

1-1 By: Whitmire S.B. No. 1266
1-2 (In the Senate - Filed March 9, 2005; March 21, 2005, read
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1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1266 By: Hinojosa

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the administration of a system of community supervision
1-11 for certain defendants convicted of criminal offenses and to the
1-12 suspension of driver's licenses for defendants convicted of certain
1-13 offenses.

1-14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-15 ARTICLE 1. COMMUNITY SUPERVISION

1-16 SECTION 1.01. Article 42.12, Code of Criminal Procedure, is
1-17 amended to read as follows:

1-18 Art. 42.12. COMMUNITY SUPERVISION

1-19 Sec. 1. PURPOSE. It is the purpose of this article to place
1-20 wholly within the state courts the responsibility for determining
1-21 when the imposition of sentence in certain cases shall be
1-22 suspended, the conditions of community supervision, ~~and~~ the
1-23 supervision of defendants placed on community supervision, and the
1-24 imposition of progressive sanctions on defendants in consonance
1-25 with the powers assigned to the judicial branch of this government
1-26 by the Constitution of Texas. It is the purpose of this article to
1-27 remove from existing statutes the limitations, other than questions
1-28 of constitutionality, that have acted as barriers to effective
1-29 systems of sanctions-based community supervision in the public
1-30 interest.

1-31 Sec. 2. DEFINITIONS. In this article:

1-32 (1) ~~["Court" means a court of record having original~~
1-33 ~~criminal jurisdiction.~~

1-34 ~~[(2)]~~ "Community supervision" means the placement of a
1-35 defendant by a court under a continuum of programs and sanctions,
1-36 with conditions imposed by the court for a specified period during
1-37 which:

1-38 (A) criminal proceedings are deferred without an
1-39 adjudication of guilt; or

1-40 (B) a sentence of imprisonment or confinement,
1-41 imprisonment and fine, or confinement and fine, is probated and the
1-42 imposition of sentence is suspended in whole or in part.

1-43 (2) "Court" means a court of record having original
1-44 criminal jurisdiction.

1-45 (3) ~~["Supervision officer" means a person appointed or~~
1-46 ~~employed under Section 76.004, Government Code, to supervise~~
1-47 ~~defendants placed on community supervision.~~

1-48 ~~[(4)]~~ "Electronic monitoring" includes voice tracking
1-49 systems, position tracking systems, position location systems,
1-50 biometric tracking systems, and any other electronic or
1-51 telecommunications system that may be used to assist in the
1-52 supervision of individuals under this article.

1-53 (4) "Supervision officer" means a person appointed or
1-54 employed under Chapter 76, Government Code, to supervise defendants
1-55 placed on community supervision.

1-56 Sec. 3. JUDGE ORDERED COMMUNITY SUPERVISION. (a) A judge,
1-57 in the best interest of justice, the public, and the defendant,
1-58 after conviction or a plea of guilty or nolo contendere, may suspend
1-59 the imposition of the sentence and place the defendant on community
1-60 supervision ~~[or impose a fine applicable to the offense and place~~
1-61 ~~the defendant on community supervision].~~

1-62 (b) The maximum period of community supervision for a felony
1-63 described by Section 3g is 10 years. The ~~[Except as provided by~~

~~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 for any other felony of the first, second, or third degree is five ~~[10]~~ years, subject to the extensions provided by Section 21.~~

~~(c) The maximum period of community supervision in a misdemeanor case is two years, subject to extensions provided by 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.~~

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

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

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

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

~~[-(g)] A judge shall not deny community supervision to a defendant based solely on the defendant's inability to speak, read, write, hear, or understand English.~~

Sec. 3g. LIMITATION ON JUDGE ORDERED COMMUNITY SUPERVISION.

(a) The provisions of Section 3 of this article do not apply:

(1) to a defendant adjudged guilty of an offense under:

- (A) Section 19.02, Penal Code (Murder);
- (B) Section 19.03, Penal Code (Capital murder);
- (C) Section 21.11(a)(1), Penal Code (Indecency with a child);

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

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

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

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

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

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

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

(2) to a defendant when it is shown that a deadly weapon as defined in Section 1.07, Penal Code, was used or exhibited during the commission of a felony offense or during immediate flight therefrom, and that the defendant used or exhibited the deadly weapon or was a party to the offense and knew that a deadly weapon would be used or exhibited. On an affirmative finding under this subdivision, the trial court shall enter the finding in the judgment of the court. On an affirmative finding that the deadly weapon was a firearm, the court shall enter that finding in its judgment.

(b) If there is an affirmative finding under Subsection (a)(2) in the trial of a felony of the second degree or higher that the deadly weapon used or exhibited was a firearm and the defendant is granted community supervision, the court may order the defendant confined in the ~~[institutional division of the]~~ Texas Department of Criminal Justice for not less than 60 and not more than 120 days. At any time after the defendant has served 60 days in the custody of the department ~~[institutional division]~~, the sentencing judge, on his own motion or on motion of the defendant, may order the defendant released to community supervision. The department ~~[institutional division]~~ shall release the defendant to community

3-1 supervision after he has served 120 days.

3-2 Sec. 4. JURY RECOMMENDED COMMUNITY SUPERVISION. (a) A
3-3 jury that imposes confinement as punishment for an offense may
3-4 recommend to the judge that the judge suspend the imposition of the
3-5 confinement, the fine, or both the confinement and fine [sentence]
3-6 and place the defendant on community supervision. The [A] judge
3-7 shall follow [suspend] the recommendation of the jury [imposition
3-8 of the sentence and place the defendant on community supervision if
3-9 the jury makes that recommendation in the verdict].

3-10 (b) If the jury recommends to the judge that the judge place
3-11 the defendant on community supervision, the judge shall place the
3-12 defendant on community supervision for any period permitted under
3-13 Section 3(b) or 3(c) [of this article], as appropriate, subject to
3-14 the extensions provided by Section 21.

3-15 (c) [A judge may increase the maximum period of community
3-16 supervision in the manner provided by Section 22(c) or Section 22A
3-17 of this article.

3-18 [(d)] A defendant is not eligible for community supervision
3-19 under this section if the defendant:

3-20 (1) is sentenced to a term of imprisonment that
3-21 exceeds 10 years;

3-22 (2) [is sentenced to serve a term of confinement under
3-23 Section 12.35, Penal Code,

3-24 [(3)] does not file a sworn motion under Subsection
3-25 (e) of this section or for whom the jury does not enter in the
3-26 verdict a finding that the information contained in the motion is
3-27 true; or

3-28 (3) [(4)] is adjudged guilty of an offense for which
3-29 punishment is increased under Section 481.134(c), (d), (e), or (f),
3-30 Health and Safety Code, if it is shown that the defendant has been
3-31 previously convicted of an offense for which punishment was
3-32 increased under any one of those subsections.

3-33 (d) [(e)] A defendant is eligible for community supervision
3-34 under this section only if before the trial begins the defendant
3-35 files a written sworn motion with the judge that the defendant has
3-36 not previously been convicted of a felony in this or any other
3-37 state, and the jury enters in the verdict a finding that the
3-38 information in the defendant's motion is true.

3-39 Sec. 5. DEFERRED ADJUDICATION; COMMUNITY SUPERVISION.
3-40 (a) When [Except as provided by Subsection (d) of this section,
3-41 when] in the judge's opinion the best interest of society and the
3-42 defendant will be served, the judge may, after receiving a plea of
3-43 guilty or plea of nolo contendere, hearing the evidence, and
3-44 finding that it substantiates the defendant's guilt, defer further
3-45 proceedings without entering an adjudication of guilt, and place
3-46 the defendant on community supervision. [A judge may place on
3-47 community supervision under this section a defendant charged with
3-48 an offense under Section 21.11, 22.011, or 22.021, Penal Code,
3-49 regardless of the age of the victim, or a defendant charged with a
3-50 felony described by Section 13B(b) of this article, only if the
3-51 judge makes a finding in open court that placing the defendant on
3-52 community supervision is in the best interest of the victim. The
3-53 failure of the judge to find that deferred adjudication is in the
3-54 best interest of the victim is not grounds for the defendant to set
3-55 aside the plea, deferred adjudication, or any subsequent conviction
3-56 or sentence.] After placing the defendant on community supervision
3-57 under this section, the judge shall inform the defendant orally or
3-58 in writing of the possible consequences under Subsection (b) [of
3-59 this section] of a violation of community supervision. If the
3-60 information is provided orally, the judge must record and maintain
3-61 the judge's statement to the defendant. The failure of a judge to
3-62 inform a defendant of possible consequences under Subsection (b)
3-63 [of this section] is not a ground for reversal unless the defendant
3-64 shows that he was harmed by the failure of the judge to provide the
3-65 information. The maximum period of community supervision for a
3-66 felony described by Section 3g is 10 years, subject to the
3-67 extensions provided by Section 21. In any other [a] felony of the
3-68 first, second, or third degree [case], the period of community
3-69 supervision may not exceed five [10] years, subject to the

4-1 ~~extensions provided by Section 21. The maximum period of community~~
4-2 ~~supervision for a state jail felony, with extensions, is as~~
4-3 ~~provided by Section 14. [For a defendant charged with a felony~~
4-4 ~~under Section 21.11, 22.011, or 22.021, Penal Code, regardless of~~
4-5 ~~the age of the victim, and for a defendant charged with a felony~~
4-6 ~~described by Section 13B(b) of this article, the period of~~
4-7 ~~community supervision may not be less than five years.] In a~~
4-8 ~~misdemeanor case, the period of community supervision may not~~
4-9 ~~exceed two years, subject to the extensions provided by Section 21.~~
4-10 ~~[A judge may increase the maximum period of community supervision~~
4-11 ~~in the manner provided by Section 22(c) or 22A of this article.]~~
4-12 ~~The judge may impose a fine applicable to the offense and require~~
4-13 ~~any reasonable conditions of community supervision[, including~~
4-14 ~~mental health treatment under Section 11(d) of this article,] that~~
4-15 ~~a judge could impose on a defendant placed on community supervision~~
4-16 ~~for a conviction that was probated and suspended, including~~
4-17 ~~confinement. [The provisions of Section 15 of this article~~
4-18 ~~specifying whether a defendant convicted of a state jail felony is~~
4-19 ~~to be confined in a county jail or state jail felony facility and~~
4-20 ~~establishing the minimum and maximum terms of confinement as a~~
4-21 ~~condition of community supervision apply in the same manner to a~~
4-22 ~~defendant placed on community supervision after pleading guilty or~~
4-23 ~~nolo contendere to a state jail felony. However, upon written~~
4-24 ~~motion of the defendant requesting final adjudication filed within~~
4-25 ~~30 days after entering such plea and the deferment of adjudication,~~
4-26 ~~the judge shall proceed to final adjudication as in all other~~
4-27 ~~cases.]~~

4-28 (b) On violation of a condition of community supervision
4-29 imposed under Subsection (a) ~~[of this section]~~, the defendant may
4-30 be arrested and detained as provided in Section 20 ~~[21 of this~~
4-31 ~~article]~~. The defendant is entitled to a hearing limited to the
4-32 determination by the court of whether it proceeds with an
4-33 adjudication of guilt on the original charge. No appeal may be
4-34 taken from this determination. After an adjudication of guilt, all
4-35 proceedings, including assessment of punishment, pronouncement of
4-36 sentence, granting of community supervision, and defendant's
4-37 appeal continue as if the adjudication of guilt had not been
4-38 deferred. A court assessing punishment after an adjudication of
4-39 guilt ~~[of a defendant charged with a state jail felony]~~ may suspend
4-40 the imposition of the sentence and place the defendant on community
4-41 supervision or may order the sentence to be executed, regardless of
4-42 whether the defendant has previously been convicted of a felony.

4-43 (c) On expiration of a community supervision period imposed
4-44 under Subsection (a) ~~[of this section]~~, if the judge has not
4-45 proceeded to adjudication of guilt, the judge shall dismiss the
4-46 proceedings against the defendant and discharge him. The judge may
4-47 dismiss the proceedings and discharge a defendant ~~[, other than a~~
4-48 ~~defendant charged with an offense requiring the defendant to~~
4-49 ~~register as a sex offender under Chapter 62, as added by Chapter~~
4-50 ~~668, Acts of the 75th Legislature, Regular Session, 1997,] prior to~~
4-51 ~~the expiration of the term of community supervision if in the~~
4-52 ~~judge's opinion the best interest of society and the defendant will~~
4-53 ~~be served. Notwithstanding a provision in any other law that~~
4-54 ~~provides that a defendant who has successfully completed a period~~
4-55 ~~of community supervision is finally convicted for purposes of~~
4-56 ~~enhancement, or that disqualifies the defendant from a license or~~
4-57 ~~other benefit provided by the state or a political subdivision of~~
4-58 ~~the state or imposes a civil consequence on the defendant, a [The~~
4-59 ~~judge may not dismiss the proceedings and discharge a defendant~~
4-60 ~~charged with an offense requiring the defendant to register under~~
4-61 ~~Chapter 62, as added by Chapter 668, Acts of the 75th Legislature,~~
4-62 ~~Regular Session, 1997. Except as provided by Section 12.42(g),~~
4-63 ~~Penal Code, a] dismissal and discharge under this section may not be~~
4-64 ~~deemed a conviction for the purposes of disqualifications or~~
4-65 ~~disabilities imposed by law for conviction of an offense. A~~
4-66 ~~defendant placed on community supervision under this section is~~
4-67 ~~nonetheless required to pay costs, fees, and other assessments~~
4-68 ~~required by law to be paid on conviction of an offense, other than a~~
4-69 ~~fine imposed as punishment for the offense. On discharge and~~

5-1 ~~dismissal under this section, the court that placed the defendant~~
 5-2 ~~on deferred adjudication shall enter an order of nondisclosure~~
 5-3 ~~under Section 411.081, Government Code. [For any defendant who~~
 5-4 ~~receives a dismissal and discharge under this section:~~

5-5 ~~[(1) upon conviction of a subsequent offense, the fact~~
 5-6 ~~that the defendant had previously received community supervision~~
 5-7 ~~with a deferred adjudication of guilt shall be admissible before~~
 5-8 ~~the court or jury to be considered on the issue of penalty;~~

5-9 ~~[(2) if the defendant is an applicant for a license or~~
 5-10 ~~is a licensee under Chapter 42, Human Resources Code, the Texas~~
 5-11 ~~Department of Human Services may consider the fact that the~~
 5-12 ~~defendant previously has received community supervision with a~~
 5-13 ~~deferred adjudication of guilt under this section in issuing,~~
 5-14 ~~renewing, denying, or revoking a license under that chapter; and~~

5-15 ~~[(3) if the defendant is a person who has applied for~~
 5-16 ~~registration to provide mental health or medical services for the~~
 5-17 ~~rehabilitation of sex offenders, the Interagency Council on Sex~~
 5-18 ~~Offender Treatment may consider the fact that the defendant has~~
 5-19 ~~received community supervision under this section in issuing,~~
 5-20 ~~renewing, denying, or revoking a license or registration issued by~~
 5-21 ~~that council.]~~

5-22 ~~(d) [In all other cases the judge may grant deferred~~
 5-23 ~~adjudication unless:~~

5-24 ~~[(1) the defendant is charged with an offense:~~

5-25 ~~[(A) under Section 49.04, 49.05, 49.06, 49.07, or~~
 5-26 ~~49.08, Penal Code; or~~

5-27 ~~[(B) for which punishment may be increased under~~
 5-28 ~~Section 481.134(c), (d), (e), or (f), Health and Safety Code, if it~~
 5-29 ~~is shown that the defendant has been previously convicted of an~~
 5-30 ~~offense for which punishment was increased under any one of those~~
 5-31 ~~subsections; or~~

5-32 ~~[(2) the defendant:~~

5-33 ~~[(A) is charged with an offense under Section~~
 5-34 ~~21.11, 22.011, or 22.021, Penal Code, regardless of the age of the~~
 5-35 ~~victim, or a felony described by Section 13B(b) of this article; and~~

5-36 ~~[(B) has previously been placed on community~~
 5-37 ~~supervision for any offense under Paragraph (A) of this~~
 5-38 ~~subdivision.~~

5-39 ~~[(c) If a judge places on community supervision under this~~
 5-40 ~~section a defendant charged with an offense under Section 20.02,~~
 5-41 ~~20.03, or 20.04, Penal Code, or an attempt, conspiracy, or~~
 5-42 ~~solicitation to commit one of those offenses, the judge shall make~~
 5-43 ~~an affirmative finding of fact and file a statement of that~~
 5-44 ~~affirmative finding with the papers in the case if the judge~~
 5-45 ~~determines that the victim or intended victim was younger than 17~~
 5-46 ~~years of age at the time of the offense.~~

5-47 ~~[(f)] A record in the custody of the court clerk regarding a~~
 5-48 ~~case in which a person is granted deferred adjudication is not~~
 5-49 ~~confidential.~~

5-50 ~~[(g) If a judge places on community supervision under this~~
 5-51 ~~section a defendant charged with an offense under Section 21.11,~~
 5-52 ~~22.011, 22.021, or 43.25, Penal Code, the judge shall make an~~
 5-53 ~~affirmative finding of fact and file a statement of that~~
 5-54 ~~affirmative finding with the papers in the case if the judge~~
 5-55 ~~determines that:~~

5-56 ~~[(1) at the time of the offense, the defendant was~~
 5-57 ~~younger than 19 years of age and the victim or intended victim was~~
 5-58 ~~at least 13 years of age; and~~

5-59 ~~[(2) the charge to which the plea is entered under this~~
 5-60 ~~section is based solely on the ages of the defendant and the victim~~
 5-61 ~~or intended victim at the time of the offense.]~~

5-62 ~~(e) [(h)] A court retains jurisdiction to hold a hearing~~
 5-63 ~~under Subsection (b) and to proceed with an adjudication of guilt,~~
 5-64 ~~regardless of whether the period of community supervision imposed~~
 5-65 ~~on the defendant has expired, if before the expiration the attorney~~
 5-66 ~~representing the state files a motion to proceed with the~~
 5-67 ~~adjudication and a capias is issued for the arrest of the defendant.~~

5-68 **Sec. 6. CONTINUING COURT JURISDICTION IN FELONY CASES.**

5-69 (a) For the purposes of this section, the jurisdiction of a court

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

6-13 ~~[(1) the defendant is otherwise eligible for community~~
6-14 ~~supervision under this article, and~~

6-15 ~~[(2) the defendant had never before been incarcerated~~
6-16 ~~in a penitentiary serving a sentence for a felony].~~

6-17 (b) When the defendant or the attorney representing the
6-18 state files a written motion requesting suspension by the judge of
6-19 further execution of the sentence and placement of the defendant on
6-20 community supervision, and when requested to do so by the judge, the
6-21 clerk of the court shall request a copy of the defendant's record
6-22 while imprisoned from the ~~[institutional division of the]~~ Texas
6-23 Department of Criminal Justice or, if the defendant is confined in
6-24 county jail, from the sheriff. Upon receipt of such request, the
6-25 ~~[institutional division of the]~~ Texas Department of Criminal
6-26 Justice or the sheriff shall forward to the judge, as soon as
6-27 possible, a full and complete copy of the defendant's record while
6-28 imprisoned or confined. When the defendant files a written motion
6-29 requesting suspension of further execution of the sentence and
6-30 placement on community supervision, he shall immediately deliver or
6-31 cause to be delivered a true and correct copy of the motion to the
6-32 office of the attorney representing the state.

