

1-1 By: Madden, et al. (Senate Sponsor - Whitmire) H.B. No. 1678
1-2 (In the Senate - Received from the House April 26, 2007;
1-3 May 1, 2007, read first time and referred to Committee on Criminal
1-4 Justice; May 16, 2007, reported favorably by the following vote:
1-5 Yeas 6, Nays 0; May 16, 2007, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the operation of a system of community supervision.

1-9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-10 SECTION 1. Section 2(a), Article 42.03, Code of Criminal
1-11 Procedure, is amended to read as follows:

1-12 (a) In all criminal cases the judge of the court in which the
1-13 defendant is ~~[was]~~ convicted shall give the defendant credit on the
1-14 defendant's ~~[his]~~ sentence for the time that the defendant has
1-15 spent:

1-16 (1) in jail for the case [in said cause], other than
1-17 confinement served as a condition of community supervision, from
1-18 the time of his arrest and confinement until his sentence by the
1-19 trial court; or

1-20 (2) in a substance abuse treatment facility operated
1-21 by the Texas Department of Criminal Justice under Section 493.009,
1-22 Government Code, or another court-ordered residential program or
1-23 facility as a condition of deferred adjudication community
1-24 supervision granted in the case if the defendant successfully
1-25 completes the treatment program at that facility.

1-26 SECTION 2. Section 3(b), Article 42.12, Code of Criminal
1-27 Procedure, is amended to read as follows:

1-28 (b) In [Except as provided by Subsection (f), in] a felony
1-29 case the minimum period of community supervision is the same as the
1-30 minimum term of imprisonment applicable to the offense and the
1-31 maximum period of community supervision is, subject to the
1-32 extensions provided by Section 22:

1-33 (1) 10 years, for a felony other than a third degree
1-34 felony described by Subdivision (2); and

1-35 (2) five years, for the following third degree
1-36 felonies:

1-37 (A) a third degree felony under Title 7, Penal
1-38 Code, other than an offense under Section 33.021(c), Penal Code;
1-39 and

1-40 (B) a third degree felony under Chapter 481,
1-41 Health and Safety Code.

1-42 SECTION 3. Section 4(d), Article 42.12, Code of Criminal
1-43 Procedure, is amended to read as follows:

1-44 (d) A defendant is not eligible for community supervision
1-45 under this section if the defendant:

1-46 (1) is sentenced to a term of imprisonment that
1-47 exceeds 10 years;

1-48 (2) is convicted of a state jail felony for which
1-49 suspension of the imposition of the sentence occurs automatically
1-50 under Section 15(a);

1-51 (3) does not file a sworn motion under Subsection (e)
1-52 of this section or for whom the jury does not enter in the verdict a
1-53 finding that the information contained in the motion is true; ~~[or]~~

1-54 (4) is adjudged guilty of an offense for which
1-55 punishment is increased under Section 481.134(c), (d), (e), or (f),
1-56 Health and Safety Code, if it is shown that the defendant has been
1-57 previously convicted of an offense for which punishment was
1-58 increased under any one of those subsections; or

1-59 (5) is adjudged guilty of an offense under Section
1-60 19.02, Penal Code.

1-61 SECTION 4. Sections 15(h)(2) and (3), Article 42.12, Code
1-62 of Criminal Procedure, are amended to read as follows:

1-63 (2) A judge:

1-64 (A) may credit against any time a defendant is

2-1 required to serve in a state jail felony facility time served by the
2-2 defendant in a county jail from the time of the defendant's arrest
2-3 and confinement until sentencing by the trial court; and

2-4 (B) shall credit against any time a defendant is
2-5 required to serve in a state jail felony facility time served by the
2-6 defendant in a substance abuse treatment facility operated by the
2-7 Texas Department of Criminal Justice under Section 493.009,
2-8 Government Code, or other court-ordered residential program or
2-9 facility as a condition of deferred adjudication community
2-10 supervision before sentencing, but only if the defendant
2-11 successfully completes the treatment program in that facility.

2-12 (3) A judge shall credit against any time a defendant
2-13 is subsequently required to serve in a state jail felony facility
2-14 after revocation of community supervision any time served after
2-15 sentencing by the defendant:

2-16 (A) in a state jail felony facility; or
2-17 (B) in a substance abuse treatment facility
2-18 operated by the Texas Department of Criminal Justice under Section
2-19 493.009, Government Code, or another court-ordered residential
2-20 program or facility if the defendant successfully completes the
2-21 treatment program in that facility [after sentencing].

