

By: Haggerty

H.B. No. 1510

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the minimum and maximum terms of community supervision
3 for a defendant charged with the commission of a felony.

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

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

7 (b) The ~~[Except as provided by Subsection (f), in a felony~~
8 ~~case the minimum period of community supervision is the same as the~~
9 ~~minimum term of imprisonment applicable to the offense and the]~~
10 maximum period of community supervision in a felony case is five
11 ~~[10]~~ years.

12 SECTION 2. Section 4(b), Article 42.12, Code of Criminal
13 Procedure, is amended to read as follows:

14 (b) If the jury recommends to the judge that the judge place
15 the defendant on community supervision, the judge shall place the
16 defendant on community supervision for any period permitted under
17 Section 3(b) or 3(c) ~~[of this article]~~, as appropriate, except that
18 in a felony case described by Section 3g, the maximum period of
19 community supervision is 10 years.

20 SECTION 3. Section 5(a), Article 42.12, Code of Criminal
21 Procedure, is amended to read as follows:

22 (a) Except as provided by Subsection (d) ~~[of this section]~~,
23 when in the judge's opinion the best interest of society and the
24 defendant will be served, the judge may, after receiving a plea of

1 guilty or plea of nolo contendere, hearing the evidence, and
2 finding that it substantiates the defendant's guilt, defer further
3 proceedings without entering an adjudication of guilt, and place
4 the defendant on community supervision. A judge may place on
5 community supervision under this section a defendant charged with
6 an offense under Section 21.11, 22.011, or 22.021, Penal Code,
7 regardless of the age of the victim, or a defendant charged with a
8 felony described by Section 13B(b) [~~of this article~~], only if the
9 judge makes a finding in open court that placing the defendant on
10 community supervision is in the best interest of the victim. The
11 failure of the judge to find that deferred adjudication is in the
12 best interest of the victim is not grounds for the defendant to set
13 aside the plea, deferred adjudication, or any subsequent conviction
14 or sentence. After placing the defendant on community supervision
15 under this section, the judge shall inform the defendant orally or
16 in writing of the possible consequences under Subsection (b) [~~of~~
17 ~~this section~~] of a violation of community supervision. If the
18 information is provided orally, the judge must record and maintain
19 the judge's statement to the defendant. The failure of a judge to
20 inform a defendant of possible consequences under Subsection (b)
21 [~~of this section~~] is not a ground for reversal unless the defendant
22 shows that the defendant [~~he~~] was harmed by the failure of the judge
23 to provide the information. In a felony case, the period of
24 community supervision may not exceed five [~~10~~] years, except that
25 in a felony case described by Section 3g, the period of community
26 supervision may not exceed 10 years. [~~For a defendant charged with~~
27 ~~a felony under Section 21.11, 22.011, or 22.021, Penal Code,~~

1 ~~regardless of the age of the victim, and for a defendant charged~~
2 ~~with a felony described by Section 13B(b) of this article, the~~
3 ~~period of community supervision may not be less than five years.]~~

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

23 SECTION 4. Section 15(b), Article 42.12, Code of Criminal
24 Procedure, is amended to read as follows:

25 (b) [~~The minimum period of community supervision a judge may~~
26 ~~impose under this section is two years.] The maximum period of~~
27 community supervision a judge may impose under this section is five

1 years, except that the judge may impose a maximum of five one-year
2 extensions for good cause stated in the record of the case. The
3 judge may not impose more than one extension per hearing held under
4 Section 21 [~~extend the maximum period of community supervision~~
5 ~~under this section to not more than 10 years~~]. A judge may extend a
6 period of community supervision under this section at any time
7 during the period of community supervision, or if a motion for
8 revocation of community supervision is filed before the period of
9 community supervision ends, before the first anniversary of the
10 expiration of the period of community supervision.

11 SECTION 5. Sections 22(a) and (c), Article 42.12, Code of
12 Criminal Procedure, are amended to read as follows:

13 (a) If after a hearing under Section 21 [~~of this article~~] a
14 judge continues or modifies community supervision after
15 determining that the defendant violated a condition of community
16 supervision, the judge may impose any other conditions the judge
17 determines are appropriate, including:

18 (1) a requirement that the defendant perform community
19 service for a number of hours specified by the court under Section
20 16 [~~of this article~~], or an increase in the number of hours that the
21 defendant has previously been required to perform under those
22 sections in an amount not to exceed double the number of hours
23 permitted by Section 16;

24 (2) an increase in the period of community
25 supervision, in the manner described by Subsection (c) [~~(b) of this~~
26 ~~section~~];

27 (3) an increase in the defendant's fine, in the manner

1 described by Subsection (d) [~~of this section~~]; or

2 (4) the placement of the defendant in a substance
3 abuse felony punishment program operated under Section 493.009,
4 Government Code, if:

5 (A) the defendant is convicted of a felony other
6 than:

7 (i) a felony under Section 21.11, 22.011,
8 or 22.021, Penal Code; or

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

11 (B) the judge makes an affirmative finding that:

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

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

19 (c) The judge may extend a period of community supervision
20 under this section as often as the judge determines is necessary.
21 In a felony case, [but] the total period of community supervision,
22 including any extensions under this subsection, [in a first,
23 second, or third degree felony case] may not exceed the applicable
24 maximum period of community supervision permitted under Section
25 3(b), 4(b), or 5(a), except that in a felony case other than a case
26 involving a felony described by Section 3g, the judge may impose a
27 maximum of five one-year extensions for good cause stated in the

1 record of the case. The judge may not impose more than one
2 extension under this subsection per hearing held under Section 21.
3 In a misdemeanor case [10 years and], except as otherwise provided
4 by this subsection, the period of community supervision [~~in a~~
5 ~~misdemeanor case~~] may not exceed three years. The judge may extend
6 the period of community supervision in a misdemeanor case for any
7 period the judge determines is necessary, not to exceed an
8 additional two years beyond the three-year limit, if the defendant
9 fails to pay a previously assessed fine, costs, or restitution and
10 the judge determines that extending the period of supervision
11 increases the likelihood that the defendant will fully pay the
12 fine, costs, or restitution. A court may extend a period of
13 community supervision under this section at any time during the
14 period of supervision or, if a motion for revocation of community
15 supervision is filed before the period of supervision ends, before
16 the first anniversary of the date on which the period of supervision
17 expires.

18 SECTION 6. Section 3(f), Article 42.12, Code of Criminal
19 Procedure, is repealed.

20 SECTION 7. The changes in law made by this Act apply only to
21 a defendant placed on community supervision for an offense
22 committed on or after the effective date of this Act. A defendant
23 placed on community supervision for an offense committed before the
24 effective date of this Act is governed by the law in effect when the
25 defendant was placed on community supervision, and the former law
26 is continued in effect for that purpose. For purposes of this
27 section, an offense was committed before the effective date of this

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1 Act if any element of the offense was committed before that date.

2 SECTION 8. This Act takes effect September 1, 2007.