6-33 (c) The judge may deny the motion without a hearing but may
6-34 not grant the motion without holding a hearing and providing the
6-35 attorney representing the state and the defendant the opportunity
6-36 to present evidence on the motion.

6-37 Sec. 7. CONTINUING COURT JURISDICTION IN MISDEMEANOR CASES.

6-38 (a) For the purposes of this section, the jurisdiction of the
6-39 courts in this state in which a sentence requiring confinement in a
6-40 jail is imposed for conviction of a misdemeanor shall continue for
6-41 180 days from the date the execution of the sentence actually
6-42 begins. The judge of the court that imposed such sentence may on
6-43 his own motion, on the motion of the attorney representing the
6-44 state, or on the written motion of the defendant suspend further
6-45 execution of the sentence and place the defendant on community
6-46 supervision under the terms and conditions of this article, if in
6-47 the opinion of the judge the defendant would not benefit from
6-48 further confinement.

6-49 (b) When the defendant files a written motion with the court
6-50 requesting suspension of further execution of the sentence and
6-51 placement on community supervision or when requested to do so by the
6-52 judge, the clerk of the court shall request a copy of the
6-53 defendant's record while confined from the agency operating the
6-54 jail where the defendant is confined. Upon receipt of such request,
6-55 the agency operating the jail where the defendant is confined shall
6-56 forward to the court as soon as possible a full and complete copy of
6-57 the defendant's record while confined.

6-58 (c) The judge may deny the motion without a hearing but may
6-59 not grant a motion without holding a hearing and allowing the
6-60 attorney representing the state and the defendant to present
6-61 evidence in the case.

6-62 Sec. 8. STATE BOOT CAMP PROGRAM. (a) For the purposes of

6-63 this section, the jurisdiction of a court in which a sentence
6-64 requiring imprisonment in the ~~[institutional division of the]~~ Texas
6-65 Department of Criminal Justice is imposed for conviction of a
6-66 felony shall continue for 180 days from the date on which the
6-67 convicted person is received into custody by the department
6-68 ~~[institutional division]~~. After the expiration of 75 days but
6-69 prior to the expiration of 180 days from the date on which the

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

7-12 (1) [~~the person is otherwise eligible for community~~
 7-13 ~~supervision under this article,~~

7-14 [~~2~~] the person is 17 years of age or older but
 7-15 younger than 26 years and is physically and mentally capable of
 7-16 participating in a program that requires strenuous physical
 7-17 activity; and

7-18 (2) [~~3~~] the person is not convicted of an offense
 7-19 punishable as a state jail felony.

7-20 (b) On the 76th day after the day on which the convicted
 7-21 person is received into custody by the Texas Department of Criminal
 7-22 Justice [~~institutional division~~], the department [~~institutional~~
 7-23 ~~division~~] shall send the convicting court the record of the
 7-24 person's progress, conduct, and conformity to department
 7-25 [~~institutional division~~] rules.

7-26 (c) The judge's recommendation that a person be placed in
 7-27 the state boot camp program created under Section 499.052,
 7-28 Government Code, does not give the court the power to hold the Texas
 7-29 Department of Criminal Justice or any officer or employee of the
 7-30 department in contempt of court for failure to adhere to that
 7-31 recommendation.

7-32 Sec. 9. PRESENTENCE INVESTIGATIONS. (a) Before [~~Except as~~
 7-33 ~~provided by Subsection (g) of this section, before~~] the imposition
 7-34 of a sentence [~~by a judge in a felony case, and except as provided by~~
 7-35 ~~Subsection (b) of this section, before the imposition of sentence~~
 7-36 ~~by a judge in a misdemeanor case]~~ the judge may [~~shall~~] direct a
 7-37 supervision officer to report to the judge in writing on the
 7-38 circumstances of the offense with which the defendant is charged,
 7-39 the amount of restitution necessary to adequately compensate a
 7-40 victim of the offense, the criminal and social history of the
 7-41 defendant, whether drug or alcohol abuse may have contributed to
 7-42 the commission of the offense, and any other information relating
 7-43 to the defendant or the offense requested by the judge. It is not
 7-44 necessary that the report contain a sentencing recommendation, but
 7-45 the report must contain a proposed client supervision plan
 7-46 describing programs and sanctions that the community supervision
 7-47 and corrections department would provide the defendant if the judge
 7-48 suspended the imposition of the sentence [~~or granted deferred~~
 7-49 ~~adjudication~~].

7-50 (b) [~~The judge is not required to direct a supervision~~
 7-51 ~~officer to prepare a report in a misdemeanor case if:~~

7-52 (1) [~~the defendant requests that a report not be made~~
 7-53 ~~and the judge agrees to the request, or~~

7-54 (2) [~~the judge finds that there is sufficient~~
 7-55 ~~information in the record to permit the meaningful exercise of~~
 7-56 ~~sentencing discretion and the judge explains this finding on the~~
 7-57 ~~record.~~

7-58 [~~e~~] The judge may not inspect a report and the contents of
 7-59 the report may not be disclosed to any person unless:

7-60 (1) the defendant pleads guilty or nolo contendere or
 7-61 is convicted of the offense; or

7-62 (2) the defendant, in writing, authorizes the judge to
 7-63 inspect the report.

7-64 (c) [~~d~~] Before sentencing a defendant, the judge shall
 7-65 permit the defendant or his counsel to read the presentence report.

7-66 (d) [~~e~~] The judge shall allow the defendant or his
 7-67 attorney to comment on a presentence investigation or a
 7-68 postsentence report and, with the approval of the judge, introduce
 7-69 testimony or other information alleging a factual inaccuracy in the

8-1 investigation or report.

8-2 (e) [~~(f)~~] The judge shall allow the attorney representing
8-3 the state access to any information made available to the defendant
8-4 under this section.

8-5 [~~(g)~~ Unless requested by the defendant, a judge is not
8-6 required to direct an officer to prepare a presentence report in a
8-7 felony case under this section if:

8-8 [~~(1)~~ punishment is to be assessed by a jury;

8-9 [~~(2)~~ the defendant is convicted of or enters a plea of
8-10 guilty or nolo contendere to capital murder;

8-11 [~~(3)~~ the only available punishment is imprisonment; or

8-12 [~~(4)~~ the judge is informed that a plea bargain
8-13 agreement exists, under which the defendant agrees to a punishment
8-14 of imprisonment, and the judge intends to follow the agreement.

8-15 [~~(h)~~ On a determination by the judge that alcohol or drug
8-16 abuse may have contributed to the commission of the offense, or in
8-17 any case involving a second or subsequent offense under Section
8-18 49.04, Penal Code, committed within five years of the date on which
8-19 the most recent preceding offense was committed, or a second or
8-20 subsequent offense under Section 49.07 or 49.08 of that code that
8-21 involves the operation of a motor vehicle, committed within five
8-22 years of the date on which the most recent preceding offense was
8-23 committed, the judge shall direct a supervision officer approved by
8-24 the community supervision and corrections department or the judge
8-25 or a person, program, or other agency approved by the Texas
8-26 Commission on Alcohol and Drug Abuse, to conduct an evaluation to
8-27 determine the appropriateness of, and a course of conduct necessary
8-28 for, alcohol or drug rehabilitation for a defendant and to report
8-29 that evaluation to the judge. The evaluation shall be made:

8-30 [~~(1)~~ after arrest and before conviction, if requested
8-31 by the defendant;

8-32 [~~(2)~~ after conviction and before sentencing, if the
8-33 judge assesses punishment in the case;

8-34 [~~(3)~~ after sentencing and before the entry of a final
8-35 judgment, if the jury assesses punishment in the case; or

8-36 [~~(4)~~ after community supervision is granted, if the
8-37 evaluation is required as a condition of community supervision
8-38 under Section 13 of this article.

8-39 [~~(i)~~ A presentence investigation conducted on any defendant
8-40 convicted of a felony offense who appears to the judge through its
8-41 own observation or on suggestion of a party to have a mental
8-42 impairment shall include a psychological evaluation which
8-43 determines, at a minimum, the defendant's IQ and adaptive behavior
8-44 score. The results of the evaluation shall be included in the
8-45 report to the judge as required by Subsection (a) of this section.]

8-46 (f) [~~(j)~~] The judge by order may direct that any information
8-47 and records that are not privileged and that are relevant to a
8-48 report required by Subsection (a) or Subsection (g) [~~(k)~~ of this
8-49 section] be released to an officer conducting a presentence
8-50 investigation under Subsection (a) [~~(i)~~ of this section] or a
8-51 postsentence report under Subsection (g) [~~(k)~~ of this section].
8-52 The judge may also issue a subpoena to obtain that information. A
8-53 report and all information obtained in connection with a
8-54 presentence investigation or postsentence report are confidential
8-55 and may be released only:

8-56 (1) to those persons and under those circumstances
8-57 authorized under [~~Subsections (d), (e), (f), (h), (k), and (l) of~~]
8-58 this section;

8-59 (2) pursuant to Section 614.017, Health and Safety
8-60 Code; or

8-61 (3) as directed by the judge for the effective
8-62 supervision of the defendant.

8-63 (g) [~~(k)~~] If a presentence report in a felony case is not
8-64 ordered [~~required~~] under this section, the judge may direct the
8-65 officer to prepare a postsentence report containing the same
8-66 information that would have been required for the presentence
8-67 report, other than a proposed client supervision plan and any
8-68 information that is reflected in the judgment. If the postsentence
8-69 report is ordered, the officer shall send the report to the clerk of

9-1 the court not later than the 30th day after the date on which
9-2 sentence is pronounced or deferred adjudication is granted, and the
9-3 clerk shall deliver the postsentence report with the papers in the
9-4 case to a designated officer of the Texas Department of Criminal
9-5 Justice, as described by Section 8(a), Article 42.09.

9-6 ~~(h) [Sec. 9A. SEX OFFENDERS: PRESENTENCE INVESTIGATION AND~~
9-7 ~~POSTSENTENCE TREATMENT AND SUPERVISION. (a)]~~ In Subsections (i)
9-8 and (j) [this section]:

9-9 (1) "Council" means the Council on Sex Offender
9-10 Treatment.

9-11 (2) "Sex offender" means a person who has been
9-12 convicted or has entered a plea of guilty or nolo contendere for an
9-13 offense under any one of the following provisions of the Penal Code:

9-14 (A) Section 20.04(a)(4) (Aggravated Kidnapping),
9-15 if the person committed the offense with the intent to violate or
9-16 abuse the victim sexually;

9-17 (B) Section 21.08 (Indecent Exposure);

9-18 (C) Section 21.11 (Indecency with a Child);

9-19 (D) Section 22.011 (Sexual Assault);

9-20 (E) Section 22.021 (Aggravated Sexual Assault);

9-21 (F) Section 25.02 (Prohibited Sexual Conduct);

9-22 (G) Section 30.02 (Burglary), if:

9-23 (i) the offense is punishable under
9-24 Subsection (d) of that section; and

9-25 (ii) the person committed the offense with
9-26 the intent to commit a felony listed in this subsection;

9-27 (H) Section 43.25 (Sexual Performance by a
9-28 Child); or

9-29 (I) Section 43.26 (Possession or Promotion of
9-30 Child Pornography).

9-31 (i) [(b)] If the defendant is a sex offender, a supervision
9-32 officer may release information in a presentence or postsentence
9-33 report concerning the social and criminal history of the defendant
9-34 to a person who:

9-35 (1) is licensed or certified in this state to provide
9-36 mental health or medical services, including a:

9-37 (A) physician;

9-38 (B) psychiatrist;

9-39 (C) psychologist;

9-40 (D) licensed professional counselor;

9-41 (E) licensed marriage and family therapist; or

9-42 (F) certified social worker; and

9-43 (2) provides mental health or medical services for the
9-44 rehabilitation of the defendant.

9-45 (j) [(c)] If the defendant is a sex offender, the judge may
9-46 ~~[shall]~~ direct a supervision officer approved by the community
9-47 supervision and corrections department or the judge or a person,
9-48 program, or other agency approved by the council to evaluate the
9-49 appropriateness of, and a course of conduct necessary for,
9-50 treatment, specialized supervision, or rehabilitation of the
9-51 defendant and to report the results of the evaluation to the judge.
9-52 The judge may require the evaluation to use offense-specific
9-53 standards of practice adopted by the council and may require the
9-54 report to reflect those standards. An [The] evaluation ordered
9-55 under this subsection must [shall] be made after conviction and
9-56 before the entry of a final judgment or, if requested by the
9-57 defendant, after arrest and before conviction.

9-58 Sec. 10. AUTHORITY TO IMPOSE, MODIFY, OR REVOKE COMMUNITY
9-59 SUPERVISION. (a) Only the court in which the defendant was tried
9-60 may grant community supervision, impose conditions, revoke the
9-61 community supervision, or discharge the defendant, unless the judge
9-62 has transferred jurisdiction of the case to another court with the
9-63 latter's consent. Except as provided by Subsection (d) ~~[of this~~
9-64 ~~section]~~, only the judge may alter conditions of community
9-65 supervision. In a felony case, only the judge who originally
9-66 sentenced the defendant may suspend execution thereof and place the
9-67 defendant under community supervision pursuant to Section 6 ~~[of~~
9-68 ~~this article]~~. If the judge who originally sentenced the defendant
9-69 is deceased or disabled or if the office is vacant and the judge who

10-1 originally sentenced the defendant is deceased or disabled or if
 10-2 the office is vacant and a motion is filed in accordance with
 10-3 Section 6 [~~of this article~~], the clerk of the court shall promptly
 10-4 forward a copy of the motion to the presiding judge of the
 10-5 administrative judicial district for that court, who may deny the
 10-6 motion without a hearing or appoint a judge to hold a hearing on the
 10-7 motion.

10-8 (b) After a defendant has been placed on community
 10-9 supervision, jurisdiction of the case may be transferred to a court
 10-10 of the same rank in this state having geographical jurisdiction
 10-11 where the defendant is residing or where a violation of the
 10-12 conditions of community supervision occurs. Upon transfer, the
 10-13 clerk of the court of original jurisdiction shall forward a
 10-14 transcript of such portions of the record as the transferring judge
 10-15 shall direct to the court accepting jurisdiction, which latter
 10-16 court shall thereafter proceed as if the trial and conviction had
 10-17 occurred in that court.

10-18 (c) Any judge of a court having geographical jurisdiction
 10-19 where the defendant is residing or where a violation of the
 10-20 conditions of community supervision occurs may issue a warrant for
 10-21 his arrest, but the determination of action to be taken after arrest
 10-22 shall be only by the judge of the court having jurisdiction of the
 10-23 case at the time the action is taken.

10-24 (d) A judge that places a defendant on community supervision
 10-25 may authorize the supervision officer supervising the defendant or
 10-26 a magistrate appointed by the district courts in the county that
 10-27 give preference to criminal cases to modify the conditions of
 10-28 community supervision for the limited purpose of transferring the
 10-29 defendant to different programs within the community supervision
 10-30 continuum of programs and sanctions.

10-31 (e) If a supervision officer or magistrate modifies the
 10-32 conditions of community supervision, the officer or magistrate
 10-33 shall deliver a copy of the modified conditions to the defendant,
 10-34 shall file a copy of the modified conditions with the sentencing
 10-35 court, and shall note the date of delivery of the copy in the
 10-36 defendant's file. If the defendant agrees to the modification in
 10-37 writing, the officer or magistrate shall file a copy of the modified
 10-38 conditions with the district clerk and the conditions shall be
 10-39 enforced as modified. If the defendant does not agree to the
 10-40 modification in writing, the supervision officer or magistrate
 10-41 shall refer the case to the judge of the court for modification in
 10-42 the manner provided by Section 21 [~~22 of this article~~].

10-43 Sec. 11. [~~BASIC~~] CONDITIONS OF COMMUNITY SUPERVISION.
 10-44 (a) The judge of the court having jurisdiction of the case shall
 10-45 [~~determine the conditions of community supervision and may, at any~~
 10-46 ~~time, during the period of community supervision alter or modify~~
 10-47 ~~the conditions. The judge may~~] impose [~~any~~] reasonable conditions
 10-48 [~~condition that is~~] designed to protect or restore the community,
 10-49 protect or restore the victim, or punish, rehabilitate, or reform
 10-50 the defendant. Conditions of community supervision may include any
 10-51 condition listed in this section or designated as available for use
 10-52 in the community justice plan established by the community justice
 10-53 council serving the judge.

