

Amend **HB 3691** on third reading by adding the following appropriately numbered SECTIONS to the bill and renumbering the remaining SECTIONS of the bill accordingly:

SECTION _____. Chapter 76, Government Code, is amended by adding Section 76.0021 to read as follows:

Sec. 76.0021. SYSTEM OF PROGRESSIVE INTERMEDIATE SANCTIONS. (a) In addition to performing the duties delegated under Section 76.002, the judges described by that section shall, for the district courts and county courts at law in the judicial district that try criminal cases:

(1) adopt a single system of progressive intermediate sanctions for violations of conditions of community supervision that includes:

(A) sanctions for a failure to report, to participate in a program or service, to refrain from the use of alcohol or a controlled substance, or to pay fines, fees, and costs; and

(B) sanctions targeted for special cases or high risk offenders; and

(2) establish a review process to follow in considering a reduction in or early termination of community supervision.

(b) In adopting a system of progressive intermediate sanctions under this section, the judges described by Section 76.002 shall consider and may adopt the model list of intermediate sanctions established under Section 509.017, Government Code.

SECTION _____. Section 10, Article 42.12, Code of Criminal Procedure, is amended by amending Subsections (a), (d), and (e) and adding Subsections (d-1) and (d-2) to read as follows:

(a) Only the court in which the defendant was tried may grant community supervision, impose conditions, revoke the community supervision, or discharge the defendant, unless the judge has transferred jurisdiction of the case to another court with the latter's consent. Except as provided by Subsections ~~[Subsection]~~ (d) and (d-1) of this section, only the judge may alter conditions of community supervision. In a felony case, only the judge who originally sentenced the defendant may suspend execution thereof

and place the defendant under community supervision pursuant to Section 6 of this article. If the judge who originally sentenced the defendant is deceased or disabled or if the office is vacant and the judge who originally sentenced the defendant is deceased or disabled or if the office is vacant and a motion is filed in accordance with Section 6 of this article, the clerk of the court shall promptly forward a copy of the motion to the presiding judge of the administrative judicial district for that court, who may deny the motion without a hearing or appoint a judge to hold a hearing on the motion.

(d) A judge that places a defendant on community supervision may authorize the supervision officer supervising the defendant [~~or a magistrate appointed by the district courts in the county that give preference to criminal cases~~] to modify the conditions of community supervision for the limited purpose of imposing an intermediate sanction under Subsection (d-1) [~~transferring the defendant to different programs within the community supervision continuum of programs and sanctions~~]. Before imposing an intermediate sanction, a supervision officer shall provide written notice to the defendant of the nature of the violation or violations involved, the date on which each violation occurred, and the intermediate sanction to be imposed.

(d-1) The imposition of an intermediate sanction under this section must conform with the system of progressive intermediate sanctions adopted under Section 76.0021, Government Code. On receipt of notice under Subsection (d), the defendant shall immediately accept or object to the imposition of the intermediate sanction. A defendant who objects to the imposition of the intermediate sanction is entitled to an administrative review to be conducted by the community supervision and corrections department supervising the defendant not later than the fifth day after the date the defendant received the notice. At the conclusion of the administrative review, the director of the community supervision and corrections department, or the director's designee, shall dismiss or affirm the imposition of the intermediate sanction. If the director or director's designee, as applicable, affirms the imposition of the intermediate sanction, the intermediate sanction

becomes effective immediately. On successful completion of an intermediate sanction, the court may not revoke community supervision, proceed to an adjudication in the case, or impose any other sanction based on the violation for which the intermediate sanction was imposed.

(d-2) A supervision officer may not:

(1) impose an intermediate sanction under Subsection (d) or (d-1) in response to a violation of the terms of community supervision if the violation is based on the commission of a felony offense; or

(2) impose as an intermediate sanction under Subsection (d) or (d-1) any condition extending the term of community supervision, increasing a fine, or placing a defendant in a correctional facility, as defined by Section 1.07, Penal Code.

