

BILL ANALYSIS

C.S.H.B. 1678
By: Madden
Corrections
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Adult incarceration projected populations, provided by the Legislative Budget Board in January 2007, indicate that Texas prisons will exceed operating capacity by 11,464 in 2010. While continued increase in direct court sentences to prison is the primary driving force behind the projected growth, Texas probation terms can last up to ten years, and these long probation terms increase the chance that probationers will eventually fail to meet their rules of supervision and commit a technical violation, even if they have made serious long term improvements in their lives.

The purpose of CSHB 1678 is to reduce the number of caseloads in community supervision programs by reducing the number of years some defendants can be placed on community supervision, and by requiring judges to review certain defendants' records at one-half of the defendant's term or two years, whichever is longer, to consider the reduction or early termination of the period of community supervision. CSHB 1678 also aims to increase incentives for offenders to successfully complete substance abuse programs and reduce the time offenders spend incarcerated by requiring judges to give defendants credit for time served successfully completing a treatment program in a Substance Abuse Felony Punishment Facility or other court-ordered residential program or facility.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

This bill provides that a judge shall grant certain defendants credit on their sentence for the time that they spent in a Substance Abuse Felony Punishment Facility (SAFPF) or other court-ordered residential program or facility if they successfully completed the treatment program at that facility. This credit would apply to defendants who successfully completed the program as a condition of deferred adjudication community supervision between the time they were granted deferred adjudication and their sentence, regardless if the defendant is to be sentenced to prison or a state jail felony facility. This credit would also apply to defendants who successfully completed the program while on community supervision, but were revoked and subsequently required to serve time in a state jail felony facility or prison.

CSHB 1678 reduces the maximum period of community supervision, subject to extensions, from ten years to five years for a third degree felony under Chapter 481, Health and Safety Code (offenses relating to controlled substances) and a third degree felony under Title 7, Penal Code (offenses against property), other than an offense under Section 33.021(c) of the Penal Code (online solicitation of a minor).

Current statute states that a judge shall require community service as a condition of community supervision unless the defendant meets certain criteria. CSHB 1678 changes "shall" to "may" and states that a judge "may not" require community service if the defendant meets this same criteria. Additionally, the bill removes all minimums on the amount of community service hours that a judge may require a defendant to work as a condition of community supervision and requires the judge to provide a showing of good cause when extending a period of community supervision under Section 22(c), Article 42.12, Code of Criminal Procedure.

CSHB 1678 amends the Code of Criminal Procedure by providing that 3g offenders are not eligible for reduction or termination of community supervision under Section 20, Article 42.12, Code of Criminal Procedure. This bill also amends the Code of Criminal Procedure to provide that a defendant is not eligible for jury recommended community supervision if the defendant is adjudged guilty of an offense under Section 19.02, Penal Code (murder).

With the exception of defendants convicted of 3g offenses, certain intoxication and alcoholic beverage offenses, or offenses for which registration as a sex offender is required under Chapter 62 of the Code of Criminal Procedure, CSHB 1678 requires that upon completion of one-half of the original community supervision period or two years, whichever is more, the judge shall review the defendant's record and consider whether to reduce or terminate the period of community supervision. The judge would not be required to review the defendant's record at that time if the defendant is delinquent in paying required restitution, fines, costs, or fees that the defendant has the ability to pay or the defendant has not completed court-ordered counseling or treatment. Additionally, the judge would be required to notify the attorney representing the state and the defendant before conducting the review and if the judge determines that the defendant has failed to satisfactorily fulfill the conditions of community supervision, the judge shall advise the defendant in writing of the requirements for satisfactorily fulfilling those conditions.

CSHB 1678 amends the Local Government Code by adding a subsection that allows the director of a community supervision and corrections department, with approval of the judges described by Section 76.002, Government Code, to authorize a community supervision official who collects fees, fines, court costs, and other charges to accept payment by debit card or credit card and collect a fee for processing the payment by debit card or credit card. This change applies to the payment, of a fee, fine, court costs, or other charge made on or after the effective date of this Act, regardless of when the fee, fine, court cost, or other charge was imposed or became due. All other changes made by this Act apply only to a defendant initially placed on community supervision on or after the effective date.

This bill also updates statutory changes to reflect the name change of the Health and Human Services Commission.

EFFECTIVE DATE

September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

Both the original bill and the substitute amend the Code of Criminal Procedure by changing the circumstances by which a defendant receives credit for time served in a Substance Abuse Felony Punishment Facility (SAFPF) if the defendant successfully completes the treatment program at that facility. However, rather than limiting credit to time spent successfully completing a treatment program in a SAFPF, the substitute adds other court-ordered residential treatment programs or facilities.

The substitute requires a judge to credit against any time a defendant is required to serve in a state jail felony facility, time served as a condition of deferred adjudication community supervision successfully completing the treatment program in a SAFPF or other court-ordered residential program or facility. The original bill simply allowed a judge to grant such credit.

Additionally, rather than allowing a judge to grant credit, the substitute requires that on revocation of community supervision a judge shall credit to the defendant time served successfully completing the treatment program in a SAFPF or other court-ordered residential program or facility.

Both the original bill and the substitute reduce the maximum period of community supervision from ten years to five years for third degree felonies under Title 7 of the Penal Code (offenses against property). However, the substitute excludes an offense under Section 33.021(c), Title 7 of the Penal Code (online solicitation of a minor), from this change.

The original bill amends the Code of Criminal Procedure by removing all caps on the amount of community service hours that a judge may require a defendant to work as a condition of community supervision. The substitute leaves the caps already in current statute, and instead removes all minimums on the amount of community service hours that a judge may require a defendant to work.

Unlike the original bill, the substitute amends the Code of Criminal Procedure to provide that a defendant is not eligible for jury recommended community supervision if the defendant is adjudged guilty of an offense under Section 19.02, Penal Code (murder).

In both bills, the changes made apply only to a defendant initially placed on community supervision on or after the effective date. However, the substitute makes an exception so that the change which allows payment to a community supervision and corrections department by credit card or debit card applies to the payment of a fee, fine, court cost, or other charge made on or after the effective date of the Act regardless of when the fee, fine, court cost, or other charge was imposed or became due.