10-54 (b) Conditions required under this section may require
 10-55 but shall not be limited to, the conditions] that the defendant
 10-56 [~~shall~~]:

- 10-57 (1) commit [~~Commit~~] no offense against the laws of
 10-58 this State or of any other State or of the United States;
- 10-59 (2) avoid [~~Avoid~~] injurious or vicious habits;
- 10-60 (3) avoid [~~Avoid~~] persons or places of disreputable or
 10-61 harmful character;
- 10-62 (4) report [~~Report~~] to the supervision officer as
 10-63 directed by the judge or supervision officer and obey all rules and
 10-64 regulations of the community supervision and corrections
 10-65 department;
- 10-66 (5) permit [~~Permit~~] the supervision officer to visit
 10-67 him at his home or elsewhere;
- 10-68 (6) work [~~Work~~] faithfully at suitable employment as
 10-69 far as possible;

11-1 (7) remain [~~Remain~~] within a specified place;
 11-2 (8) pay [~~Pay~~] his fine, if one be assessed, and all
 11-3 court costs whether a fine be assessed or not, in one or several
 11-4 sums;
 11-5 (9) support [~~Support~~] his dependents;
 11-6 (10) reimburse [~~Participate, for a time specified by~~
 11-7 ~~the judge in any community-based program, including a~~
 11-8 ~~community-service work program under Section 16 of this article,~~
 11-9 [~~(11) Reimburse~~] the county in which the prosecution
 11-10 was instituted for compensation paid to appointed counsel for
 11-11 defending him in the case, if counsel was appointed, or if he was
 11-12 represented by a county-paid public defender, in an amount that
 11-13 would have been paid to an appointed attorney had the county not had
 11-14 a public defender;
 11-15 [~~(12) Remain under custodial supervision in a~~
 11-16 ~~community corrections facility, obey all rules and regulations of~~
 11-17 ~~such facility, and pay a percentage of his income to the facility~~
 11-18 ~~for room and board,~~
 11-19 [~~(13) Pay a percentage of his income to his dependents~~
 11-20 ~~for their support while under custodial supervision in a community~~
 11-21 ~~corrections facility,~~
 11-22 [~~(14) Submit to testing for alcohol or controlled~~
 11-23 ~~substances,~~
 11-24 [~~(15) Attend counseling sessions for substance~~
 11-25 ~~abusers or participate in substance abuse treatment services in a~~
 11-26 ~~program or facility approved or licensed by the Texas Commission on~~
 11-27 ~~Alcohol and Drug Abuse,~~
 11-28 [~~(16) With the consent of the victim of a misdemeanor~~
 11-29 ~~offense or of any offense under Title 7, Penal Code, participate in~~
 11-30 ~~victim-defendant mediation,~~
 11-31 [~~(17) Submit to electronic monitoring,~~
 11-32 (11) reimburse [~~(18) Reimburse~~] the general revenue
 11-33 fund for any amounts paid from that fund to a victim, as defined by
 11-34 Article 56.01 [~~of this code~~], of the defendant's offense or if no
 11-35 reimbursement is required, make one payment to the fund in an amount
 11-36 not to exceed \$50 if the offense is a misdemeanor or not to exceed
 11-37 \$100 if the offense is a felony;
 11-38 [~~(19) Reimburse a law enforcement agency for the~~
 11-39 ~~analysis, storage, or disposal of raw materials, controlled~~
 11-40 ~~substances, chemical precursors, drug paraphernalia, or other~~
 11-41 ~~materials seized in connection with the offense,~~
 11-42 [~~(20) Pay all or part of the reasonable and necessary~~
 11-43 ~~costs incurred by the victim for psychological counseling made~~
 11-44 ~~necessary by the offense or for counseling and education relating~~
 11-45 ~~to acquired immune deficiency syndrome or human immunodeficiency~~
 11-46 ~~virus made necessary by the offense,~~
 11-47 (12) make [~~(21) Make~~] one payment in an amount not to
 11-48 exceed \$50 to a crime stoppers organization as defined by Section
 11-49 414.001, Government Code, and as certified by the Crime Stoppers
 11-50 Advisory Council; and
 11-51 (13) submit [~~(22) Submit~~] a blood sample or other
 11-52 specimen to the Department of Public Safety under Subchapter G,
 11-53 Chapter 411, Government Code, for the purpose of creating a DNA
 11-54 record of the defendant[, and
 11-55 [~~(23) In any manner required by the judge, provide~~
 11-56 ~~public notice of the offense for which the defendant was placed on~~
 11-57 ~~community supervision in the county in which the offense was~~
 11-58 ~~committed].~~
 11-59 (c) [~~(b)~~] A judge may not order a defendant to make any
 11-60 payments as a term or condition of community supervision, except
 11-61 for fines, court costs, restitution to the victim, and other
 11-62 conditions related personally to the rehabilitation of the
 11-63 defendant or otherwise expressly authorized by law. The court
 11-64 shall consider the ability of the defendant to make payments in
 11-65 ordering the defendant to make payments under this article.
 11-66 (d) [~~(e)~~] If the judge or jury places a defendant on
 11-67 community supervision, the judge shall require the defendant to
 11-68 demonstrate to the court whether the defendant has an educational
 11-69 skill level that is equal to or greater than the average skill level

12-1 of students who have completed the sixth grade in public schools in
 12-2 this state. If the judge determines that the defendant has not
 12-3 attained that skill level, the judge shall require as a condition of
 12-4 community supervision that the defendant attain that level of
 12-5 educational skill, unless the judge determines that the defendant
 12-6 lacks the intellectual capacity or the learning ability to ever
 12-7 achieve that level of skill.

12-8 ~~[(d) If the judge places a defendant on community~~
 12-9 ~~supervision and the defendant is determined to have a mental~~
 12-10 ~~illness or be a person with mental retardation by an examining~~
 12-11 ~~expert under Article 16.22 or Chapter 46B or in a psychological~~
 12-12 ~~evaluation conducted under Section 9(i) of this article, the judge~~
 12-13 ~~may require the defendant as a condition of community supervision~~
 12-14 ~~to submit to outpatient or inpatient mental health or mental~~
 12-15 ~~retardation treatment if the:~~

12-16 ~~[(1) defendant's:~~

12-17 ~~[(A) mental impairment is chronic in nature; or~~

12-18 ~~[(B) ability to function independently will~~
 12-19 ~~continue to deteriorate if the defendant does not receive mental~~
 12-20 ~~health or mental retardation services; and~~

12-21 ~~[(2) judge determines, in consultation with a local~~
 12-22 ~~mental health or mental retardation services provider, that~~
 12-23 ~~appropriate mental health or mental retardation services for the~~
 12-24 ~~defendant are available through the Texas Department of Mental~~
 12-25 ~~Health and Mental Retardation under Section 534.053, Health and~~
 12-26 ~~Safety Code, or through another mental health or mental retardation~~
 12-27 ~~services provider.]~~

12-28 (e) A judge granting community supervision to a defendant
 12-29 required to register as a sex offender under Chapter 62 shall
 12-30 require that the defendant, as a condition of community
 12-31 supervision:

12-32 (1) register under that chapter; and

12-33 (2) submit a blood sample or other specimen to the
 12-34 Department of Public Safety under Subchapter G, Chapter 411,
 12-35 Government Code, for the purpose of creating a DNA record of the
 12-36 defendant, unless the defendant has already submitted the required
 12-37 specimen under other state law.

12-38 (f) ~~[A judge may not require a defendant to undergo an~~
 12-39 ~~orchiectomy as a condition of community supervision.~~

12-40 ~~[(g)]~~ A judge who grants community supervision to a person
 12-41 may require the person to make one payment in an amount not to
 12-42 exceed \$50 to a children's advocacy center established under
 12-43 Subchapter E, Chapter 264, Family Code, if the person is charged
 12-44 with or convicted of an offense under Section 21.11 or
 12-45 22.011(a)(2), Penal Code.

12-46 (g) ~~[(h)]~~ If a judge grants community supervision to a
 12-47 person convicted of an offense under Title 5, Penal Code, that the
 12-48 court determines involves family violence, the judge may require
 12-49 the person to make one payment in an amount not to exceed \$100 to a
 12-50 family violence shelter center that receives state or federal funds
 12-51 and that serves the county in which the court is located. In this
 12-52 subsection, "family violence" has the meaning assigned by Section
 12-53 71.004, Family Code, and "family violence shelter center" has the
 12-54 meaning assigned by Section 51.002, Human Resources Code.

12-55 (h) If a judge grants community supervision to a defendant
 12-56 convicted of an offense for which sex offender registration is
 12-57 required and the victim in the case is younger than 17 years of age,
 12-58 the judge shall establish a child safety zone applicable to the
 12-59 defendant that complies with standards for child safety zones
 12-60 established by the community justice assistance division of the
 12-61 Texas Department of Criminal Justice.

12-62 (i) A judge may establish the order in which a defendant is
 12-63 required to complete conditions of community supervision.

12-64 ~~[(i) A judge who grants community supervision to a sex~~
 12-65 ~~offender evaluated under Section 9A may require the sex offender as~~
 12-66 ~~a condition of community supervision to submit to treatment,~~
 12-67 ~~specialized supervision, or rehabilitation according to~~
 12-68 ~~offense-specific standards of practice adopted by the Council on~~
 12-69 ~~Sex Offender Treatment. On a finding that the defendant is~~

~~financially able to make payment, the judge shall require the defendant to pay all or part of the reasonable and necessary costs of the treatment, supervision, or rehabilitation.~~

~~[(1)(1) If the court grants community supervision to a person convicted of an offense under Section 42.072, Penal Code, the court may require as a condition of community supervision that the person may not:~~

~~[(A) communicate directly or indirectly with the victim; or~~

~~[(B) go to or near the residence, place of employment, or business of the victim or to or near a school, day-care facility, or similar facility where a dependent child of the victim is in attendance.~~

~~[(2) If the court requires the prohibition contained in Subdivision (1)(B) of this subsection as a condition of community supervision, the court shall specifically describe the prohibited locations and the minimum distances, if any, that the person must maintain from the locations.]~~

Sec. 12. CONFINEMENT AS A CONDITION OF COMMUNITY SUPERVISION. (a) If a judge having jurisdiction of a misdemeanor case requires as a condition of community supervision that the defendant submit to a period of confinement in a county jail, the period of confinement may not exceed 30 days. If a judge having jurisdiction of a felony case requires as a condition of community supervision that the defendant submit to a period of confinement in a county jail, the period of confinement may not exceed 180 days.

(b) A judge that requires as a condition of community supervision that the defendant serve a term in a community corrections facility under Section 17 ~~[18 of this article]~~ may not impose a term of confinement under this section that, when added to the term imposed under Section 17 ~~[18]~~, exceeds 24 months.

(c) A judge may impose confinement as a condition of community supervision under Subsection (a) ~~[of this section]~~ on placing the defendant on supervision or at any time during the supervision period. The judge may impose periods of confinement as a condition of community supervision in increments smaller than the maximum periods provided by Subsection (a) ~~[of this section]~~ but may not impose periods of confinement that if added together exceed the maximum periods provided by Subsection (a).

(d) A judge in a felony case who imposes confinement as a condition of community supervision shall give the defendant credit on the defendant's sentence in the same manner as if the defendant served the term of confinement in the Texas Department of Criminal Justice.

Sec. 12A ~~[13]~~. DWI COMMUNITY SUPERVISION. (a) A judge granting community supervision to a defendant convicted of an offense under Chapter 49, Penal Code, shall require as a condition of community supervision that the defendant submit to:

(1) not less than three days of confinement in county jail if the defendant was punished under Section 49.09(a); not less than five days of confinement in county jail if the defendant was punished under Section 49.09(a) and was subject to Section 49.09(h); not less than 10 days of confinement in county jail if the defendant was punished under Section 49.09(b) or (c); or not less than 30 days of confinement in county jail if the defendant was convicted under Section 49.07; and

(2) an evaluation by a supervision officer or by a person, program, or facility approved by the Texas Commission on Alcohol and Drug Abuse for the purpose of having the facility prescribe and carry out a course of conduct necessary for the rehabilitation of the defendant's drug or alcohol dependence condition.

(b) A judge granting community supervision to a defendant convicted of an offense under Section 49.08, Penal Code, shall require as a condition of community supervision that the defendant submit to a period of confinement of not less than 120 days.

(c) If the director of a facility to which a defendant is referred under ~~[Subdivision (2) of]~~ Subsection (a) (2) ~~[of this section]~~ determines that the defendant is not making a good faith

14-1 effort to participate in a program of rehabilitation, the director
 14-2 shall notify the judge that referred the defendant of that fact.

14-3 ~~[(d) If a judge requires as a condition of community
 14-4 supervision that the defendant participate in a prescribed course
 14-5 of conduct necessary for the rehabilitation of the defendant's drug
 14-6 or alcohol dependence condition, the judge shall require that the
 14-7 defendant pay for all or part of the cost of such rehabilitation
 14-8 based on the defendant's ability to pay. The judge may, in its
 14-9 discretion, credit such cost paid by the defendant against the fine
 14-10 assessed. In making a determination of a defendant's ability to pay
 14-11 the cost of rehabilitation under this subsection, the judge shall
 14-12 consider whether the defendant has insurance coverage that will pay
 14-13 for rehabilitation.]~~

14-14 ~~[(e) The confinement imposed shall be treated as a condition
 14-15 of community supervision, and in the event of a sentence of
 14-16 confinement upon the revocation of community supervision, the term
 14-17 of confinement served may not be credited toward service of such
 14-18 subsequent confinement.]~~

14-19 ~~[(f) If a judge grants community supervision to a defendant
 14-20 convicted of an offense under Sections 49.04-49.08, Penal Code, and
 14-21 if before receiving community supervision the defendant has not
 14-22 submitted to an evaluation under Section 9 of this article, the
 14-23 judge shall require the defendant to submit to the evaluation as a
 14-24 condition of community supervision. If the evaluation indicates to
 14-25 the judge that the defendant is in need of treatment for drug or
 14-26 alcohol dependency, the judge shall require the defendant to submit
 14-27 to that treatment as a condition of community supervision in a
 14-28 program or facility approved or licensed by the Texas Commission on
 14-29 Alcohol and Drug Abuse or in a program or facility that complies
 14-30 with standards established by the community justice assistance
 14-31 division of the Texas Department of Criminal Justice, after
 14-32 consultation by the division with the commission.]~~

14-33 ~~[(g) A jury that recommends community supervision for a
 14-34 person convicted of an offense under Sections 49.04-49.08, Penal
 14-35 Code, may recommend that any driver's license issued to the
 14-36 defendant under Chapter 521, Transportation Code, not be suspended.
 14-37 This subsection does not apply to a person punished under Section
 14-38 49.09(a) or (b), Penal Code, and subject to Section 49.09(h) of that
 14-39 code.]~~

14-40 ~~[(h) If a person convicted of an offense under Sections
 14-41 49.04-49.08, Penal Code, is placed on community supervision, the
 14-42 judge shall require, as a condition of the community supervision,
 14-43 that the defendant attend and successfully complete before the
 14-44 181st day after the day community supervision is granted an
 14-45 educational program jointly approved by the Texas Commission on
 14-46 Alcohol and Drug Abuse, the Department of Public Safety, the
 14-47 Traffic Safety Section of the Texas Department of Transportation,
 14-48 and the community justice assistance division of the Texas
 14-49 Department of Criminal Justice designed to rehabilitate persons who
 14-50 have driven while intoxicated. The Texas Commission on Alcohol and
 14-51 Drug Abuse shall publish the jointly approved rules and shall
 14-52 monitor, coordinate, and provide training to persons providing the
 14-53 educational programs. The Texas Commission on Alcohol and Drug
 14-54 Abuse is responsible for the administration of the certification of
 14-55 approved educational programs and may charge a nonrefundable
 14-56 application fee for the initial certification of approval and for
 14-57 renewal of a certificate. The judge may waive the educational
 14-58 program requirement or may grant an extension of time to
 14-59 successfully complete the program that expires not later than one
 14-60 year after the beginning date of the person's community
 14-61 supervision, however, if the defendant by a motion in writing shows
 14-62 good cause. In determining good cause, the judge may consider but
 14-63 is not limited to: the defendant's school and work schedule, the
 14-64 defendant's health, the distance that the defendant must travel to
 14-65 attend an educational program, and the fact that the defendant
 14-66 resides out of state, has no valid driver's license, or does not
 14-67 have access to transportation. The judge shall set out the finding
 14-68 of good cause for waiver in the judgment. If a defendant is
 14-69 required, as a condition of community supervision, to attend an~~

15-1 educational program or if the court waives the educational program
15-2 requirement, the court clerk shall immediately report that fact to
15-3 the Department of Public Safety, on a form prescribed by the
15-4 department, for inclusion in the person's driving record. If the
15-5 court grants an extension of time in which the person may complete
15-6 the program, the court clerk shall immediately report that fact to
15-7 the Department of Public Safety on a form prescribed by the
15-8 department. The report must include the beginning date of the
15-9 person's community supervision. Upon the person's successful
15-10 completion of the educational program, the person's instructor
15-11 shall give notice to the Department of Public Safety for inclusion
15-12 in the person's driving record and to the community supervision and
15-13 corrections department. The community supervision and corrections
15-14 department shall then forward the notice to the court clerk for
15-15 filing. If the Department of Public Safety does not receive notice
15-16 that a defendant required to complete an educational program has
15-17 successfully completed the program within the period required by
15-18 this section, as shown on department records, the department shall
15-19 revoke the defendant's driver's license, permit, or privilege or
15-20 prohibit the person from obtaining a license or permit, as provided
15-21 by Sections 521.344(e) and (f), Transportation Code. The Department
15-22 of Public Safety may not reinstate a license suspended under this
15-23 subsection unless the person whose license was suspended makes
15-24 application to the department for reinstatement of the person's
15-25 license and pays to the department a reinstatement fee of \$50. The
15-26 Department of Public Safety shall remit all fees collected under
15-27 this subsection to the comptroller for deposit in the general
15-28 revenue fund. This subsection does not apply to a defendant if a
15-29 jury recommends community supervision for the defendant and also
15-30 recommends that the defendant's driver's license not be suspended.