(e) A ~~[If a]~~ supervision officer who ~~[or magistrate]~~ modifies the conditions of community supervision by imposing an intermediate sanction~~[, the officer or magistrate]~~ shall:

(1) deliver a copy of the modified conditions to the defendant;

(2) ~~[, shall]~~ file a copy of the modified conditions with the sentencing court; [,] and

(3) ~~[shall]~~ note the date of delivery of the copy in the defendant's file. ~~[If the defendant agrees to the modification in writing, the officer or magistrate shall file a copy of the modified conditions with the district clerk and the conditions shall be enforced as modified. If the defendant does not agree to the modification in writing, the supervision officer or magistrate shall refer the case to the judge of the court for modification in the manner provided by Section 22 of this article.]~~

SECTION _____. Section 11(a), Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(a) The judge of the court having jurisdiction of the case shall determine the conditions of community supervision and may, at any time during the period of community supervision, alter or modify the conditions. The judge may impose any reasonable condition that is designed to protect or restore the community, protect or restore the victim, or punish, rehabilitate, or reform

the defendant. Conditions of community supervision may include, but shall not be limited to, the conditions that the defendant shall:

(1) Commit no offense against the laws of this State or of any other State or of the United States;

(2) Avoid injurious or vicious habits;

(3) Avoid persons or places of disreputable or harmful character, including any person, other than a family member of the defendant, who is an active member of a criminal street gang;

(4) Report to the supervision officer as directed by the judge or supervision officer, ~~and~~ obey all rules and regulations of the community supervision and corrections department, and comply with any intermediate sanction imposed by the supervision officer under Section 10, unless the condition is dismissed by the director of the community supervision and corrections department or by the director's designee;

(5) Permit the supervision officer to visit the defendant at the defendant's home or elsewhere;

(6) Work faithfully at suitable employment as far as possible;

(7) Remain within a specified place;

(8) Pay the defendant's fine, if one is assessed, and all court costs whether a fine is assessed or not, in one or several sums;

(9) Support the defendant's dependents;

(10) Participate, for a time specified by the judge, in any community-based program, including a community-service work program under Section 16 of this article;

(11) Reimburse the county in which the prosecution was instituted for compensation paid to appointed counsel for defending the defendant in the case, if counsel was appointed, or if the defendant was represented by a county-paid public defender, in an amount that would have been paid to an appointed attorney had the county not had a public defender;

(12) Remain under custodial supervision in a community corrections facility, obey all rules and regulations of the facility, and pay a percentage of the defendant's income to the

facility for room and board;

(13) Pay a percentage of the defendant's income to the defendant's dependents for their support while under custodial supervision in a community corrections facility;

(14) Submit to testing for alcohol or controlled substances;

(15) Attend counseling sessions for substance abusers or participate in substance abuse treatment services in a program or facility approved or licensed by the Texas Commission on Alcohol and Drug Abuse;

(16) With the consent of the victim of a misdemeanor offense or of any offense under Title 7, Penal Code, participate in victim-defendant mediation;

(17) Submit to electronic monitoring;

(18) Reimburse the compensation to victims of crime fund for any amounts paid from that fund to or on behalf of a victim, as defined by Article 56.32, of the defendant's offense or if no reimbursement is required, make one payment to the compensation to victims of crime fund in an amount not to exceed \$50 if the offense is a misdemeanor or not to exceed \$100 if the offense is a felony;

(19) Reimburse a law enforcement agency for the analysis, storage, or disposal of raw materials, controlled substances, chemical precursors, drug paraphernalia, or other materials seized in connection with the offense;

(20) Pay all or part of the reasonable and necessary costs incurred by the victim for psychological counseling made necessary by the offense or for counseling and education relating to acquired immune deficiency syndrome or human immunodeficiency virus made necessary by the offense;

(21) Make one payment in an amount not to exceed \$50 to a crime stoppers organization as defined by Section 414.001, Government Code, and as certified by the Texas Crime Stoppers Council;

(22) Submit a DNA sample to the Department of Public Safety under Subchapter G, Chapter 411, Government Code, for the purpose of creating a DNA record of the defendant;

(23) In any manner required by the judge, provide

public notice of the offense for which the defendant was placed on community supervision in the county in which the offense was committed; and

(24) Reimburse the county in which the prosecution was instituted for compensation paid to any interpreter in the case.

SECTION _____. Chapter 509, Government Code, is amended by adding Section 509.017 to read as follows:

Sec. 509.017. MODEL LIST OF PROGRESSIVE INTERMEDIATE SANCTIONS. The division shall establish a model list of progressive intermediate sanctions that may be adopted in a judicial district under Section 76.0021.

SECTION _____. (a) The judges described by Section 76.002, Government Code, shall adopt the system and establish the review process required by Section 76.0021, Government Code, as added by this Act, not later than January 1, 2012.

(b) The community justice assistance division of the Texas Department of Criminal Justice shall adopt the model list of progressive intermediate sanctions as required by Section 509.017, Government Code, as added by this Act, not later than November 1, 2011.