

By: Madden, Turner, Haggerty, McReynolds,
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H.B. No. 1678

Substitute the following for H.B. No. 1678:

By: Madden

C.S.H.B. No. 1678

A BILL TO BE ENTITLED

AN ACT

relating to the operation of a system of community supervision.

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

SECTION 1. Section 2(a), Article 42.03, Code of Criminal Procedure, is amended to read as follows:

(a) In all criminal cases the judge of the court in which the defendant is ~~was~~ convicted shall give the defendant credit on the defendant's ~~his~~ sentence for the time that the defendant has spent:

(1) in jail for the case ~~in said cause~~, other than confinement served as a condition of community supervision, from the time of his arrest and confinement until his sentence by the trial court; or

(2) in a substance abuse treatment facility operated by the Texas Department of Criminal Justice under Section 493.009, Government Code, or another court-ordered residential program or facility as a condition of deferred adjudication community supervision granted in the case if the defendant successfully completes the treatment program at that facility.

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

(b) In ~~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

1 maximum period of community supervision is, subject to the
2 extensions provided by Section 22:

3 (1) 10 years, for a felony other than a third degree
4 felony described by Subdivision (2); and

5 (2) five years, for the following third degree
6 felonies:

7 (A) a third degree felony under Title 7, Penal
8 Code, other than an offense under Section 33.021(c), Penal Code;
9 and

10 (B) a third degree felony under Chapter 481,
11 Health and Safety Code.

12 SECTION 3. Section 4(d), Article 42.12, Code of Criminal
13 Procedure, is amended to read as follows:

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

16 (1) is sentenced to a term of imprisonment that
17 exceeds 10 years;

18 (2) is convicted of a state jail felony for which
19 suspension of the imposition of the sentence occurs automatically
20 under Section 15(a);

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

24 (4) is adjudged guilty of an offense for which
25 punishment is increased under Section 481.134(c), (d), (e), or (f),
26 Health and Safety Code, if it is shown that the defendant has been
27 previously convicted of an offense for which punishment was

1 increased under any one of those subsections; or

2 (5) is adjudged guilty of an offense under Section
3 19.02, Penal Code.

4 SECTION 4. Sections 15(h)(2) and (3), Article 42.12, Code
5 of Criminal Procedure, are amended to read as follows:

6 (2) A judge:

7 (A) may credit against any time a defendant is
8 required to serve in a state jail felony facility time served by the
9 defendant in a county jail from the time of the defendant's arrest
10 and confinement until sentencing by the trial court; and

11 (B) shall credit against any time a defendant is
12 required to serve in a state jail felony facility time served by the
13 defendant in a substance abuse treatment facility operated by the
14 Texas Department of Criminal Justice under Section 493.009,
15 Government Code, or other court-ordered residential program or
16 facility as a condition of deferred adjudication community
17 supervision before sentencing, but only if the defendant
18 successfully completes the treatment program in that facility.

19 (3) A judge shall credit against any time a defendant
20 is subsequently required to serve in a state jail felony facility
21 after revocation of community supervision any time served after
22 sentencing by the defendant:

23 (A) in a state jail felony facility; or

24 (B) in a substance abuse treatment facility
25 operated by the Texas Department of Criminal Justice under Section
26 493.009, Government Code, or another court-ordered residential
27 program or facility if the defendant successfully completes the

1 treatment program in that facility [~~after sentencing~~].

2 SECTION 5. Sections 16(a) and (b), Article 42.12, Code of
3 Criminal Procedure, are amended to read as follows:

4 (a) A judge may [~~shall~~] require as a condition of community
5 supervision[~~7~~] that the defendant work a specified number of hours
6 at a community service project or projects for an organization or
7 organizations approved by the judge and designated by the
8 department. The judge may not require that a defendant work at a
9 community service project if [~~7, unless~~] the judge determines and
10 notes on the order placing the defendant on community supervision
11 that:

12 (1) the defendant is physically or mentally incapable
13 of participating in the project;

14 (2) participating in the project will work a hardship
15 on the defendant or the defendant's dependents;

16 (3) the defendant is to be confined in a substance
17 abuse punishment facility as a condition of community supervision;
18 or

19 (4) there is other good cause shown.

20 (b) The amount of community service work ordered by the
21 judge:

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

24 (2) may not exceed 800 hours [~~and may not be less than~~
25 ~~240 hours~~] for an offense classified as a second degree felony;

26 (3) may not exceed 600 hours [~~and may not be less than~~
27 ~~160 hours~~] for an offense classified as a third degree felony;

1 (4) may not exceed 400 hours [~~and may not be less than~~
2 ~~120 hours~~] for an offense classified as a state jail felony;

3 (5) may not:

4 (A) exceed 600 hours [~~or be less than 160 hours~~]
5 for an offense under Section 30.04, Penal Code, classified as a
6 Class A misdemeanor; or

7 (B) exceed 200 hours [~~or be less than 80 hours~~]
8 for any other offense classified as a Class A misdemeanor or for any
9 other misdemeanor for which the maximum permissible confinement, if
10 any, exceeds six months or the maximum permissible fine, if any,
11 exceeds \$4,000; and

12 (6) may not exceed 100 hours [~~and may not be less than~~
13 ~~24 hours~~] for an offense classified as a Class B misdemeanor or for
14 any other misdemeanor for which the maximum permissible
15 confinement, if any, does not exceed six months and the maximum
16 permissible fine, if any, does not exceed \$4,000.