15-31 [(i) If a person convicted of an offense under Sections
15-32 49.04-49.08, Penal Code, is placed on community supervision, the
15-33 court may require as a condition of community supervision that the
15-34 defendant have a device installed, on the motor vehicle owned by the
15-35 defendant or on the vehicle most regularly driven by the defendant,
15-36 that uses a deep-lung breath analysis mechanism to make impractical
15-37 the operation of the motor vehicle if ethyl alcohol is detected in
15-38 the breath of the operator and that the defendant not operate any
15-39 motor vehicle that is not equipped with that device. If the person
15-40 is convicted of an offense under Sections 49.04-49.06, Penal Code,
15-41 and punished under Section 49.09(a) or (b), Penal Code, or of a
15-42 second or subsequent offense under Section 49.07 or 49.08, Penal
15-43 Code, and the person after conviction of either offense is placed on
15-44 community supervision, the court shall require as a condition of
15-45 community supervision that the defendant have the device installed
15-46 on the appropriate vehicle and that the defendant not operate any
15-47 motor vehicle unless the vehicle is equipped with that device.
15-48 Before placing on community supervision a person convicted of an
15-49 offense under Sections 49.04-49.08, Penal Code, the court shall
15-50 determine from criminal history record information maintained by
15-51 the Department of Public Safety whether the person has one or more
15-52 previous convictions under Sections 49.04-49.08, Penal Code, or has
15-53 one previous conviction under Sections 49.04-49.07, Penal Code, or
15-54 one previous conviction under Section 49.08, Penal Code. If the
15-55 court determines that the person has one or more such previous
15-56 convictions, the court shall require as a condition of community
15-57 supervision that the defendant have that device installed on the
15-58 motor vehicle owned by the defendant or on the vehicle most
15-59 regularly driven by the defendant and that the defendant not
15-60 operate any motor vehicle unless the vehicle is equipped with the
15-61 device described in this subsection. The court shall require the
15-62 defendant to obtain the device at the defendant's own cost before
15-63 the 30th day after the date of conviction unless the court finds
15-64 that to do so would not be in the best interest of justice and enters
15-65 its findings on record. The court shall require the defendant to
15-66 provide evidence to the court within the 30-day period that the
15-67 device has been installed on the appropriate vehicle and order the
15-68 device to remain installed on that vehicle for a period not less
15-69 than 50 percent of the supervision period. If the court determines

~~the offender is unable to pay for the device, the court may impose a reasonable payment schedule not to exceed twice the period of the court's order. The Department of Public Safety shall approve devices for use under this subsection. Section 521.247, Transportation Code, applies to the approval of a device under this subsection and the consequences of that approval. Notwithstanding the provisions of this section, if a person is required to operate a motor vehicle in the course and scope of the person's employment and if the vehicle is owned by the employer, the person may operate that vehicle without installation of an approved ignition interlock device if the employer has been notified of that driving privilege restriction and if proof of that notification is with the vehicle. This employment exemption does not apply, however, if the business entity that owns the vehicle is owned or controlled by the person whose driving privilege has been restricted. A previous conviction may not be used for purposes of restricting a person to the operation of a motor vehicle equipped with an interlock ignition device under this subsection if:~~

~~[(1) the previous conviction was a final conviction under Section 49.04, 49.05, 49.06, 49.07, or 49.08, Penal Code, and was for an offense committed more than 10 years before the instant offense for which the person was convicted and placed on community supervision; and~~

~~[(2) the person has not been convicted of an offense under Section 49.04, 49.05, 49.06, 49.07, or 49.08 of that code, committed within 10 years before the date on which the instant offense for which the person was convicted and placed on community supervision.~~

~~[(j) The judge shall require a defendant who is punished under Section 49.09, Penal Code, as a condition of community supervision, to attend and successfully complete an educational program for repeat offenders approved by the Texas Commission on Alcohol and Drug Abuse. The Texas Commission on Alcohol and Drug Abuse shall adopt rules and shall monitor, coordinate, and provide training to persons providing the educational programs. The Texas Commission on Alcohol and Drug Abuse is responsible for the administration of the certification of approved educational programs and may charge a nonrefundable application fee for initial certification of approval or for renewal of the certification. The judge may waive the educational program requirement only if the defendant by a motion in writing shows good cause. In determining good cause, the judge may consider the defendant's school and work schedule, the defendant's health, the distance that the defendant must travel to attend an educational program, and whether the defendant resides out of state or does not have access to transportation. The judge shall set out the finding of good cause in the judgment. If a defendant is required, as a condition of community supervision, to attend an educational program, the court clerk shall immediately report that fact to the Department of Public Safety, on a form prescribed by the department, for inclusion in the defendant's driving record. The report must include the beginning date of the defendant's community supervision. On the defendant's successful completion of the educational program for repeat offenders, the defendant's instructor shall give notice to the Department of Public Safety for inclusion in the defendant's driving record and to the community supervision and corrections department. The community supervision and corrections department shall then forward the notice to the court clerk for filing. If the Department of Public Safety does not receive notice that a defendant required to complete an educational program has successfully completed the program for repeat offenders within the period required by the judge, as shown on department records, the department shall revoke the defendant's driver's license, permit, or privilege or prohibit the defendant from obtaining a license or permit, as provided by Sections 521.344(e) and (f), Transportation Code.~~

~~[(k) Notwithstanding Sections 521.344(d)-(i), Transportation Code, if the judge, under Subsection (h) or (j) of this section, permits or requires a defendant punished under~~

~~Section 49.09, Penal Code, to attend an educational program as a condition of community supervision, or waives the required attendance for such a program, and the defendant has previously been required to attend such a program, or the required attendance at the program had been waived, the judge nonetheless shall order the suspension of the driver's license, permit, or operating privilege of that person for a period determined by the judge according to the following schedule:~~

~~[(1) not less than 90 days or more than 365 days, if the defendant is convicted under Sections 49.04-49.08, Penal Code,~~

~~[(2) not less than 180 days or more than two years, if the defendant is punished under Section 49.09(a) or (b), Penal Code; or~~

~~[(3) not less than one year or more than two years, if the person is convicted of a second or subsequent offense under Sections 49.04-49.08, Penal Code, committed within five years of the date on which the most recent preceding offense was committed.~~

~~[(1) If the Department of Public Safety receives notice that a defendant has been required or permitted to attend a subsequent educational program under Subsection (h), (j), or (k) of this section, although the previously required attendance had been waived, but the judge has not ordered a period of suspension, the department shall suspend the defendant's driver's license, permit, or operating privilege, or shall issue an order prohibiting the defendant from obtaining a license or permit for a period of 365 days.~~

~~[(m) If a judge revokes the community supervision of a defendant for an offense under Section 49.04, Penal Code, or an offense involving the operation of a motor vehicle under Section 49.07, Penal Code, and the driver's license or privilege to operate a motor vehicle has not previously been ordered by the judge to be suspended, or if the suspension was previously probated, the judge shall suspend the license or privilege for a period provided under Subchapter O, Chapter 521, Transportation Code. The suspension shall be reported to the Department of Public Safety as provided under Section 521.347, Transportation Code.~~

~~[(n) Notwithstanding any other provision of this section or other law, the judge who places on community supervision a defendant who is younger than 21 years of age and convicted for an offense under Sections 49.04-49.08, Penal Code, shall:~~

~~[(1) order that the defendant's driver's license be suspended for 90 days beginning on the date that the person is placed on community supervision; and~~

~~[(2) require as a condition of community supervision that the defendant not operate a motor vehicle unless the vehicle is equipped with the device described by Subsection (i) of this section.~~

~~[Sec. 13A. COMMUNITY SUPERVISION FOR OFFENSE COMMITTED BECAUSE OF BIAS OR PREJUDICE. (a) A court granting community supervision to a defendant convicted of an offense for which the court has made an affirmative finding under Article 42.014 of this code shall require as a term of community supervision that the defendant:~~

~~[(1) serve a term of not more than one year imprisonment in the institutional division of the Texas Department of Criminal Justice if the offense is a felony other than an offense under Section 19.02, Penal Code; or~~

~~[(2) serve a term of not more than 90 days confinement in jail if the offense is a misdemeanor.~~

~~[(b) The court may not grant community supervision on its own motion or on the recommendation of the jury to a defendant convicted of an offense for which the court has made an affirmative finding under Article 42.014 of this code if:~~

~~[(1) the offense is murder under Section 19.02, Penal Code; or~~

~~[(2) the defendant has been previously convicted of an offense for which the court made an affirmative finding under Article 42.014 of this code.~~

~~[Sec. 13B. DEFENDANTS PLACED ON COMMUNITY SUPERVISION FOR~~

~~SEXUAL OFFENSES AGAINST CHILDREN. (a) If a judge grants community supervision to a defendant described by Subsection (b) and the judge determines that a child as defined by Section 22.011(c), Penal Code, was the victim of the offense, the judge shall establish a child safety zone applicable to the defendant by requiring as a condition of community supervision that the defendant:~~

~~[(1) not:~~

~~[(A) supervise or participate in any program that includes as participants or recipients persons who are 17 years of age or younger and that regularly provides athletic, civic, or cultural activities; or~~

~~[(B) go in, on, or within 1,000 feet of a premises where children commonly gather, including a school, day-care facility, playground, public or private youth center, public swimming pool, or video arcade facility; and~~

~~[(2) attend psychological counseling sessions for sex offenders with an individual or organization which provides sex offender treatment or counseling as specified by or approved by the judge or the community supervision and corrections department officer supervising the defendant.~~

~~[(b) This section applies to a defendant placed on community supervision for an offense:~~

~~[(1) under Section 43.25 or 43.26, Penal Code;~~

~~[(2) under Section 21.08, 21.11, 22.011, 22.021, or 25.02, Penal Code;~~

~~[(3) under Section 20.04(a)(4), Penal Code, if the defendant committed the offense with the intent to violate or abuse the victim sexually; or~~

~~[(4) under Section 30.02, Penal Code, punishable under Subsection (d) of that section, if the defendant committed the offense with the intent to commit a felony listed in Subdivision (2) or (3) of this subsection.~~

~~[(c) A community supervision and corrections department officer who under Subsection (a)(2) specifies a sex offender treatment provider to provide counseling to a defendant shall contact the provider before the defendant is released, establish the date, time, and place of the first session between the defendant and the provider, and request the provider to immediately notify the officer if the defendant fails to attend the first session or any subsequent scheduled session.~~

~~[(d) Notwithstanding Subsection (a)(1), a judge is not required to impose the conditions described by Subsection (a)(1) if the defendant is a student at a primary or secondary school.~~

~~[(e) At any time after the imposition of a condition under Subsection (a)(1), the defendant may request the court to modify the child safety zone applicable to the defendant because the zone as created by the court:~~

~~[(1) interferes with the ability of the defendant to attend school or hold a job and consequently constitutes an undue hardship for the defendant; or~~

~~[(2) is broader than is necessary to protect the public, given the nature and circumstances of the offense.~~

~~[(f) A community supervision and corrections department officer supervising a defendant described by Subsection (b) may permit the defendant to enter on an event-by-event basis into the child safety zone from which the defendant is otherwise prohibited from entering if:~~

~~[(1) the defendant has served at least two years of the period of community supervision;~~

~~[(2) the defendant enters the zone as part of a program to reunite with the defendant's family;~~

~~[(3) the defendant presents to the officer a written proposal specifying where the defendant intends to go within the zone, why and with whom the defendant is going, and how the defendant intends to cope with any stressful situations that occur;~~

~~[(4) the sex offender treatment provider treating the defendant agrees with the officer that the defendant should be allowed to attend the event; and~~

~~[(5) the officer and the treatment provider agree on a~~

19-1 ~~chaperon to accompany the defendant and the chaperon agrees to~~
19-2 ~~perform that duty.~~

19-3 ~~[(g) Section 10(a) does not prohibit a community~~
19-4 ~~supervision and corrections department officer from altering a~~
19-5 ~~condition of community supervision by permitting a defendant to~~
19-6 ~~enter a child safety zone under Subsection (f).]~~

19-7 ~~[(h) In this section, "playground," "premises," "school,"~~
19-8 ~~"video arcade facility," and "youth center" have the meanings~~
19-9 ~~assigned by Section 481.134, Health and Safety Code.]~~

19-10 ~~[(i) Notwithstanding Subsection (a)(1)(B), a requirement~~
19-11 ~~that a defendant not go in, on, or within 1,000 feet of certain~~
19-12 ~~premises does not apply to a defendant while the defendant is in or~~
19-13 ~~going immediately to or from a:~~

19-14 ~~[(1) community supervision and corrections department~~
19-15 ~~office;~~

19-16 ~~[(2) premises at which the defendant is participating~~
19-17 ~~in a program or activity required as a condition of community~~
19-18 ~~supervision;~~

19-19 ~~[(3) residential facility in which the defendant is~~
19-20 ~~required to reside as a condition of community supervision, if the~~
19-21 ~~facility was in operation as a residence for defendants on~~
19-22 ~~community supervision on June 1, 2003; or~~

19-23 ~~[(4) private residence at which the defendant is~~
19-24 ~~required to reside as a condition of community supervision.]~~

19-25 ~~[Sec. 13C. COMMUNITY SUPERVISION FOR MAKING A FIREARM~~
19-26 ~~ACCESSIBLE TO A CHILD. (a) A court granting community supervision~~
19-27 ~~to a defendant convicted of an offense under Section 46.13, Penal~~
19-28 ~~Code, may require as a condition of community supervision that the~~
19-29 ~~defendant:~~

19-30 ~~[(1) provide an appropriate public service activity~~
19-31 ~~designated by the court; or~~

19-32 ~~[(2) attend a firearms safety course which meets or~~
19-33 ~~exceeds the requirements set by the National Rifle Association as~~
19-34 ~~of January 1, 1995, for a firearms safety course that requires not~~
19-35 ~~more than 17 hours of instruction.]~~

19-36 ~~[(b) The court shall require the defendant to pay the cost~~
19-37 ~~of attending the firearms safety course under Subsection (a)(2).]~~

19-38 ~~[Sec. 13D. DEFENDANTS PLACED ON COMMUNITY SUPERVISION FOR~~
19-39 ~~VIOLENT OFFENSES, PROTECTING CHILDREN. (a) If a judge grants~~
19-40 ~~community supervision to a defendant convicted of an offense listed~~
19-41 ~~in Section 3g(a)(1) or for which the judgment contains an~~
19-42 ~~affirmative finding under Section 3g(a)(2), the judge, if the~~
19-43 ~~nature of the offense for which the defendant is convicted warrants~~
19-44 ~~the establishment of a child safety zone, may establish a child~~
19-45 ~~safety zone applicable to the defendant by requiring as a condition~~
19-46 ~~of community supervision that the defendant not:~~

19-47 ~~[(1) supervise or participate in any program that~~
19-48 ~~includes as participants or recipients persons who are 17 years of~~
19-49 ~~age or younger and that regularly provides athletic, civic, or~~
19-50 ~~cultural activities; or~~

19-51 ~~[(2) go in or on, or within a distance specified by the~~
19-52 ~~judge of, a premises where children commonly gather, including a~~
19-53 ~~school, day-care facility, playground, public or private youth~~
19-54 ~~center, public swimming pool, or video arcade facility.]~~

19-55 ~~[(b) At any time after the imposition of a condition under~~
19-56 ~~Subsection (a), the defendant may request the judge to modify the~~
19-57 ~~child safety zone applicable to the defendant because the zone as~~
19-58 ~~created by the judge:~~

19-59 ~~[(1) interferes with the ability of the defendant to~~
19-60 ~~attend school or hold a job and consequently constitutes an undue~~
19-61 ~~hardship for the defendant; or~~

19-62 ~~[(2) is broader than is necessary to protect the~~
19-63 ~~public, given the nature and circumstances of the offense.]~~

19-64 ~~[(c) This section does not apply to a defendant described by~~
19-65 ~~Section 13B.]~~

19-66 ~~[(d) In this section, "playground," "premises," "school,"~~
19-67 ~~"video arcade facility," and "youth center" have the meanings~~
19-68 ~~assigned by Section 481.134, Health and Safety Code.]~~

19-69 ~~[Sec. 14. CHILD ABUSERS AND FAMILY VIOLENCE OFFENDERS;~~

~~SPECIAL CONDITIONS. (a) If the court grants probation to a person convicted of an offense described by Article 17.41(a) of this code, the court may require as a condition of probation that the defendant not directly communicate with the victim of the offense or go near a residence, school, or other location, as specifically described in the copy of terms and conditions, frequented by the victim. In imposing the condition, the court may grant the defendant supervised access to the victim. To the extent that a condition imposed under this subsection conflicts with an existing court order granting possession of or access to a child, the condition imposed under this subsection prevails for a period specified by the court granting probation, not to exceed 90 days.~~

~~[(c) If the court grants community supervision to a person convicted of an offense involving family violence, as defined by Section 71.004, Family Code, the court may require the defendant to attend, at the direction of the community supervision and corrections department officer, counseling sessions for the elimination of violent behavior with a licensed counselor, social worker, or other professional who has been trained in family violence intervention or to attend a battering intervention and prevention program if available that meets guidelines adopted by the community justice assistance division of the Texas Department of Criminal Justice. If the court requires the defendant to attend counseling or a program, the court shall require the defendant to begin attendance not later than the 60th day after the date the court grants community supervision, notify the community supervision and corrections department officer of the name, address, and phone number of the counselor or program, and report the defendant's attendance to the officer. The court shall require the defendant to pay all the reasonable costs of the counseling sessions or attendance in the program on a finding that the defendant is financially able to make payment. If the court finds the defendant is unable to make payment, the court shall make the counseling sessions or enrollment in the program available without cost to the defendant. The court may also require the defendant to pay all or a part of the reasonable costs incurred by the victim for counseling made necessary by the offense, on a finding that the defendant is financially able to make payment. The court may order the defendant to make payments under this subsection for a period not to exceed one year after the date on which the order is entered.]~~

Sec. 13 ~~[14]~~. SUBSTANCE ABUSE FELONY PROGRAM. (a) If a court places a defendant on community supervision under any provision of this article as an alternative to imprisonment, the judge may require as a condition of community supervision that the defendant serve a term of confinement and treatment in a substance abuse treatment facility operated by the Texas Department of Criminal Justice under Section 493.009, Government Code. A term of confinement and treatment imposed under this section must be an indeterminate term of not more than one year or less than 90 days.

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

(1) the judge places the defendant on community supervision under this article;

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

(A) a felony under Section 21.11, 22.011, or 22.021, Penal Code; or

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

(3) the judge makes an affirmative finding that:

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

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

(c) If a judge requires as a condition of community

21-1 supervision that the defendant serve a term of confinement and
 21-2 treatment in a substance abuse treatment facility under this
 21-3 section, the judge shall also require as a condition of community
 21-4 supervision that on release from the facility the defendant:

21-5 (1) participate in a drug or alcohol abuse continuum
 21-6 of care treatment plan; and

21-7 (2) pay a fee in an amount established by the judge for
 21-8 residential aftercare required as part of the treatment plan.

21-9 (d) The Department of State Health Services [~~Texas~~
 21-10 ~~Commission on Alcohol and Drug Abuse~~] shall develop the continuum
 21-11 of care treatment plan.

21-12 (e) The clerk of a court that collects a fee imposed under
 21-13 Subsection (c)(2) shall deposit the fee to be sent to the
 21-14 comptroller as provided by Subchapter B, Chapter 133, Local
 21-15 Government Code, and the comptroller shall deposit the fee into the
 21-16 general revenue fund. In requiring the payment of a fee under
 21-17 Subsection (c)(2), the judge shall consider fines, fees, and other
 21-18 necessary expenses for which the defendant is obligated in
 21-19 establishing the amount of the fee. The judge may not:

21-20 (1) establish the fee in an amount that is greater than
 21-21 25 percent of the defendant's gross income while the defendant is a
 21-22 participant in residential aftercare; or

21-23 (2) require the defendant to pay the fee at any time
 21-24 other than a time at which the defendant is both employed and a
 21-25 participant in residential aftercare.

21-26 Sec. 14 [~~15~~]. PROCEDURES RELATING TO STATE JAIL FELONY
 21-27 COMMUNITY SUPERVISION. (a)(1) On conviction of a state jail
 21-28 felony under Section 481.115(b), 481.1151(b)(1), 481.116(b),
 21-29 481.121(b)(3), or 481.129(g)(1), Health and Safety Code, that is
 21-30 punished under Section 12.35(a), Penal Code, the judge shall
 21-31 suspend the imposition of the sentence and place the defendant on
 21-32 community supervision, unless the defendant has previously been
 21-33 convicted of a felony, in which event the judge may suspend the
 21-34 imposition of the sentence and place the defendant on community
 21-35 supervision or may order the sentence to be executed. The
 21-36 provisions of this subdivision requiring the judge to suspend the
 21-37 imposition of the sentence and place the defendant on community
 21-38 supervision do not apply to a defendant who under Section
 21-39 481.1151(b)(1), Health and Safety Code, possessed more than five
 21-40 abuse units of the controlled substance or under Section
 21-41 481.121(b)(3), Health and Safety Code, possessed more than one
 21-42 pound of marihuana.