2-22 SECTION 5. Sections 16(a) and (b), Article 42.12, Code of
2-23 Criminal Procedure, are amended to read as follows:

2-24 (a) A judge may ~~[shall]~~ require as a condition of community
2-25 supervision~~[,]~~ that the defendant work a specified number of hours
2-26 at a community service project or projects for an organization or
2-27 organizations approved by the judge and designated by the
2-28 department. ~~The judge may not require that a defendant work at a~~
2-29 ~~community service project if~~~~[, unless]~~ the judge determines and
2-30 notes on the order placing the defendant on community supervision
2-31 that:

2-32 (1) the defendant is physically or mentally incapable
2-33 of participating in the project;

2-34 (2) participating in the project will work a hardship
2-35 on the defendant or the defendant's dependents;

2-36 (3) the defendant is to be confined in a substance
2-37 abuse punishment facility as a condition of community supervision;
2-38 or

2-39 (4) there is other good cause shown.
2-40 (b) The amount of community service work ordered by the
2-41 judge:

2-42 (1) may not exceed 1,000 hours ~~[and may not be less~~
2-43 ~~than 320 hours]~~ for an offense classified as a first degree felony;

2-44 (2) may not exceed 800 hours ~~[and may not be less than~~
2-45 ~~240 hours]~~ for an offense classified as a second degree felony;

2-46 (3) may not exceed 600 hours ~~[and may not be less than~~
2-47 ~~160 hours]~~ for an offense classified as a third degree felony;

2-48 (4) may not exceed 400 hours ~~[and may not be less than~~
2-49 ~~120 hours]~~ for an offense classified as a state jail felony;

2-50 (5) may not:
2-51 (A) exceed 600 hours ~~[or be less than 160 hours]~~
2-52 for an offense under Section 30.04, Penal Code, classified as a
2-53 Class A misdemeanor; or

2-54 (B) exceed 200 hours ~~[or be less than 80 hours]~~
2-55 for any other offense classified as a Class A misdemeanor or for any
2-56 other misdemeanor for which the maximum permissible confinement, if
2-57 any, exceeds six months or the maximum permissible fine, if any,
2-58 exceeds \$4,000; and

2-59 (6) may not exceed 100 hours ~~[and may not be less than~~
2-60 ~~24 hours]~~ for an offense classified as a Class B misdemeanor or for
2-61 any other misdemeanor for which the maximum permissible
2-62 confinement, if any, does not exceed six months and the maximum
2-63 permissible fine, if any, does not exceed \$4,000.

2-64 SECTION 6. Section 20, Article 42.12, Code of Criminal
2-65 Procedure, is amended to read as follows:

2-66 Sec. 20. REDUCTION OR TERMINATION OF COMMUNITY SUPERVISION.

2-67 (a) At any time~~[,]~~ after the defendant has satisfactorily
2-68 completed one-third of the original community supervision period or
2-69 two years of community supervision, whichever is less, the period

3-1 of community supervision may be reduced or terminated by the judge.
 3-2 On completion of one-half of the original community supervision
 3-3 period or two years of community supervision, whichever is more,
 3-4 the judge shall review the defendant's record and consider whether
 3-5 to reduce or terminate the period of community supervision, unless
 3-6 the defendant is delinquent in paying required restitution, fines,
 3-7 costs, or fees that the defendant has the ability to pay or the
 3-8 defendant has not completed court-ordered counseling or treatment.
 3-9 Before conducting the review, the judge shall notify the attorney
 3-10 representing the state and the defendant. If the judge determines
 3-11 that the defendant has failed to satisfactorily fulfill the
 3-12 conditions of community supervision, the judge shall advise the
 3-13 defendant in writing of the requirements for satisfactorily
 3-14 fulfilling those conditions. Upon the satisfactory fulfillment of
 3-15 the conditions of community supervision, and the expiration of the
 3-16 period of community supervision, the judge, by order duly entered,
 3-17 shall amend or modify the original sentence imposed, if necessary,
 3-18 to conform to the community supervision period and shall discharge
 3-19 the defendant. If the judge discharges the defendant under this
 3-20 section, the judge may set aside the verdict or permit the defendant
 3-21 to withdraw the defendant's [his] plea, and shall dismiss the
 3-22 accusation, complaint, information or indictment against the
 3-23 defendant, who shall thereafter be released from all penalties and
 3-24 disabilities resulting from the offense or crime of which the
 3-25 defendant [he] has been convicted or to which the defendant [he] has
 3-26 pleaded guilty, except that:

3-27 (1) proof of the conviction or plea of guilty shall be
 3-28 made known to the judge should the defendant again be convicted of
 3-29 any criminal offense; and

3-30 (2) if the defendant is an applicant for a license or
 3-31 is a licensee under Chapter 42, Human Resources Code, the Health and
 3-32 [Texas Department of] Human Services Commission may consider the
 3-33 fact that the defendant previously has received community
 3-34 supervision under this article in issuing, renewing, denying, or
 3-35 revoking a license under that chapter.