17 SECTION 6. Section 20, Article 42.12, Code of Criminal
18 Procedure, is amended to read as follows:

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

20 (a) At any time[~~7~~] after the defendant has satisfactorily
21 completed one-third of the original community supervision period or
22 two years of community supervision, whichever is less, the period
23 of community supervision may be reduced or terminated by the judge.
24 On completion of one-half of the original community supervision
25 period or two years of community supervision, whichever is more,
26 the judge shall review the defendant's record and consider whether
27 to reduce or terminate the period of community supervision, unless

1 the defendant is delinquent in paying required restitution, fines,
2 costs, or fees that the defendant has the ability to pay or the
3 defendant has not completed court-ordered counseling or treatment.
4 Before conducting the review, the judge shall notify the attorney
5 representing the state and the defendant. If the judge determines
6 that the defendant has failed to satisfactorily fulfill the
7 conditions of community supervision, the judge shall advise the
8 defendant in writing of the requirements for satisfactorily
9 fulfilling those conditions. Upon the satisfactory fulfillment of
10 the conditions of community supervision, and the expiration of the
11 period of community supervision, the judge, by order duly entered,
12 shall amend or modify the original sentence imposed, if necessary,
13 to conform to the community supervision period and shall discharge
14 the defendant. If the judge discharges the defendant under this
15 section, the judge may set aside the verdict or permit the defendant
16 to withdraw the defendant's ~~[his]~~ plea, and shall dismiss the
17 accusation, complaint, information or indictment against the
18 defendant, who shall thereafter be released from all penalties and
19 disabilities resulting from the offense or crime of which the
20 defendant ~~[he]~~ has been convicted or to which the defendant ~~[he]~~ has
21 pleaded guilty, except that:

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

25 (2) if the defendant is an applicant for a license or
26 is a licensee under Chapter 42, Human Resources Code, the Health and
27 ~~[Texas Department of]~~ Human Services Commission may consider the

1 fact that the defendant previously has received community
2 supervision under this article in issuing, renewing, denying, or
3 revoking a license under that chapter.

4 (b) This section does not apply to a defendant convicted of
5 an offense under Sections 49.04-49.08, Penal Code, a defendant
6 convicted of an offense for which on conviction registration as a
7 sex offender is required under Chapter 62, or a defendant convicted
8 of a felony described by Section 3g~~[, as added by Chapter 668, Acts~~
9 ~~of the 75th Legislature, Regular Session, 1997, or a defendant~~
10 ~~convicted of an offense punishable as a state jail felony]~~.

11 SECTION 7. Section 22(c), Article 42.12, Code of Criminal
12 Procedure, is amended to read as follows:

13 (c) The judge may extend a period of community supervision
14 on a showing of good cause under this section as often as the judge
15 determines is necessary, but the period of community supervision in
16 a first, second, or third degree felony case may not exceed 10 years
17 and, except as otherwise provided by this subsection, the period of
18 community supervision in a misdemeanor case may not exceed three
19 years. The judge may extend the period of community supervision in
20 a misdemeanor case for any period the judge determines is
21 necessary, not to exceed an additional two years beyond the
22 three-year limit, if the defendant fails to pay a previously
23 assessed fine, costs, or restitution and the judge determines that
24 extending the period of supervision increases the likelihood that
25 the defendant will fully pay the fine, costs, or restitution. A
26 court may extend a period of community supervision under this
27 section at any time during the period of supervision or, if a motion

1 for revocation of community supervision is filed before the period
2 of supervision ends, before the first anniversary of the date on
3 which the period of supervision expires.

4 SECTION 8. Section 23(b), Article 42.12, Code of Criminal
5 Procedure, is amended to read as follows:

6 (b) No part of the time that the defendant is on community
7 supervision shall be considered as any part of the time that he
8 shall be sentenced to serve, except that on revocation, the judge
9 shall credit to the defendant time served by the defendant as a
10 condition of community supervision in a substance abuse treatment
11 facility operated by the Texas Department of Criminal Justice under
12 Section 493.009, Government Code, or another court-ordered
13 residential program or facility, but only if the defendant
14 successfully completes the treatment program in that facility. The
15 right of the defendant to appeal for a review of the conviction and
16 punishment, as provided by law, shall be accorded the defendant at
17 the time he is placed on community supervision. When he is notified
18 that his community supervision is revoked for violation of the
19 conditions of community supervision and he is called on to serve a
20 sentence in a jail or in the institutional division of the Texas
21 Department of Criminal Justice, he may appeal the revocation.

22 SECTION 9. Section 132.002, Local Government Code, is
23 amended by adding Subsection (f) to read as follows:

24 (f) The director of a community supervision and corrections
25 department, with the approval of the judges described by Section
26 76.002, Government Code, may authorize a community supervision
27 official who collects fees, fines, court costs, and other charges

1 to:

2 (1) accept payment by debit card or credit card of a
3 fee, fine, court cost, or other charge; and

4 (2) collect a fee for processing the payment by debit
5 card or credit card.

6 SECTION 10. (a) Except as provided by Subsection (b) of
7 this section, the change in law made by this Act applies only to a
8 defendant initially placed on community supervision on or after the
9 effective date of this Act. A defendant initially placed on
10 community supervision before the effective date of this Act is
11 governed by the law in effect immediately before the effective date
12 of this Act, and the former law is continued in effect for that
13 purpose.

14 (b) Section 132.002(f), Local Government Code, as added by
15 this Act, applies to the payment of a fee, fine, court cost, or
16 other charge made on or after the effective date of this Act,
17 regardless of when the fee, fine, court cost, or other charge was
18 imposed or became due.

19 SECTION 11. This Act takes effect September 1, 2007.