21-43 (2) On conviction of a state jail felony punished
 21-44 under Section 12.35(a), Penal Code, other than a state jail felony
 21-45 listed in Subdivision (1), the judge may suspend the imposition of
 21-46 the sentence and place the defendant on community supervision or
 21-47 may order the sentence to be executed.

21-48 (3) The judge may suspend in whole or in part the
 21-49 imposition of any fine imposed on conviction.

21-50 (b) The minimum period of community supervision a judge may
 21-51 impose under this section is two years. The maximum period of
 21-52 community supervision a judge may impose under this section is
 21-53 three [~~five~~] years, except that the judge may extend the maximum
 21-54 period of community supervision under this section to not more than
 21-55 five [~~10~~] years. A judge may extend a period of community
 21-56 supervision under this section at any time during the period of
 21-57 community supervision, or if a motion for revocation of community
 21-58 supervision is filed before the period of community supervision
 21-59 ends, before the first anniversary of the expiration of the period
 21-60 of community supervision.

21-61 (c)(1) A judge may impose any condition of community
 21-62 supervision on a defendant that the judge could impose on a
 21-63 defendant placed on supervision for an offense other than a state
 21-64 jail felony, except that the judge may impose on the defendant a
 21-65 condition that the defendant submit to a period of confinement in a
 21-66 county jail under Section 5 or 12 [~~of this article~~] only if the term
 21-67 does not exceed 90 days.

21-68 (2) Except as otherwise provided by Subdivision (3), a
 21-69 judge who places a defendant on community supervision for an

22-1 offense listed in Subsection (a)(1) shall require the defendant to
 22-2 comply with substance abuse treatment conditions that are
 22-3 consistent with standards adopted by the Texas Board of Criminal
 22-4 Justice under Section 509.015, Government Code.

22-5 (3) A judge is not required to impose conditions
 22-6 described by Subdivision (2) if the judge makes an affirmative
 22-7 finding that the defendant does not require imposition of the
 22-8 conditions to successfully complete the period of community
 22-9 supervision.

22-10 (d) A judge may impose as a condition of community
 22-11 supervision that a defendant submit at the beginning of the period
 22-12 of community supervision to a term of confinement in a state jail
 22-13 felony facility for a term of not less than 90 days or more than 180
 22-14 days, or a term of not less than 90 days or more than one year if the
 22-15 defendant is convicted of an offense punishable as a state jail
 22-16 felony under Section 481.112, 481.1121, 481.113, or 481.120, Health
 22-17 and Safety Code. A judge may not require a defendant to submit to
 22-18 both the term of confinement authorized by this subsection and a
 22-19 term of confinement under Section 5 or 12 [~~of this article~~]. For
 22-20 the purposes of this subsection, a defendant previously has been
 22-21 convicted of a felony regardless of whether the sentence for the
 22-22 previous conviction was actually imposed or was probated and
 22-23 suspended.

22-24 (e) If a defendant violates a condition of community
 22-25 supervision imposed on the defendant under this article and after a
 22-26 hearing under Section 20 [~~21 of this article~~] the judge modifies the
 22-27 defendant's community supervision, the judge may impose any
 22-28 sanction permitted by Section 21 [~~22 of this article~~], except that
 22-29 if the judge requires a defendant to serve a period of confinement
 22-30 in a state jail felony facility as a modification of the defendant's
 22-31 community supervision, the minimum term of confinement is 90 days
 22-32 and the maximum term of confinement is 180 days.

22-33 (f)(1) If a defendant violates a condition of community
 22-34 supervision imposed on the defendant under this article and after a
 22-35 hearing under Section 20 [~~21 of this article~~] the judge revokes the
 22-36 defendant's community supervision, the judge shall dispose of the
 22-37 case in the manner provided by Section 22 [~~23 of this article~~].

22-38 (2) The court retains jurisdiction over the defendant
 22-39 for the period during which the defendant is confined in a state
 22-40 jail. At any time after the 75th day after the date the defendant is
 22-41 received into the custody of a state jail, the judge on the judge's
 22-42 own motion, on the motion of the attorney representing the state, or
 22-43 on the motion of the defendant may suspend further execution of the
 22-44 sentence and place the defendant on community supervision under the
 22-45 conditions of this section.

22-46 (3) When the defendant or the attorney representing
 22-47 the state files a written motion requesting suspension by the judge
 22-48 of further execution of the sentence and placement of the defendant
 22-49 on community supervision, the clerk of the court, if requested to do
 22-50 so by the judge, shall request a copy of the defendant's record
 22-51 while confined from the facility director of the state jail felony
 22-52 facility in which the defendant is confined or, if the defendant is
 22-53 confined in county jail, from the sheriff. On receipt of the
 22-54 request, the facility director or the sheriff shall forward to the
 22-55 judge, as soon as possible, a full and complete copy of the
 22-56 defendant's record while confined. When the defendant files a
 22-57 written motion requesting suspension of further execution of the
 22-58 sentence and placement on community supervision, he shall
 22-59 immediately deliver or cause to be delivered a true and correct copy
 22-60 of the motion to the office of the attorney representing the state.
 22-61 The judge may deny the motion without a hearing but may not grant
 22-62 the motion without holding a hearing and providing the attorney
 22-63 representing the state and the defendant the opportunity to present
 22-64 evidence on the motion.

22-65 (g) The facility director of a state jail felony facility
 22-66 shall report to a judge who orders a defendant confined in the
 22-67 facility as a condition of community supervision or as sanction
 22-68 imposed as a modification of community supervision under Subsection
 22-69 (e) not less than every 90 days on the defendant's programmatic

23-1 progress, conduct, and conformity to the rules of the facility.

23-2 (h)(1) A defendant confined in a state jail felony facility
23-3 does not earn good conduct time for time served in the facility.

23-4 (2) A judge shall ~~may~~ credit against any time a
23-5 defendant is required to serve in a state jail felony facility time
23-6 served by the defendant in county jail from the time of the
23-7 defendant's arrest and confinement until sentencing by the trial
23-8 court.

23-9 (3) A judge shall credit against any time a defendant
23-10 is subsequently required to serve in a state jail felony facility
23-11 after revocation of community supervision any time served by the
23-12 defendant in a state jail felony facility after sentencing.

23-13 ~~[Sec. 15A. ENHANCED DISORDERLY CONDUCT AND PUBLIC~~
23-14 ~~INTOXICATION OFFENSES. On conviction of an offense for which~~
23-15 ~~punishment is enhanced under Section 12.43(c), Penal Code, the~~
23-16 ~~court may suspend the imposition of the sentence and place the~~
23-17 ~~defendant on community supervision if the court finds that the~~
23-18 ~~defendant would benefit from community supervision and enters its~~
23-19 ~~finding on the record. The judge may suspend in whole or in part the~~
23-20 ~~imposition of any fine imposed on conviction. All provisions of~~
23-21 ~~this article applying to a defendant placed on community~~
23-22 ~~supervision for a misdemeanor apply to a defendant placed on~~
23-23 ~~community supervision under this section, except that the court~~
23-24 ~~shall require the defendant as a condition of community supervision~~
23-25 ~~to:~~

23-26 ~~[(1) submit to diagnostic testing for addiction to~~
23-27 ~~alcohol or a controlled substance or drug;~~

23-28 ~~[(2) submit to a psychological assessment;~~

23-29 ~~[(3) if indicated as necessary by testing and~~
23-30 ~~assessment, participate in an alcohol or drug abuse treatment or~~
23-31 ~~education program; and~~

23-32 ~~[(4) pay the costs of testing, assessment, and~~
23-33 ~~treatment or education, either directly or as a court cost.]~~

23-34 Sec. 15 ~~[16]~~. COMMUNITY SERVICE. (a) A judge may ~~[shall]~~
23-35 require as a condition of community supervision~~[,]~~ that the
23-36 defendant work not more than 40 ~~[a specified number of]~~ hours
23-37 annually at a community service project or projects for an entity or
23-38 organization described by Subsection (b), ~~[or organizations]~~
23-39 approved in [by] the community justice plan established by the
23-40 community justice council serving the judge, [judge] and designated
23-41 by the director of the department. The judge may not require that a
23-42 defendant work at a community service project if[, unless] the
23-43 judge determines [and notes on the order placing the defendant on
23-44 community supervision] that:

23-45 (1) the defendant is physically or mentally incapable
23-46 of participating in the project;

23-47 (2) participating in the project will work a hardship
23-48 on the defendant or the defendant's dependents;

23-49 (3) the defendant is to be confined in a substance
23-50 abuse punishment facility as a condition of community supervision;
23-51 or

23-52 (4) there is other good cause shown.

23-53 (b) Community ~~[The amount of community]~~ service work may be
23-54 performed under this section only for a governmental entity or a
23-55 nonprofit organization that provides services to the general public
23-56 that enhance social welfare and the general well-being of the
23-57 community [ordered by the judge].

23-58 ~~[(1) may not exceed 1,000 hours and may not be less~~
23-59 ~~than 320 hours for an offense classified as a first degree felony;~~

23-60 ~~[(2) may not exceed 800 hours and may not be less than~~
23-61 ~~240 hours for an offense classified as a second degree felony;~~

23-62 ~~[(3) may not exceed 600 hours and may not be less than~~
23-63 ~~160 hours for an offense classified as a third degree felony;~~

23-64 ~~[(4) may not exceed 400 hours and may not be less than~~
23-65 ~~120 hours for an offense classified as a state jail felony;~~

23-66 ~~[(5) may not:~~

23-67 ~~[(A) exceed 600 hours or be less than 160 hours~~
23-68 ~~for an offense under Section 30.04, Penal Code, classified as a~~
23-69 ~~Class A misdemeanor; or~~

24-1 ~~[(B) exceed 200 hours or be less than 80 hours for~~
24-2 ~~any other offense classified as a Class A misdemeanor or for any~~
24-3 ~~other misdemeanor for which the maximum permissible confinement, if~~
24-4 ~~any, exceeds six months or the maximum permissible fine, if any,~~
24-5 ~~exceeds \$4,000; and~~

24-6 ~~[(6) may not exceed 100 hours and may not be less than~~
24-7 ~~24 hours for an offense classified as a Class B misdemeanor or for~~
24-8 ~~any other misdemeanor for which the maximum permissible~~
24-9 ~~confinement, if any, does not exceed six months and the maximum~~
24-10 ~~permissible fine, if any, does not exceed \$4,000].~~

24-11 (c) A defendant required to perform community service under
24-12 this section is not a state employee for the purposes of Chapter 501
24-13 or 504, Labor Code [Article 8309g or 8309h, Revised Statutes].

24-14 ~~[(d) If the court makes an affirmative finding under Article~~
24-15 ~~42.014 of this code, the judge may order the defendant to perform~~
24-16 ~~community service under this section at a project designated by the~~
24-17 ~~judge that primarily serves the person or group who was the target~~
24-18 ~~of the defendant. If the judge orders community service under this~~
24-19 ~~subsection the judge shall order the defendant to perform not less~~
24-20 ~~than:~~

24-21 ~~[(1) 100 hours of service if the offense is a~~
24-22 ~~misdemeanor; or~~

24-23 ~~[(2) 300 hours of service if the offense is a felony.]~~

24-24 Sec. 16 [17]. CHANGE OF RESIDENCE; LEAVING THE STATE.
24-25 (a) If, for good and sufficient reasons, a defendant desires to
24-26 change his residence within the state, the change may be effected by
24-27 application to the supervising supervision officer, which change
24-28 shall be subject to the judge's consent and subject to such
24-29 regulations as the judge may require in the absence of an officer in
24-30 the locality to which the defendant is transferred.

24-31 (b) Any defendant who removes himself from the state without
24-32 permission of the judge having jurisdiction of the case shall be
24-33 considered a fugitive from justice and shall be subject to
24-34 extradition as provided by law.

24-35 Sec. 17 [18]. COMMUNITY CORRECTIONS FACILITIES. (a) In
24-36 this section, "community corrections facility" has the meaning
24-37 assigned by Section 509.001, Government Code.

24-38 (b) If a judge requires as a condition of community
24-39 supervision that the defendant serve a term in a community
24-40 corrections facility, the term may not be more than 24 months.

24-41 (c) A defendant granted community supervision under this
24-42 section earns [may not earn] good conduct credit for time spent in a
24-43 community corrections facility, and [or apply] time spent in the
24-44 facility applies toward completion of a prison sentence if the
24-45 community supervision is revoked.

24-46 (d) As directed by the judge, the corrections facility
24-47 director shall file with the community supervision and corrections
24-48 department director a copy of an evaluation made by the director of
24-49 the defendant's behavior and attitude at the facility. The
24-50 director shall examine the evaluation, make written comments on the
24-51 evaluation that he considers relevant, and file the evaluation and
24-52 comments with the judge who granted community supervision to the
24-53 defendant. If the evaluation indicates that the defendant has made
24-54 significant progress toward compliance with court-ordered
24-55 conditions of community supervision, the court may release the
24-56 defendant from the community corrections facility. The defendant
24-57 shall serve the remainder of his community supervision under any
24-58 terms and conditions the court imposes under this article.

24-59 (e) No later than 18 months after the date on which a
24-60 defendant is granted community supervision under this section, the
24-61 community corrections facility director shall file with the
24-62 community supervision and corrections department director a copy of
24-63 an evaluation made by the director of the defendant's behavior and
24-64 attitude at the center. The director shall examine the evaluation,
24-65 make written comments on the evaluation that he considers relevant,
24-66 and file the evaluation and comments with the judge who granted
24-67 community supervision to the defendant. If the report indicates
24-68 that the defendant has made significant progress toward
24-69 court-ordered conditions of community supervision, the judge shall

25-1 modify the judge's sentence and release the defendant in the same
 25-2 manner as provided by Subsection (d) [~~of this section~~]. If the
 25-3 report indicates that the defendant would benefit from continued
 25-4 participation in the community corrections facility program, the
 25-5 judge may order the defendant to remain at the community
 25-6 corrections facility for a period determined by the judge. If the
 25-7 report indicates that the defendant has not made significant
 25-8 progress toward rehabilitation, the judge may revoke community
 25-9 supervision and order the defendant to the term of confinement
 25-10 specified in the defendant's sentence.

25-11 (f) If ordered by the judge who placed the defendant on
 25-12 community supervision, a community corrections facility director
 25-13 shall attempt to place a defendant as a worker in a
 25-14 community-service project of a type described by Section 15 [~~16 of~~
 25-15 ~~this article~~].

25-16 (g) A defendant participating in a program under this
 25-17 article shall be confined in the community corrections facility at
 25-18 all times except for:

25-19 (1) time spent attending and traveling to and from an
 25-20 education or rehabilitation program as ordered by the court;

25-21 (2) time spent attending and traveling to and from a
 25-22 community-service project;

25-23 (3) time spent away from the facility for purposes
 25-24 described by this section; and

25-25 (4) time spent traveling to and from work, if
 25-26 applicable.

25-27 (h) A judge that requires as a condition of community
 25-28 supervision that the defendant serve a term in a community
 25-29 corrections facility may not impose a subsequent term in a
 25-30 community corrections facility or jail during the same supervision
 25-31 period that, when added to the terms previously imposed, exceeds 36
 25-32 months.

25-33 (i) If a defendant participating in a program under this
 25-34 article [~~section~~] is not required by the judge to deliver the
 25-35 defendant's salary to the restitution center director, the employer
 25-36 of the defendant shall deliver the salary to the director. The
 25-37 director shall deposit the salary into a fund to be given to the
 25-38 defendant on release after deducting:

25-39 (1) the cost to the center for the defendant's food,
 25-40 housing, and supervision;

25-41 (2) necessary travel expense to and from work and
 25-42 community-service projects and other incidental expenses of the
 25-43 defendant;

25-44 (3) support of the defendant's dependents; and

25-45 (4) restitution to the victims of an offense committed
 25-46 by the defendant.

25-47 Sec. 18 [~~19~~]. FEES. (a) Except as otherwise provided by
 25-48 this subsection, a judge granting community supervision shall fix a
 25-49 fee of not less than \$25 and not more than \$60 per month to be paid
 25-50 to the court by the defendant during the community supervision
 25-51 period. The judge may make payment of the fee a condition of
 25-52 granting or continuing the community supervision. The judge may
 25-53 waive or reduce the fee or suspend a monthly payment of the fee if
 25-54 the judge determines that payment of the fee would cause the
 25-55 defendant a significant financial hardship.

25-56 (b) The judge shall deposit the fees received under
 25-57 Subsection (a) [~~of this section~~] in the special fund of the county
 25-58 treasury, to be used for the same purposes for which state aid may
 25-59 be used under Chapter 76, Government Code.

25-60 (c) A judge receiving a defendant for supervision as
 25-61 authorized by Article 42.11 [~~of this code~~] may impose on the
 25-62 defendant any term of community supervision authorized by this
 25-63 article and may require the defendant to pay the fee authorized by
 25-64 Subsection (a) [~~of this section~~]. Fees received under this section
 25-65 shall be deposited in the same manner as required by Subsection (b)
 25-66 [~~of this section~~].

25-67 (d) For the purpose of determining when fees due on
 25-68 conviction are to be paid to any officer or officers, the placing of
 25-69 the defendant on community supervision shall be considered a final

26-1 disposition of the case, without the necessity of waiting for the
26-2 termination of the period of community supervision.

26-3 (e) If the judge grants community supervision to a defendant
26-4 convicted of an offense under Section 21.08, 21.11, 22.011, 22.021,
26-5 25.02, 43.25, or 43.26, Penal Code, the judge shall require as a
26-6 condition of community supervision that the defendant pay to the
26-7 community corrections and supervision department officer
26-8 supervising the defendant a community supervision fee of \$5 each
26-9 month during the period of community supervision. The fee is in
26-10 addition to court costs or any other fee imposed on the defendant.

26-11 (f) A community corrections and supervision department
26-12 shall deposit the fees collected under Subsection (e) [~~of this~~
26-13 ~~section~~] to be sent to the comptroller as provided by Subchapter B,
26-14 Chapter 133, Local Government Code. The comptroller shall deposit
26-15 the fee in the sexual assault program fund under Section 420.008,
26-16 Government Code.

26-17 (g) If the judge places on community supervision a person
26-18 required to register as a sex offender under Chapter 62, the judge
26-19 shall require as a condition of community supervision that the
26-20 person pay to the person's supervising officer an amount equal to
26-21 the cost, as evidenced by written receipt, incurred by the
26-22 applicable local law enforcement authority for providing notice for
26-23 publication to a newspaper as required by Chapter 62. A political
26-24 subdivision served by the local law enforcement authority may bill
26-25 any unpaid amount, identified separately, within a bill for a
26-26 utility service provided by the political subdivision to the person
26-27 and may suspend service of the utility to a person who is delinquent
26-28 in payment of the amount until the delinquent claim is fully paid to
26-29 the political subdivision. A community supervision and corrections
26-30 department or political subdivision, as applicable, shall remit an
26-31 amount collected under this subsection to the applicable local law
26-32 enforcement authority. In this subsection, "utility service" means
26-33 water, wastewater, sewer, gas, garbage, electricity, or drainage
26-34 service.