3-36 (b) This section does not apply to a defendant convicted of
 3-37 an offense under Sections 49.04-49.08, Penal Code, a defendant
 3-38 convicted of an offense for which on conviction registration as a
 3-39 sex offender is required under Chapter 62, or a defendant convicted
 3-40 of a felony described by Section 3g[~~, as added by Chapter 668, Acts~~
 3-41 ~~of the 75th Legislature, Regular Session, 1997, or a defendant~~
 3-42 ~~convicted of an offense punishable as a state jail felony].~~

3-43 SECTION 7. Section 22(c), Article 42.12, Code of Criminal
 3-44 Procedure, is amended to read as follows:

3-45 (c) The judge may extend a period of community supervision
 3-46 on a showing of good cause under this section as often as the judge
 3-47 determines is necessary, but the period of community supervision in
 3-48 a first, second, or third degree felony case may not exceed 10 years
 3-49 and, except as otherwise provided by this subsection, the period of
 3-50 community supervision in a misdemeanor case may not exceed three
 3-51 years. The judge may extend the period of community supervision in
 3-52 a misdemeanor case for any period the judge determines is
 3-53 necessary, not to exceed an additional two years beyond the
 3-54 three-year limit, if the defendant fails to pay a previously
 3-55 assessed fine, costs, or restitution and the judge determines that
 3-56 extending the period of supervision increases the likelihood that
 3-57 the defendant will fully pay the fine, costs, or restitution. A
 3-58 court may extend a period of community supervision under this
 3-59 section at any time during the period of supervision or, if a motion
 3-60 for revocation of community supervision is filed before the period
 3-61 of supervision ends, before the first anniversary of the date on
 3-62 which the period of supervision expires.

3-63 SECTION 8. Section 23(b), Article 42.12, Code of Criminal
 3-64 Procedure, is amended to read as follows:

3-65 (b) No part of the time that the defendant is on community
 3-66 supervision shall be considered as any part of the time that he
 3-67 shall be sentenced to serve, except that on revocation, the judge
 3-68 shall credit to the defendant time served by the defendant as a
 3-69 condition of community supervision in a substance abuse treatment

4-1 facility operated by the Texas Department of Criminal Justice under
4-2 Section 493.009, Government Code, or another court-ordered
4-3 residential program or facility, but only if the defendant
4-4 successfully completes the treatment program in that facility. The
4-5 right of the defendant to appeal for a review of the conviction and
4-6 punishment, as provided by law, shall be accorded the defendant at
4-7 the time he is placed on community supervision. When he is notified
4-8 that his community supervision is revoked for violation of the
4-9 conditions of community supervision and he is called on to serve a
4-10 sentence in a jail or in the institutional division of the Texas
4-11 Department of Criminal Justice, he may appeal the revocation.

4-12 SECTION 9. Section 132.002, Local Government Code, is
4-13 amended by adding Subsection (f) to read as follows:

4-14 (f) The director of a community supervision and corrections
4-15 department, with the approval of the judges described by Section
4-16 76.002, Government Code, may authorize a community supervision
4-17 official who collects fees, fines, court costs, and other charges
4-18 to:

4-19 (1) accept payment by debit card or credit card of a
4-20 fee, fine, court cost, or other charge; and

4-21 (2) collect a fee for processing the payment by debit
4-22 card or credit card.

4-23 SECTION 10. (a) Except as provided by Subsection (b) of
4-24 this section, the change in law made by this Act applies only to a
4-25 defendant initially placed on community supervision on or after the
4-26 effective date of this Act. A defendant initially placed on
4-27 community supervision before the effective date of this Act is
4-28 governed by the law in effect immediately before the effective date
4-29 of this Act, and the former law is continued in effect for that
4-30 purpose.

4-31 (b) Section 132.002(f), Local Government Code, as added by
4-32 this Act, applies to the payment of a fee, fine, court cost, or
4-33 other charge made on or after the effective date of this Act,
4-34 regardless of when the fee, fine, court cost, or other charge was
4-35 imposed or became due.

4-36 SECTION 11. This Act takes effect September 1, 2007.

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