

By: Madden

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, 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 maximum period of community supervision is, subject to the

1 extensions provided by Section 22:

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

4 (2) 5 years, for the following third degree felonies:

5 (A) a third degree felony under Title 7, Penal
6 Code; and

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

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

11 (2) A judge may credit against any time a defendant is
12 required to serve in a state jail felony facility time served by the
13 defendant:

14 (A) in a county jail from the time of the
15 defendant's arrest and confinement until sentencing by the trial
16 court; or

17 (B) in a substance abuse treatment facility
18 operated by the Texas Department of Criminal Justice under Section
19 493.009, Government Code, as a condition of deferred adjudication
20 community supervision before sentencing, but only if the defendant
21 successfully completes the treatment program in that facility.

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

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

27 (B) in a substance abuse treatment facility

1 operated by the Texas Department of Criminal Justice under Section
2 493.009, Government Code, if the defendant successfully completes
3 the treatment program in that facility [~~after sentencing~~].

4 SECTION 4. Sections 16(a) and (b), Article 42.12, Code of
5 Criminal Procedure, are amended to read as follows:

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

14 (1) the defendant is physically or mentally incapable
15 of participating in the project;

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

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

21 (4) there is other good cause shown.

22 (b) The amount of community service work ordered by the
23 judge:

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

26 (2) may not [~~exceed 800 hours and may not~~] be less than
27 240 hours for an offense classified as a second degree felony;

1 (3) may not [~~exceed 600 hours and may not~~] be less than
2 160 hours for an offense classified as a third degree felony;

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

5 (5) may not be less than:

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

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

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

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

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

22 (a) At any time[~~7~~] after the defendant has satisfactorily
23 completed one-third of the original community supervision period or
24 two years of community supervision, whichever is less, the period
25 of community supervision may be reduced or terminated by the judge.
26 On completion of one-half of the original community supervision
27 period or two years of community supervision, whichever is more,

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

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

27 (2) if the defendant is an applicant for a license or

1 is a licensee under Chapter 42, Human Resources Code, the Health and
2 ~~[Texas Department of]~~ Human Services Commission may consider the
3 fact that the defendant previously has received community
4 supervision under this article in issuing, renewing, denying, or
5 revoking a license under that chapter.

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

13 SECTION 6. Section 22(c), Article 42.12, Code of Criminal
14 Procedure, is amended to read as follows:

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

1 court may extend a period of community supervision under this
2 section at any time during the period of supervision or, if a motion
3 for revocation of community supervision is filed before the period
4 of supervision ends, before the first anniversary of the date on
5 which the period of supervision expires.

6 SECTION 7. Section 23(b), Article 42.12, Code of Criminal
7 Procedure, is amended to read as follows:

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

23 SECTION 8. Section 132.002, Local Government Code, is
24 amended by adding Subsection (f) to read as follows:

25 (f) The director of a community supervision and corrections
26 department, with the approval of the judges described by Section
27 76.002, Government Code, may authorize a community supervision

1 official who collects fees, fines, court costs, and other charges
2 to:

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

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

7 SECTION 9. The change in law made by this Act applies only
8 to a defendant initially placed on community supervision on or
9 after the effective date of this Act. A defendant initially placed
10 on 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 SECTION 10. This Act takes effect September 1, 2007.