26-35 (h) In a community supervision revocation hearing at which
26-36 it is alleged only that the person violated the terms of community
26-37 supervision by failing to make a payment under Subsection (g), the
26-38 inability of the person to pay as ordered by the judge is an
26-39 affirmative defense to revocation, which the person must prove by a
26-40 preponderance of the evidence.

26-41 Sec. 19 [20]. REVIEW, REDUCTION, AND [OR] TERMINATION OF
26-42 COMMUNITY SUPERVISION. (a) At any time, after the defendant has
26-43 [~~satisfactorily~~] completed one-third of the original community
26-44 supervision period or two years of community supervision, whichever
26-45 is less, the period of community supervision may be reduced or
26-46 terminated by the judge.

26-47 (b) As soon as practicable after a defendant has completed
26-48 one-half of the original community supervision period or two years,
26-49 whichever is greater, the judge shall review the defendant's case
26-50 for the purpose of considering termination of community
26-51 supervision.

26-52 (c) If a judge does not terminate a period of community
26-53 supervision under Subsection (a) or (b), the judge may review the
26-54 defendant's case at any time determined appropriate by the judge
26-55 for the purpose of determining whether to terminate the period of
26-56 community supervision.

26-57 (d) A judge may not refuse to terminate a period of
26-58 community supervision solely on the ground that the defendant is
26-59 indigent and unable to pay required restitution, fines, costs, or
26-60 fees.

26-61 (e) On [Upon the satisfactory fulfillment of the conditions
26-62 of community supervision, and] the expiration of the period of
26-63 community supervision or on the termination of a period of
26-64 community supervision, the judge, by order duly entered, shall
26-65 amend or modify the original sentence imposed, if necessary, to
26-66 conform to the community supervision period and shall grant a
26-67 dismissal to or discharge the defendant as provided by Subsection
26-68 (g), (h), or (i).

26-69 (f) On expiration or termination of the period of community

27-1 supervision, the judge shall enter a written order on a form
 27-2 provided for that purpose and developed by the office of court
 27-3 administration and the community justice assistance division of the
 27-4 Texas Department of Criminal Justice. The written order shall
 27-5 state whether as a result of the expiration or termination of
 27-6 community supervision, the defendant is granted a dismissal, a
 27-7 discharge, or a discharge subject to enhancement.

27-8 (f-1) A defendant whose period of community supervision
 27-9 expires or is terminated under this section is presumed to be
 27-10 entitled to a dismissal under Subsection (g), but the judge may
 27-11 instead discharge the defendant under Subsection (h) on determining
 27-12 that the defendant's compliance with conditions of community
 27-13 supervision was not satisfactory, or discharge the defendant
 27-14 subject to enhancement, after a hearing as provided by Subsection
 27-15 (i).

27-16 (g) If the judge grants a dismissal to [discharges] the
 27-17 defendant [under this section], the judge shall [may] set aside the
 27-18 verdict or permit the defendant to withdraw his plea, and shall
 27-19 dismiss the accusation, complaint, information or indictment
 27-20 against the defendant, who shall thereafter be released from all
 27-21 penalties and disabilities resulting from the offense or crime of
 27-22 which he has been convicted or to which he has pleaded guilty,
 27-23 except that:

27-24 (1) proof of the conviction or plea of guilty shall be
 27-25 made known to the judge should the defendant again be convicted of
 27-26 any criminal offense; and

27-27 (2) if the defendant is an applicant for a license or
 27-28 is a licensee under Chapter 42, Human Resources Code, the Texas
 27-29 Department of Human Services may consider the fact that the
 27-30 defendant previously has received community supervision under this
 27-31 article in issuing, renewing, denying, or revoking a license under
 27-32 that chapter.

27-33 (h) If the judge terminates the period of community
 27-34 supervision, the judge may discharge the defendant without
 27-35 permitting the defendant to withdraw the defendant's plea and
 27-36 without setting aside the judgment.

27-37 (i) If the judge terminates the period of supervision after
 27-38 determining, at a hearing at which the defendant is provided the
 27-39 same due process rights as those provided at a revocation hearing,
 27-40 that the defendant failed to comply with a significant condition of
 27-41 community supervision, and as a result evidenced an intentional
 27-42 effort to avoid rehabilitation, the judge shall grant the defendant
 27-43 a discharge subject to enhancement. Failure to pay a fine,
 27-44 restitution, court cost, or other fee does not constitute
 27-45 noncompliance with a significant condition of community
 27-46 supervision unless the judge determines the defendant was not
 27-47 indigent and intentionally refused to make the payment. A
 27-48 discharge subject to enhancement is a final conviction for purposes
 27-49 of criminal enhancement.

27-50 ~~[(b) This section does not apply to a defendant convicted of~~
 27-51 ~~an offense under Sections 49.04-49.08, Penal Code, a defendant~~
 27-52 ~~convicted of an offense for which on conviction registration as a~~
 27-53 ~~sex offender is required under Chapter 62, as added by Chapter 668,~~
 27-54 ~~Acts of the 75th Legislature, Regular Session, 1997, or a defendant~~
 27-55 ~~convicted of an offense punishable as a state jail felony.]~~

27-56 Sec. 20 [21]. VIOLATION OF COMMUNITY SUPERVISION:
 27-57 DETENTION AND HEARING. (a) At any time during the period of
 27-58 community supervision the judge may issue a warrant for violation
 27-59 of any of the conditions of the community supervision and cause a
 27-60 defendant convicted under Section 43.02, Penal Code, or under
 27-61 Chapter 481, Health and Safety Code, or Sections 485.031 through
 27-62 485.035, Health and Safety Code, [or placed on deferred
 27-63 adjudication after being charged with one of those offenses,] to be
 27-64 subject to the control measures of Section 81.083, Health and
 27-65 Safety Code, and to the court-ordered-management provisions of
 27-66 Subchapter G, Chapter 81, Health and Safety Code.

27-67 (b) At any time during the period of community supervision
 27-68 the judge may issue a warrant for violation of any of the conditions
 27-69 of the community supervision and cause the defendant to be

28-1 arrested. Any supervision officer, police officer or other officer
28-2 with power of arrest may arrest such defendant with or without a
28-3 warrant upon the order of the judge to be noted on the docket of the
28-4 court. A defendant so arrested may be detained in the county jail
28-5 or other appropriate place of confinement until he can be taken
28-6 before the judge. Such officer shall forthwith report such arrest
28-7 and detention to such judge. If the defendant has not been released
28-8 on bail, on motion by the defendant the judge shall cause the
28-9 defendant to be brought before the judge for a hearing within 20
28-10 days of filing of said motion, and after a hearing without a jury,
28-11 may either continue, extend, modify, or revoke the community
28-12 supervision. A judge may revoke the community supervision of a
28-13 defendant who is imprisoned in a penal institution without a
28-14 hearing if the defendant in writing before a court of record in the
28-15 jurisdiction where imprisoned waives his right to a hearing and to
28-16 counsel, affirms that he has nothing to say as to why sentence
28-17 should not be pronounced against him, and requests the judge to
28-18 revoke community supervision and to pronounce sentence. In a
28-19 felony case, the state may amend the motion to revoke community
28-20 supervision any time up to seven days before the date of the
28-21 revocation hearing, after which time the motion may not be amended
28-22 except for good cause shown, and in no event may the state amend the
28-23 motion after the commencement of taking evidence at the hearing.
28-24 The judge may continue the hearing for good cause shown by either
28-25 the defendant or the state.

28-26 (c) In a community supervision revocation hearing at which
28-27 it is alleged only that the defendant violated the conditions of
28-28 community supervision by failing to pay compensation paid to
28-29 appointed counsel, community supervision fees, court costs,
28-30 restitution, or reparations, the inability of the defendant to pay
28-31 as ordered by the judge is an affirmative defense to revocation,
28-32 which the defendant must prove by a preponderance of evidence.

28-33 (d) A defendant has a right to counsel at a hearing under
28-34 this section.

28-35 (e) A court retains jurisdiction to hold a hearing under
28-36 Subsection (b) and to revoke, continue, or modify community
28-37 supervision, regardless of whether the period of community
28-38 supervision imposed on the defendant has expired, if before the
28-39 expiration the attorney representing the state files a motion to
28-40 revoke, continue, or modify community supervision and a *capias* is
28-41 issued for the arrest of the defendant.

28-42 Sec. 21 [~~22~~]. CONTINUATION OR MODIFICATION. (a) If after
28-43 the completion of a review under Section 19 or a hearing under
28-44 Section 20, [21 of this article] a judge continues or modifies
28-45 community supervision after determining that the defendant failed
28-46 to successfully complete or violated a condition of community
28-47 supervision, the judge may impose any other conditions that the
28-48 judge determines are:

28-49 (1) listed in Section 11; or
28-50 (2) designated as an available progressive sanction in
28-51 the community justice plan established by the community justice
28-52 council serving the judge [appropriate, including:

28-53 ~~[(1) a requirement that the defendant perform~~
28-54 ~~community service for a number of hours specified by the court under~~
28-55 ~~Section 16 of this article, or an increase in the number of hours~~
28-56 ~~that the defendant has previously been required to perform under~~
28-57 ~~those sections in an amount not to exceed double the number of hours~~
28-58 ~~permitted by Section 16;~~

28-59 ~~[(2) an increase in the period of community~~
28-60 ~~supervision, in the manner described by Subsection (b) of this~~
28-61 ~~section;~~

28-62 ~~[(3) an increase in the defendant's fine, in the manner~~
28-63 ~~described by Subsection (d) of this section; or~~

28-64 ~~[(4) the placement of the defendant in a substance~~
28-65 ~~abuse felony punishment program operated under Section 493.009,~~
28-66 ~~Government Code, if:~~

28-67 ~~[(A) the defendant is convicted of a felony other~~
28-68 ~~than:~~

~~[(i) a felony under Section 21.11, 22.011,~~

29-1 ~~or 22.021, Penal Code; or~~
 29-2 ~~[(ii) criminal attempt of a felony under~~
 29-3 ~~Section 21.11, 22.011, or 22.021, Penal Code; and~~
 29-4 ~~[(B) the judge makes an affirmative finding that:~~
 29-5 ~~[(i) drug or alcohol abuse significantly~~
 29-6 ~~contributed to the commission of the crime or violation of~~
 29-7 ~~community supervision; and~~
 29-8 ~~[(ii) the defendant is a suitable candidate~~
 29-9 ~~for treatment, as determined by the suitability criteria~~
 29-10 ~~established by the Texas Board of Criminal Justice under Section~~
 29-11 ~~493.009(b), Government Code.~~

29-12 ~~[(b) If the judge imposes a sanction under Subsection (a)(4)~~
 29-13 ~~of this section, the judge shall also impose a condition requiring~~
 29-14 ~~the defendant on successful completion of the program to~~
 29-15 ~~participate in a drug or alcohol abuse continuum of care program].~~

29-16 (b) [(c)] The judge in a felony case may extend a period of
 29-17 community supervision under this section by imposing a maximum of
 29-18 five one-year extensions for good cause. The judge may not impose
 29-19 more than one extension per hearing under Section 20. The ~~[as often~~
 29-20 ~~as the judge determines is necessary, but the]~~ period of community
 29-21 supervision in a ~~[first, second, or third degree]~~ felony case, with
 29-22 extensions, may not exceed 10 years. Except [and, except] as
 29-23 otherwise provided by this subsection, the period of community
 29-24 supervision in a misdemeanor case may not exceed three years. The
 29-25 judge may extend the period of community supervision in a
 29-26 misdemeanor case for any period the judge determines is necessary,
 29-27 not to exceed an additional two years beyond the three-year limit,
 29-28 if the defendant fails to pay a previously assessed fine, costs,
 29-29 ~~[or]~~ restitution, or reimbursement for appointed counsel and the
 29-30 judge determines that extending the period of supervision increases
 29-31 the likelihood that the defendant will fully pay the fine, costs,
 29-32 ~~[or]~~ restitution, or reimbursement. A court may extend a period of
 29-33 community supervision under this section at any time during the
 29-34 period of supervision or, if a motion for revocation of community
 29-35 supervision is filed before the period of supervision ends, before
 29-36 the first anniversary of the date on which the period of supervision
 29-37 expires.

29-38 (c) If a [(d) A] judge imposes [may impose] a sanction on a
 29-39 defendant [described by Subsection (a)(3) of this section] by
 29-40 increasing the fine imposed on the defendant, the [The] original
 29-41 fine imposed [on the defendant] and an increase in the fine imposed
 29-42 under this subsection may not exceed the maximum fine for the
 29-43 offense for which the defendant was sentenced. The judge shall
 29-44 deposit money received from an increase in the defendant's fine
 29-45 under this subsection in the special fund of the county treasury to
 29-46 be used for the same purposes for which state aid may be used under
 29-47 Chapter 76, Government Code.

29-48 ~~[Sec. 22A. EXTENDING SUPERVISION PERIOD FOR SEX OFFENDERS.~~
 29-49 ~~(a) If a defendant is placed on community supervision after~~
 29-50 ~~receiving a grant of deferred adjudication for or being convicted~~
 29-51 ~~of an offense under Section 21.11, 22.011, or 22.021, Penal Code, at~~
 29-52 ~~any time during the period of community supervision, the judge may~~
 29-53 ~~extend the period of community supervision as provided by this~~
 29-54 ~~section.~~

29-55 ~~[(b) If at a hearing at which the defendant is provided the~~
 29-56 ~~same rights as are provided a defendant at a hearing under Section~~
 29-57 ~~21 the judge determines that the defendant has not sufficiently~~
 29-58 ~~demonstrated a commitment to avoid future criminal behavior and~~
 29-59 ~~that the release of the defendant from supervision would endanger~~
 29-60 ~~the public, the judge may extend the period of supervision for a~~
 29-61 ~~period not to exceed 10 additional years.~~

29-62 ~~[(c) A judge may extend a period of community supervision~~
 29-63 ~~under this section only once; however, the judge may extend a period~~
 29-64 ~~of community supervision for a defendant under both Section 22(c)~~
 29-65 ~~and this section, and the prohibition in Section 22(c) against a~~
 29-66 ~~period of community supervision in a felony case exceeding 10 years~~
 29-67 ~~does not apply to a defendant for whom community supervision is~~
 29-68 ~~increased under this section or under both Section 22(c) and this~~
 29-69 ~~section.]~~

30-1 Sec. 22 [~~23~~]. REVOCATION. (a) If community supervision is
 30-2 revoked after a hearing under Section 20 [~~21 of this article~~], the
 30-3 judge may proceed to dispose of the case as if there had been no
 30-4 community supervision, or if the judge determines that the best
 30-5 interests of society and the defendant would be served by a shorter
 30-6 term of confinement, reduce the term of confinement originally
 30-7 assessed to any term of confinement not less than the minimum
 30-8 prescribed for the offense of which the defendant was convicted.
 30-9 The judge shall enter the amount of restitution or reparation owed
 30-10 by the defendant on the date of revocation in the judgment in the
 30-11 case.

30-12 (b)(1) Except as otherwise provided by Subdivision (2), by
 30-13 this article, or by other law, no [~~No~~] part of the time that the
 30-14 defendant is on community supervision shall be considered as any
 30-15 part of the time that he shall be sentenced to serve.

30-16 (2) The judge may grant a defendant credit on the
 30-17 sentence imposed for all or part of the time the defendant was on
 30-18 community supervision if the judge revokes community supervision
 30-19 solely on the basis of an administrative violation of conditions of
 30-20 release.

30-21 (c) The right of the defendant to appeal for a review of the
 30-22 conviction and punishment, as provided by law, shall be accorded
 30-23 the defendant at the time he is placed on community supervision.
 30-24 When he is notified that his community supervision is revoked for
 30-25 violation of the conditions of community supervision and he is
 30-26 called on to serve a sentence in a jail or in the [~~institutional~~
 30-27 ~~division of the~~] Texas Department of Criminal Justice, he may
 30-28 appeal the revocation.

30-29 Sec. 23 [~~24~~]. NO DUE DILIGENCE DEFENSE. Notwithstanding
 30-30 Section 24, as that section existed on August 31, 2005, or any case
 30-31 law that provided a defendant with an affirmative defense to
 30-32 revocation based on a failure by a department to exercise due
 30-33 diligence in contacting a defendant who failed to report as
 30-34 required by a condition of community supervision, the defendant may
 30-35 not raise at a revocation hearing a defense that the department
 30-36 failed to exercise due diligence [~~For the purposes of a hearing~~
 30-37 ~~under Section 5(b) or 21(b), it is an affirmative defense to~~
 30-38 ~~revocation for an alleged failure to report to a supervision~~
 30-39 ~~officer as directed or to remain within a specified place that a~~
 30-40 ~~supervision officer, peace officer, or other officer with the power~~
 30-41 ~~of arrest under a warrant issued by a judge for that alleged~~
 30-42 ~~violation failed to contact or attempt to contact the defendant in~~
 30-43 ~~person at the defendant's last known residence address or last~~
 30-44 ~~known employment address, as reflected in the files of the~~
 30-45 ~~department serving the county in which the order of community~~
 30-46 ~~supervision was entered].~~

30-47 SECTION 1.02. (a) Chapter 42, Code of Criminal Procedure,
 30-48 is amended by adding Article 42.01a to read as follows:

30-49 Art. 42.01a. COMMUNITY SUPERVISION FORMS. (a) The
 30-50 community justice assistance division of the Texas Department of
 30-51 Criminal Justice and the Office of Court Administration of the
 30-52 Texas Judicial System shall promulgate a standard form for the
 30-53 dismissal or discharge of a period of community supervision and for
 30-54 the revocation of a period of community supervision.

30-55 (b) A judge that orders the dismissal or discharge or the
 30-56 revocation of a period of community supervision under Article 42.12
 30-57 shall use the form promulgated under Subsection (a).

30-58 (b) The community justice assistance division of the Texas
 30-59 Department of Criminal Justice and the Office of Court
 30-60 Administration of the Texas Judicial System shall promulgate the
 30-61 forms required by Article 42.01a, Code of Criminal Procedure, as
 30-62 added by this Act, as soon as practicable, but in no event later
 30-63 than 10 days after the effective date of this Act.

30-64 (c) A judge that on or after October 1, 2005, orders the
 30-65 dismissal or discharge or the revocation of a period of community
 30-66 supervision shall do so on a form promulgated under Article 42.01a,
 30-67 Code of Criminal Procedure, as added by this Act.

