence imposed, if necessary,
17 to conform to the community supervision period and shall discharge
18 the defendant. If the judge discharges the defendant under this
19 section, the judge may set aside the verdict or permit the defendant
20 to withdraw his plea, and shall dismiss the accusation, complaint,
21 information or indictment against the defendant, who shall
22 thereafter be released from all penalties and disabilities
23 resulting from the offense or crime of which he has been convicted
24 or to which he has pleaded guilty, except that:

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

1 (2) if the defendant is an applicant for a license or
2 is a licensee under Chapter 42, Human Resources Code, the Texas
3 Department of Human Services may consider the fact that the
4 defendant previously has received community supervision under this
5 article in issuing, renewing, denying, or revoking a license under
6 that chapter.

7 ~~[(b) This section does not apply to a defendant convicted of
8 an offense under Sections 49.04-49.08, Penal Code, a defendant
9 convicted of an offense for which on conviction registration as a
10 sex offender is required under Chapter 62, as added by Chapter 668,
11 Acts of the 75th Legislature, Regular Session, 1997, or a defendant
12 convicted of an offense punishable as a state jail felony.]~~

13 SECTION 13. Section 23(b), Article 42.12, Code of Criminal
14 Procedure, is amended to read as follows:

15 (b) A judge may credit against any term of confinement a
16 defendant is sentenced to serve under this section all or [No] part
17 of the time that the defendant served [is] on community supervision
18 [shall be considered as any part of the time that he shall be
19 sentenced to serve]. The right of the defendant to appeal for a
20 review of the conviction and punishment, as provided by law, shall
21 be accorded the defendant at the time he is placed on community
22 supervision. When he is notified that his community supervision is
23 revoked for violation of the conditions of community supervision
24 and he is called on to serve a sentence in a jail or in the
25 institutional division of the Texas Department of Criminal Justice,
26 he may appeal the revocation.

27 SECTION 14. The following provisions of Article 42.12, Code

1 of Criminal Procedure, are repealed:

- 2 (1) Section 3(f);
- 3 (2) Section 4(e);
- 4 (3) Section 5(d);
- 5 (4) Sections 9(h) and (i);
- 6 (5) Section 9A;
- 7 (6) Sections 11(b)-(l);
- 8 (7) Section 13;
- 9 (8) Section 13A;
- 10 (9) Section 13B;
- 11 (10) Section 13C;
- 12 (11) Section 13D;
- 13 (12) Section 14 as amended by Chapter 165, Acts of the
14 73rd Legislature, Regular Session, 1993, by Chapter 910, Acts of
15 the 76th Legislature, Regular Session, 1999, and by Chapter 353,
16 Acts of the 78th Legislature, Regular Session, 2003;
- 17 (13) Section 15(d);
- 18 (14) Section 15A; and
- 19 (15) Section 22.

20 SECTION 15. The changes in law made by this Act apply only
21 to a defendant charged with an offense committed on or after the
22 effective date of this Act. A defendant charged with an offense
23 committed before the effective date of this Act is governed by the
24 law in effect when the offense was committed, and the former law is
25 continued in effect for that purpose. For purposes of this section,
26 an offense was committed before the effective date of this Act if
27 any element of the offense was committed before that date.

1 SECTION 16. This Act takes effect September 1, 2005.