30-68 (d) Chapter 42, Code of Criminal Procedure, is amended by
 30-69 adding Article 42.01b to read as follows:

31-1 Art. 42.01b. INTOXICATION OFFENSE REPORTING. (a) The
31-2 Office of Court Administration of the Texas Judicial System and the
31-3 Department of Public Safety shall promulgate a form to track the
31-4 filing of charges against persons charged with offenses under
31-5 Chapter 49, Penal Code, other than offenses under Section 49.02.

31-6 (b) The Department of Public Safety shall make the forms
31-7 available to district and county clerks, along with filing
31-8 instructions. Clerks are required to file forms described by
31-9 Subsection (a) on a schedule established by the department.

31-10 (e) The Office of Court Administration of the Texas Judicial
31-11 System and the Department of Public Safety of the State of Texas
31-12 shall promulgate the form required by Article 42.01b, Code of
31-13 Criminal Procedure, as added by this Act, as soon as practicable,
31-14 but in no event later than 10 days after the effective date of this
31-15 Act. The department shall make the form and instructions for filing
31-16 the form available to district and county clerks not later than
31-17 November 1, 2005. Each offense under Chapter 49, Penal Code,
31-18 committed on or after January 1, 2006, other than an offense under
31-19 Section 49.02, must be reported on the form.

31-20 (f) In the 16-month period following the effective date of
31-21 this Act, the Office of Court Administration of the Texas Judicial
31-22 System shall provide courses to assist the judiciary, prosecutors,
31-23 community supervision and corrections department employees, and
31-24 defense counsel in implementing the provisions of this Act. The
31-25 office of court administration may seek the assistance of the Texas
31-26 Criminal Defense Lawyers Association and the Texas District and
31-27 County Attorneys Association in offering courses described by this
31-28 subsection. The office of court administration shall begin
31-29 offering courses described by this subsection not later than
31-30 January 1, 2006.

31-31 SECTION 1.03. Subsection (a), Section 76.003, Government
31-32 Code, is amended to read as follows:

31-33 (a) A community justice council must be established by the
31-34 ~~[district judge or district]~~ judges described by Section 76.002 in
31-35 each jurisdiction served by a department, unless a board or council
31-36 that was in existence on September 1, 1991, is performing duties
31-37 substantially similar to those imposed on a community justice
31-38 council under this section. The council shall provide continuing
31-39 policy guidance and direction for the development of community
31-40 justice plans containing components required by Article 42.12, Code
31-41 of Criminal Procedure, and other law and for the development of
31-42 community corrections facilities and programs.

31-43 SECTION 1.04. Subsection (d), Section 411.081, Government
31-44 Code, is amended to read as follows:

31-45 (d) Notwithstanding any other provision of this subchapter,
31-46 if a person is placed on deferred adjudication community
31-47 supervision under Section 5, Article 42.12, Code of Criminal
31-48 Procedure, and subsequently receives a discharge and dismissal
31-49 under Section 5(c), Article 42.12, ~~[and satisfies the requirements~~
31-50 ~~of Subsection (e), the person may petition]~~ the court that placed
31-51 the defendant on deferred adjudication shall enter ~~[for]~~ an order
31-52 of nondisclosure ~~[under this subsection. After notice to the state~~
31-53 ~~and a hearing on whether the person is entitled to file the petition~~
31-54 ~~and issuance of the order is in the best interest of justice, the~~
31-55 ~~court shall issue an order]~~ prohibiting criminal justice agencies
31-56 from disclosing to the public criminal history record information
31-57 related to the offense giving rise to the deferred adjudication. A
31-58 criminal justice agency may disclose criminal history record
31-59 information that is the subject of the order to an individual or
31-60 agency described by Section 411.083(b)(1), (2), or (3). ~~[A person~~
31-61 ~~may petition the court for an order of nondisclosure on payment of a~~
31-62 ~~\$28 fee to the clerk of the court. The payment may be made only on~~
31-63 ~~or after:~~

31-64 ~~[(1) the discharge and dismissal, if the offense for~~
31-65 ~~which the person was placed on deferred adjudication was a~~
31-66 ~~misdemeanor other than a misdemeanor described by Subdivision (2),~~

31-67 ~~[(2) the fifth anniversary of the discharge and~~
31-68 ~~dismissal, if the offense for which the person was placed on~~
31-69 ~~deferred adjudication was a misdemeanor under Chapter 20, 21, 22,~~

32-1 ~~25, 42, or 46, Penal Code, or~~

32-2 ~~[(3) the 10th anniversary of the discharge and~~
 32-3 ~~dismissal, if the offense for which the person was placed on~~
 32-4 ~~deferred adjudication was a felony.]~~

32-5 SECTION 1.05. Subdivisions (1) and (4), Section 509.001,
 32-6 Government Code, are amended to read as follows:

32-7 (1) "Community corrections facility" means a physical
 32-8 structure, established by the judges described by Section 76.002 [~~a~~
 32-9 ~~judicial district~~] after authorization of the establishment of the
 32-10 structure has been included in the local community justice plan,
 32-11 that is operated by a department or operated for a department by an
 32-12 entity under contract with the department, for the purpose of
 32-13 confining persons placed on community supervision and providing
 32-14 services and programs to modify criminal behavior, deter criminal
 32-15 activity, protect the public, and restore victims of crime. The
 32-16 term includes:

32-17 (A) a restitution center;
 32-18 (B) a court residential treatment facility;
 32-19 (C) a substance abuse treatment facility;
 32-20 (D) a custody facility or boot camp;
 32-21 (E) a facility for an offender with a mental
 32-22 impairment, as defined by Section 614.001, Health and Safety Code;
 32-23 and

32-24 (F) an intermediate sanction facility.

32-25 (4) "State aid" means funds appropriated by the
 32-26 legislature to the division to provide financial assistance to:

32-27 (A) the judges described by Section 76.002
 32-28 [~~judicial districts,~~] for:

32-29 (i) a department established by the judges
 32-30 [~~the administration of departments~~];

32-31 (ii) the development and improvement of
 32-32 community supervision services and community-based correctional
 32-33 programs;

32-34 (iii) the establishment and operation of
 32-35 community corrections facilities; and

32-36 (iv) assistance in conforming with
 32-37 standards and policies of the division and the board; and

32-38 (B) state agencies, counties, municipalities,
 32-39 and nonprofit organizations for the implementation and
 32-40 administration of community-based sanctions and programs.

32-41 SECTION 1.06. Section 509.007, Government Code, is amended
 32-42 to read as follows:

32-43 Sec. 509.007. COMMUNITY JUSTICE PLAN. (a) The division
 32-44 shall require as a condition to payment of state aid to a department
 32-45 or county under Section 509.011 [~~and eligibility for payment of~~
 32-46 ~~costs under Section 499.124]~~ that a community justice plan be
 32-47 submitted for the department. The community justice council shall
 32-48 submit the plan required by this subsection. A community justice
 32-49 council may not submit a plan under this section unless the plan is
 32-50 first approved under Section 76.002 [~~by the district judges who~~
 32-51 ~~manage the department served by the council]~~. The council shall
 32-52 submit a revised plan to the division each odd-numbered year by a
 32-53 date designated by the division. A plan may be amended at any time
 32-54 with the approval of the division.

32-55 (b) A community justice plan required under this section
 32-56 must include:

32-57 (1) a statement of goals and priorities and of
 32-58 commitment by the community justice council, the [~~district~~] judges
 32-59 who established the department and approve the department's budget
 32-60 and community justice plan [~~manage the department~~], and the
 32-61 department director to achieve a targeted level of alternative
 32-62 sanctions;

32-63 (2) a description of methods for measuring the success
 32-64 of programs provided by the department or provided by an entity
 32-65 served by the department; and

32-66 (3) a proposal for the use of state jail felony
 32-67 facilities and, at the discretion of the community justice council,
 32-68 a regional proposal for the construction, operation, maintenance,
 32-69 or management of a state jail felony facility by a county, a

33-1 community supervision and corrections department, or a private
33-2 vendor under a contract with a county or a community supervision and
33-3 corrections department.

33-4 SECTION 1.07. Subsection (a), Section 509.011, Government
33-5 Code, is amended to read as follows:

33-6 (a) If the division determines that a department complies
33-7 with division standards and if the department or judges described
33-8 by Section 76.002 who established [managing] the department have
33-9 submitted a community justice plan under Section 76.003 and the
33-10 supporting information required by the division and the division
33-11 determines the plan and supporting information are acceptable, the
33-12 division shall prepare and submit to the comptroller vouchers for
33-13 payment to the department as follows:

33-14 (1) for per capita funding, a per diem amount for each
33-15 felony defendant directly supervised by the department pursuant to
33-16 lawful authority;

33-17 (2) for per capita funding, a per diem amount for a
33-18 period not to exceed 182 days for each defendant supervised by the
33-19 department pursuant to lawful authority, other than a felony
33-20 defendant; and

33-21 (3) for formula funding, an annual amount as computed
33-22 by multiplying a percentage determined by the allocation formula
33-23 established under Subsection (f) times the total amount provided in
33-24 the General Appropriations Act for payments under this subdivision.

33-25 SECTION 1.08. Subsection (g), Section 12.42, Penal Code, is
33-26 amended to read as follows:

33-27 (g) For the purposes of Subsection (c)(2):

33-28 (1) a defendant has been previously convicted of an
33-29 offense listed under Subsection (c)(2)(B) if the defendant was
33-30 adjudged guilty of the offense [~~or entered a plea of guilty or nolo~~
33-31 ~~contendere in return for a grant of deferred adjudication],~~
33-32 regardless of whether the sentence for the offense was ever imposed
33-33 or whether the sentence was probated and the defendant was
33-34 subsequently discharged from community supervision; and

33-35 (2) a conviction under the laws of another state for an
33-36 offense containing elements that are substantially similar to the
33-37 elements of an offense listed under Subsection (c)(2)(B) is a
33-38 conviction of an offense listed under Subsection (c)(2)(B).

33-39 SECTION 1.09. Subsection (e), Section 411.081, Government
33-40 Code, is repealed.

33-41 SECTION 1.10. The change in law made by this article applies
33-42 to a person who is on community supervision on or after the
33-43 effective date of this article, regardless of when the person was
33-44 initially placed on community supervision.

33-45 ARTICLE 2. DRIVER'S LICENSES

33-46 SECTION 2.01. Section 521.242, Transportation Code, is
33-47 amended by amending Subsection (d) and adding Subsections (b-1),
33-48 (d-1), and (g) to read as follows:

33-49 (b-1) If the person's driver's license was suspended under
33-50 Chapter 524 or 724, the person's petition under Subsection (b) must
33-51 be filed in a court having jurisdiction of the intoxication offense
33-52 that resulted in the suspension. The petition must state that the
33-53 person's driver's license was suspended under Chapter 524 or 724.

33-54 (d) A petition filed under Subsection (b) must state that:

33-55 (1) the petitioner was convicted in that court for an
33-56 offense under the laws of this state; and

33-57 (2) subsequent to the date of the arrest resulting in
33-58 that conviction the petitioner has successfully completed an
33-59 educational program jointly approved by the Department of State
33-60 Health Services, the Department of Public Safety, the Traffic
33-61 Safety Section of the Texas Department of Transportation, and the
33-62 community justice assistance division of the Texas Department of
33-63 Criminal Justice designed to rehabilitate persons who have driven
33-64 while intoxicated.

33-65 (d-1) A petition filed under Subsection (b-1) must state
33-66 that subsequent to the suspension of the person's driver's license
33-67 the petitioner has successfully completed an educational program
33-68 described by Subsection (d)(2).

33-69 (g) The Department of State Health Services shall publish

34-1 the jointly approved rules and shall monitor, coordinate, and
 34-2 provide training to persons providing the educational programs
 34-3 described by Subsection (d)(2). The Department of State Health
 34-4 Services is responsible for the administration of the certification
 34-5 of approved educational programs and may charge a nonrefundable
 34-6 application fee for the initial certification of approval and for
 34-7 renewal of a certificate.

34-8 SECTION 2.02. Section 521.246, Transportation Code, is
 34-9 amended by amending Subsections (b) and (d) and adding Subsections
 34-10 (d-1) through (d-4) to read as follows:

34-11 (b) As part of the order the judge shall ~~may~~ restrict the
 34-12 person to the operation of a motor vehicle equipped with an ignition
 34-13 interlock device if the judge determines that the person's license
 34-14 has been suspended following a conviction under Section 49.04,
 34-15 49.07, or 49.08, Penal Code, or has been suspended under Chapter 524
 34-16 or 724. ~~[As part of the order, the judge shall restrict the person
 34-17 to the operation of a motor vehicle equipped with an ignition
 34-18 interlock device if the judge determines that:~~

34-19 ~~[(1) the person has two or more convictions under any
 34-20 combination of Section 49.04, 49.07, or 49.08, Penal Code, or~~

34-21 ~~[(2) the person's license has been suspended after a
 34-22 conviction under Section 49.04, Penal Code, for which the person
 34-23 has been punished under Section 49.09, Penal Code.]~~

34-24 (d) The court shall order the ignition interlock device to
 34-25 remain installed for at least the applicable ~~[half of the]~~ period of
 34-26 suspension ~~[supervision]~~.

34-27 ~~(d-1) Notwithstanding Section 521.248(c), a court that
 34-28 enters an order under Subsection (b) retains jurisdiction over the
 34-29 person until the third anniversary of the date on which the
 34-30 applicable period of suspension expires. At any time during those
 34-31 three years, but not more than once a year, the court, on written
 34-32 notice to the person and to the attorney representing the state, may
 34-33 conduct a hearing to determine whether the person has continued to
 34-34 operate a motor vehicle while intoxicated or under the influence of
 34-35 alcohol.~~

34-36 ~~(d-2) If the court determines that the person has continued
 34-37 to operate a motor vehicle while intoxicated or under the influence
 34-38 of alcohol and enters the determination in the record of the
 34-39 proceedings, the court may enter an order restricting the person to
 34-40 the operation of a motor vehicle equipped with an ignition
 34-41 interlock device for the period set by the court, but not longer
 34-42 than the third anniversary of the date on which the applicable
 34-43 period of suspension expires.~~

34-44 ~~(d-3) A hearing under Subsection (d-1) may not be held
 34-45 before the 11th day after the date on which the court notifies the
 34-46 parties. A party is entitled to only one continuance of the
 34-47 hearing. If the person fails to appear, the court may conduct the
 34-48 hearing and enter an order under Subsection (d-2) in the person's
 34-49 absence and notify the person of the order by sending a certified
 34-50 copy of the order by first class mail to the person's address as
 34-51 shown in the driver's license records of the department.~~

34-52 ~~(d-4) A person who is restricted to the operation of a motor
 34-53 vehicle equipped with an ignition interlock device under Subsection
 34-54 (d-2) may request that the court review the order at any time the
 34-55 court considers appropriate or on an annual basis.~~

34-56 SECTION 2.03. Subchapter L, Chapter 521, Transportation
 34-57 Code, is amended by adding Sections 521.2451 through 521.2454 and
 34-58 521.2511 to read as follows:

34-59 Sec. 521.2451. REQUIRED ALCOHOL AND DRUG TESTING. An order
 34-60 under Section 521.244 may include a requirement that the person
 34-61 submit to testing for alcohol or controlled substances as directed
 34-62 by the court or as specified in the order.

34-63 Sec. 521.2452. ELECTRONIC MONITORING. (a) An order under
 34-64 Section 521.244 may include a requirement that the person submit to
 34-65 electronic monitoring as directed by the court or as specified in
 34-66 the order for as long as the occupational license remains valid.

34-67 (b) In this section, "electronic monitoring" includes
 34-68 position tracking systems, position location systems, biometric
 34-69 tracking systems, and any other electronic or telecommunications

35-1 system that may be used to assist in the enforcement of an order
35-2 entered under Section 521.244.

35-3 Sec. 521.2453. SUPERVISION BY COMMUNITY SUPERVISION AND
35-4 CORRECTIONS DEPARTMENT. The court shall require that the defendant
35-5 be supervised by the community supervision and corrections
35-6 department that serves the court for the period during which the
35-7 occupational license remains valid or the period specified in an
35-8 order entered under Section 521.246.

35-9 Sec. 521.2454. COSTS. The court may require the defendant
35-10 to pay all costs associated with the conditions or restrictions
35-11 imposed by the court under this subchapter.

35-12 Sec. 521.2511. CONDITIONS AND RESTRICTIONS EXCLUSIVE.
35-13 (a) A court may not include in an order entered under this
35-14 subchapter a condition or restriction that is not expressly
35-15 required or authorized by this subchapter.

35-16 (b) To the extent of a conflict with another law of this
35-17 state, this section prevails.

35-18 SECTION 2.04. Section 521.341, Transportation Code, is
35-19 amended to read as follows:

35-20 Sec. 521.341. REQUIREMENTS FOR AUTOMATIC LICENSE
35-21 SUSPENSION. A ~~[Except as provided by Sections 521.344(d)-(i), a]~~
35-22 license is automatically suspended on final conviction of the
35-23 license holder of:

35-24 (1) an offense under Section 19.05, Penal Code,
35-25 committed as a result of the holder's criminally negligent
35-26 operation of a motor vehicle;

35-27 (2) an offense under Section 38.04, Penal Code, if the
35-28 holder used a motor vehicle in the commission of the offense;

35-29 (3) an offense under Section 49.04 or 49.08, Penal
35-30 Code;

35-31 (4) an offense under Section 49.07, Penal Code, if the
35-32 holder ~~[person]~~ used a motor vehicle in the commission of the
35-33 offense;

35-34 (5) an offense punishable as a felony under the motor
35-35 vehicle laws of this state;

35-36 (6) an offense under Section 550.021; or

35-37 (7) an offense under Section 521.451 or 521.453.

35-38 SECTION 2.05. Subsections (b) and (c), Section 521.342,
35-39 Transportation Code, are amended to read as follows:

35-40 (b) The department shall suspend for one year the license of
35-41 a person who is under 21 years of age and is convicted of an offense
35-42 under Section 49.04, 49.07, or 49.08, Penal Code, except that if the
35-43 person's driving record shows one or more alcohol-related or
35-44 drug-related enforcement contacts, as defined by Section 524.001,
35-45 during the 10 years preceding the date of the person's arrest, the
35-46 department shall suspend the person's license for two years
35-47 ~~[regardless of whether the person is required to attend an~~
35-48 ~~educational program under Section 13(h), Article 42.12, Code of~~
35-49 ~~Criminal Procedure, that is designed to rehabilitate persons who~~
35-50 ~~have operated motor vehicles while intoxicated, unless the person~~
35-51 ~~is placed under community supervision under that article and is~~
35-52 ~~required as a condition of the community supervision to not operate~~
35-53 ~~a motor vehicle unless the vehicle is equipped with the device~~
35-54 ~~described by Section 13(i) of that article. If the person is~~
35-55 ~~required to attend such a program and does not complete the program~~
35-56 ~~before the end of the person's suspension, the department shall~~
35-57 ~~suspend the person's license or continue the suspension, as~~
35-58 ~~appropriate, until the department receives proof that the person~~
35-59 ~~has successfully completed the program. On the person's successful~~
35-60 ~~completion of the program, the person's instructor shall give~~
35-61 ~~notice to the department and to the community supervision and~~
35-62 ~~corrections department in the manner provided by Section 13(h),~~
35-63 ~~Article 42.12, Code of Criminal Procedure].~~

35-64 (c) A person whose license is suspended under Subsection (a)
35-65 remains eligible to receive an occupational license under
35-66 Subchapter L, except that the person is not eligible for an
35-67 occupational license for the first 45 days of a one-year
35-68 suspension, or for the first 90 days of a two-year suspension.
35-69 Suspension under Subsection (a) is not a suspension for physical or

36-1 mental disability or impairment for purposes of eligibility to
36-2 apply for an occupational license under Subchapter L.

36-3 SECTION 2.06. Section 521.344, Transportation Code, is
36-4 amended to read as follows:

36-5 Sec. 521.344. SUSPENSION FOR CERTAIN OFFENSES INVOLVING
36-6 INTOXICATION. (a) Except as provided by Section ~~[Sections~~
36-7 ~~521.342(b) and]~~ 521.345, ~~[and by Subsections (d)-(i),]~~ if a person
36-8 is convicted of an offense under Section 49.04 or 49.07, Penal Code,
36-9 the license suspension:

36-10 (1) begins on a date set by the court that is not
36-11 earlier than the date of the conviction or later than the 30th day
36-12 after the date of the conviction, as determined by the court; and

36-13 (2) continues for a period of set by the court
36-14 ~~according to the following schedule:~~

36-15 ~~[(A) not less than 90 days or more than]~~ one year,
36-16 if the person is punished under Section 49.04 or 49.07, Penal Code,
36-17 except that if the person's license is suspended for a second or
36-18 subsequent offense under Section 49.04 or 49.07 and the person's
36-19 driving record shows one or more alcohol-related or drug-related
36-20 enforcement contacts, as defined by Section 524.001, during the 10
36-21 years preceding the date of the person's arrest ~~[committed within~~
36-22 ~~five years of the date on which the most recent preceding offense~~
36-23 ~~was committed]~~, the suspension continues for a period of two years
36-24 ~~[one year;~~

36-25 ~~[(B) not less than 180 days or more than two~~
36-26 ~~years, if the person is punished under Section 49.09(a) or (b),~~
36-27 ~~Penal Code; or~~

36-28 ~~[(C) not less than one year or more than two~~
36-29 ~~years, if the person is punished under Section 49.09(a) or (b),~~
36-30 ~~Penal Code, and is subject to Section 49.09(h) of that code].~~

36-31 (b) Except as provided by Section 521.342(b), if a person is
36-32 convicted of an offense under Section 49.08, Penal Code, the
36-33 license suspension:

36-34 (1) begins on a date set by the court that is not
36-35 earlier than the date of the conviction or later than the 30th day
36-36 after the date of the conviction, as determined by the court; and

36-37 (2) continues for a period ~~[set by the court]~~ of ~~[not~~
36-38 ~~less than 180 days or more than]~~ two years, except that if the
36-39 person's license is suspended for a second or subsequent offense
36-40 under Section 49.08, Penal Code, committed within 10 years of the
36-41 date on which the most recent preceding offense was committed, the
36-42 suspension continues for a period ~~[set by the court]~~ of 10 ~~[not less~~
36-43 ~~than one year or more than two]~~ years.

36-44 (c) The court may not ~~[shall]~~ credit toward the period of
36-45 suspension a suspension imposed on the person for refusal to give a
36-46 specimen under Chapter 724 if the refusal followed an arrest for the
36-47 same offense for which the court is suspending the person's license
36-48 under this chapter and the suspensions shall run consecutively,
36-49 with the subsequent suspension beginning on the date the first
36-50 suspension expires. ~~[The court may not extend the credit to a~~
36-51 ~~person.~~

36-52 ~~[(1) who has been previously convicted of an offense~~
36-53 ~~under Section 49.04, 49.07, or 49.08, Penal Code; or~~

36-54 ~~[(2) whose period of suspension is governed by Section~~
36-55 ~~521.342(b).]~~

36-56 (d) A person whose license is suspended under this section
36-57 remains eligible to receive an occupational license under
36-58 Subchapter L, except that the person is not eligible for an
36-59 occupational license for the first 45 days of a one-year suspension
36-60 or for the first 90 days of a two-year suspension. ~~[Except as~~
36-61 ~~provided by Subsection (c) and Section 521.342(b), during a period~~
36-62 ~~of probation the department may not revoke the person's license if~~
36-63 ~~the person is required under Section 13(h) or (j), Article 42.12,~~
36-64 ~~Code of Criminal Procedure, to successfully complete an educational~~
36-65 ~~program designed to rehabilitate persons who have operated motor~~
36-66 ~~vehicles while intoxicated, unless the person was punished under~~
36-67 ~~Section 49.09(a) or (b), Penal Code, and was subject to Section~~
36-68 ~~49.09(h) of that code. The department may not revoke the license of~~
36-69 ~~a person.~~

37-1 ~~[(1) for whom the jury has recommended that the~~
37-2 ~~license not be revoked under Section 13(g), Article 42.12, Code of~~
37-3 ~~Criminal Procedure; or~~

37-4 ~~[(2) who is placed under community supervision under~~
37-5 ~~that article and is required as a condition of community~~
37-6 ~~supervision to not operate a motor vehicle unless the vehicle is~~
37-7 ~~equipped with the device described by Section 13(i) of that~~
37-8 ~~article, unless the person was punished under Section 49.09(a) or~~
37-9 ~~(b), Penal Code, and was subject to Section 49.09(g) of that code.~~

37-10 ~~[(e) After the date has passed, according to department~~
37-11 ~~records, for successful completion of the educational program~~
37-12 ~~designed to rehabilitate persons who operated motor vehicles while~~
37-13 ~~intoxicated, the director shall revoke the license of a person who~~
37-14 ~~does not successfully complete the program or, if the person is a~~
37-15 ~~resident without a license to operate a motor vehicle in this state,~~
37-16 ~~shall issue an order prohibiting the person from obtaining a~~
37-17 ~~license.~~

37-18 ~~[(f) After the date has passed, according to department~~
37-19 ~~records, for successful completion of an educational program for~~
37-20 ~~repeat offenders as required by Section 13, Article 42.12, Code of~~
37-21 ~~Criminal Procedure, the director shall suspend the license of a~~
37-22 ~~person who does not successfully complete the program or, if the~~
37-23 ~~person is a resident without a license, shall issue an order~~
37-24 ~~prohibiting the person from obtaining a license.~~

37-25 ~~[(g) A revocation, suspension, or prohibition order under~~
37-26 ~~Subsection (e) or (f) remains in effect until the department~~
37-27 ~~receives notice of successful completion of the educational~~
37-28 ~~program. The director shall promptly send notice of a revocation or~~
37-29 ~~prohibition order issued under Subsection (e) or (f) by first class~~
37-30 ~~mail to the person at the person's most recent address as shown in~~
37-31 ~~the records of the department. The notice must include the date of~~
37-32 ~~the revocation or prohibition order, the reason for the revocation~~
37-33 ~~or prohibition, and a statement that the person has the right to~~
37-34 ~~request in writing that a hearing be held on the revocation or~~
37-35 ~~prohibition. Notice is considered received on the fifth day after~~
37-36 ~~the date the notice is mailed. A revocation or prohibition under~~
37-37 ~~Subsection (e) or (f) takes effect on the 30th day after the date~~
37-38 ~~the notice is mailed. The person may request a hearing not later~~
37-39 ~~than the 20th day after the date the notice is mailed. If the~~
37-40 ~~department receives a request under this subsection, the department~~
37-41 ~~shall set the hearing for the earliest practical time and the~~
37-42 ~~revocation or prohibition does not take effect until resolution of~~
37-43 ~~the hearing.~~

37-44 ~~[(h) The hearing shall be held in a municipal or justice~~
37-45 ~~court in the county of the person's residence in the manner provided~~
37-46 ~~for a suspension hearing under Subchapter N. The issues to be~~
37-47 ~~determined at the hearing are whether the person has successfully~~
37-48 ~~completed a required educational program and whether the period for~~
37-49 ~~completion of the program has passed. If the presiding officer~~
37-50 ~~determines that the educational program has not been completed and~~
37-51 ~~the period for completion has passed, the officer shall confirm the~~
37-52 ~~revocation or prohibition and shall notify the department of that~~
37-53 ~~fact. The director may not revoke or prohibit the license if the~~
37-54 ~~officer finds that the program has been completed, that, before the~~
37-55 ~~hearing, the court that originally imposed the requirement to~~
37-56 ~~attend an educational program has granted an extension that has not~~
37-57 ~~expired, or that the period for completion has not passed. If the~~
37-58 ~~person or the person's agent fails to appear at the hearing, the~~
37-59 ~~department shall revoke the person's license until the department~~
37-60 ~~receives notice of successful completion of the educational~~
37-61 ~~program.~~

37-62 ~~[(i) On the date that a suspension order under Section~~
37-63 ~~521.343(c) is to expire, the period of suspension or the~~
37-64 ~~corresponding period in which the department is prohibited from~~
37-65 ~~issuing a license is automatically increased to two years unless~~
37-66 ~~the department receives notice of successful completion of the~~
37-67 ~~educational program as required by Section 13, Article 42.12, Code~~
37-68 ~~of Criminal Procedure. At the time a person is convicted of an~~
37-69 ~~offense under Section 49.04, Penal Code, the court shall warn the~~

38-1 ~~person of the effect of this subsection. On the person's successful~~
38-2 ~~completion of the program, the person's instructor shall give~~
38-3 ~~notice to the department and to the community supervision and~~
38-4 ~~corrections department in the manner required by Section 13,~~
38-5 ~~Article 42.12, Code of Criminal Procedure. If the department~~
38-6 ~~receives proof of completion after a period has been extended under~~
38-7 ~~this subsection, the department shall immediately end the~~
38-8 ~~suspension or prohibition.]~~

38-9 SECTION 2.07. Section 524.022, Transportation Code, is
38-10 amended to read as follows:

38-11 Sec. 524.022. PERIOD OF SUSPENSION. (a) A period of
38-12 suspension under this chapter ~~[for an adult]~~ is:

38-13 (1) 180 ~~[90]~~ days if the person's driving record shows
38-14 no alcohol-related or drug-related enforcement contact during the
38-15 10 years preceding the date of the person's arrest; or

38-16 (2) one year if the person's driving record shows one
38-17 or more alcohol-related or drug-related enforcement contacts
38-18 during the 10 years preceding the date of the person's arrest.

38-19 (b) ~~[A period of suspension under this chapter for a minor~~
38-20 ~~is:~~

38-21 ~~[(1) 60 days if the minor has not been previously~~
38-22 ~~convicted of an offense under Section 106.041, Alcoholic Beverage~~
38-23 ~~Code, or Section 49.04, Penal Code, or an offense under Section~~
38-24 ~~49.07 or 49.08, Penal Code, involving the operation of a motor~~
38-25 ~~vehicle;~~

38-26 ~~[(2) 120 days if the minor has been previously~~
38-27 ~~convicted once of an offense listed by Subdivision (1); or~~

38-28 ~~[(3) 180 days if the minor has been previously~~
38-29 ~~convicted twice or more of an offense listed by Subdivision (1).~~

38-30 ~~[(c) For the purposes of determining whether a minor has~~
38-31 ~~been previously convicted of an offense described by Subsection~~
38-32 ~~(b)(1):~~

38-33 ~~[(1) an adjudication under Title 3, Family Code, that~~
38-34 ~~the minor engaged in conduct described by Subsection (b)(1) is~~
38-35 ~~considered a conviction under that provision; and~~

38-36 ~~[(2) an order of deferred adjudication for an offense~~
38-37 ~~alleged under a provision described by Subsection (b)(1) is~~
38-38 ~~considered a conviction of an offense under that provision.~~

38-39 ~~[(d)]~~ A person ~~[minor]~~ whose driver's license is suspended
38-40 under this chapter is not eligible for an occupational license
38-41 under Subchapter L, Chapter 521, for:

38-42 (1) the first 45 ~~[30]~~ days of a 180-day suspension
38-43 ~~[under Subsection (b)(1)]; or~~

38-44 (2) the first 90 days of a one-year suspension ~~[under~~
38-45 ~~Subsection (b)(2); or~~

38-46 ~~[(3) the entire period of a suspension under~~
38-47 ~~Subsection (b)(3)].~~

38-48 SECTION 2.08. Subsection (b), Section 524.023,
38-49 Transportation Code, is amended to read as follows:

38-50 (b) The court imposing a driver's license suspension under
38-51 Section 106.041, Alcoholic Beverage Code, or Chapter 521 or 522 as
38-52 required by Subsection (a) may not ~~[shall]~~ credit a period of
38-53 suspension imposed under this chapter or a period of ineligibility
38-54 for an occupational driver's license toward the period of
38-55 suspension required under Section 106.041, Alcoholic Beverage
38-56 Code, or Subchapter O, Chapter 521, or Subchapter H, Chapter 522,
38-57 and the suspensions shall run consecutively and the applicable
38-58 periods of ineligibility for an occupational license under
38-59 Subchapter O, Chapter 521, shall run concurrently ~~[unless the~~
38-60 ~~person was convicted of an offense under Article 67011-1, Revised~~
38-61 ~~Statutes, as that law existed before September 1, 1994, Section~~
38-62 ~~19.05(a)(2), Penal Code, as that law existed before September 1,~~
38-63 ~~1994, Section 49.04, 49.07, or 49.08, Penal Code, or Section~~
38-64 ~~106.041, Alcoholic Beverage Code, before the date of the conviction~~
38-65 ~~on which the suspension is based, in which event credit may not be~~
38-66 ~~given].~~

38-67 SECTION 2.09. Section 724.015, Transportation Code, is
38-68 amended to read as follows:

38-69 Sec. 724.015. INFORMATION PROVIDED BY OFFICER BEFORE

39-1 REQUESTING SPECIMEN. Before requesting a person to submit to the
39-2 taking of a specimen, the officer shall inform the person orally and
39-3 in writing that:

39-4 (1) if the person refuses to submit to the taking of
39-5 the specimen, that refusal may be admissible in a subsequent
39-6 prosecution;

39-7 (2) if the person refuses to submit to the taking of
39-8 the specimen, the person's license to operate a motor vehicle will
39-9 be automatically suspended for one year, regardless of whether [~~or~~
39-10 ~~not~~] the person is subsequently prosecuted as a result of the
39-11 arrest [~~, for not less than 180 days~~];

39-12 (3) if the person [~~is 21 years of age or older and~~]
39-13 submits to the taking of a specimen designated by the officer and an
39-14 analysis of the specimen shows the person had an alcohol
39-15 concentration of a level specified by Chapter 49, Penal Code, the
39-16 person's license to operate a motor vehicle will be automatically
39-17 suspended for two years [~~not less than 90 days~~], regardless of
39-18 whether [~~or not~~] the person is subsequently prosecuted as a result
39-19 of the arrest;

39-20 (4) if the person is younger than 21 years of age and
39-21 has any detectable amount of alcohol in the person's system, the
39-22 person's license to operate a motor vehicle will be automatically
39-23 suspended for two years [~~not less than 60 days~~] even if the person
39-24 submits to the taking of the specimen, but that if the person
39-25 submits to the taking of the specimen and an analysis of the
39-26 specimen shows that the person had an alcohol concentration less
39-27 than the level specified by Chapter 49, Penal Code, the person may
39-28 be subject to criminal penalties less severe than those provided
39-29 under that chapter;

39-30 (5) if the officer determines that the person is a
39-31 resident without a license to operate a motor vehicle in this state,
39-32 the department will deny to the person the issuance of a license,
39-33 regardless of whether [~~or not~~] the person is subsequently
39-34 prosecuted as a result of the arrest, under the same conditions and
39-35 for the same periods that would have applied to a suspension
39-36 [~~revocation~~] of the person's driver's license if the person had held
39-37 a driver's license issued by this state; and

39-38 (6) the person has a right to a hearing on the
39-39 suspension or denial if, not later than the 15th day after the date
39-40 on which the person receives the notice of suspension or denial or
39-41 on which the person is considered to have received the notice by
39-42 mail as provided by law, the department receives, at its
39-43 headquarters in Austin, a written demand, including a facsimile
39-44 transmission, or a request in another form prescribed by the
39-45 department for the hearing.

39-46 SECTION 2.10. Section 724.035, Transportation Code, is
39-47 amended by amending Subsection (a) and adding Subsection (d) to
39-48 read as follows:

39-49 (a) If a person refuses the request of a peace officer to
39-50 submit to the taking of a specimen, the department shall:

39-51 (1) suspend the person's license to operate a motor
39-52 vehicle on a public highway for one year [~~180 days~~]; or

39-53 (2) if the person is a resident without a license,
39-54 issue an order denying the issuance of a license to the person for
39-55 one year [~~180 days~~].

39-56 (d) A person whose driver's license is suspended under this
39-57 chapter is not eligible for an occupational license under
39-58 Subchapter L, Chapter 521, for:

39-59 (1) the first 45 days of a one-year suspension; or

39-60 (2) the first 90 days of a two-year suspension.

39-61 SECTION 2.11. Section 524.051, Transportation Code, is
39-62 repealed.

39-63 SECTION 2.12. (a) The changes in law made by this article
39-64 to Chapter 521, Transportation Code, relating to the automatic
39-65 suspension of a driver's license on conviction of certain offenses,
39-66 apply only to a conviction that becomes final on or after September
39-67 1, 2005. The automatic suspension of a driver's license for a
39-68 conviction that became final before September 1, 2005, is covered
39-69 by the law in effect when the conviction became final, and the

former law is continued in effect for that purpose.

(b) The changes in law made by this article to Chapters 521 and 724, Transportation Code, relating to the suspension of a driver's license under those chapters, other than an automatic suspension, apply only to a license suspension subsequent to and in connection with an arrest for an offense committed on or after September 1, 2005. The suspension of a driver's license subsequent to and in connection with an arrest for an offense committed before September 1, 2005, is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

(c) For purposes of Subsection (b) of this section, an offense was committed before September 1, 2005, if any element of the offense was committed before that date.

(d) The changes in law made by this article to Chapter 521, Transportation Code, relating to an occupational driver's license, apply only to an occupational driver's license for which an application petition is filed on or after September 1, 2005. An occupational driver's license for which an application petition is filed before September 1, 2005, is covered by the law in effect when the application petition was filed, and the former law is continued in effect for that purpose.

ARTICLE 3. EFFECTIVE DATE

SECTION 3.01. This Act takes effect September 1, 2005.

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