

By: Allen

H.B. No. 2650

A BILL TO BE ENTITLED

AN ACT

relating to the establishment of a procedure for imposing intermediate sanctions on a person who violates certain conditions of community supervision.

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

SECTION 1. 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.

1 (b) In adopting a system of progressive intermediate
2 sanctions under this section, the judges described by Section
3 76.002 shall consider and may adopt the model list of intermediate
4 sanctions established under Section 509.017, Government Code.

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

8 (a) Only the court in which the defendant was tried may
9 grant community supervision, impose conditions, revoke the
10 community supervision, or discharge the defendant, unless the judge
11 has transferred jurisdiction of the case to another court with the
12 latter's consent. Except as provided by Subsections [~~Subsection~~
13 (d) and (d-1) of this section, only the judge may alter conditions
14 of community supervision. In a felony case, only the judge who
15 originally sentenced the defendant may suspend execution thereof
16 and place the defendant under community supervision pursuant to
17 Section 6 of this article. If the judge who originally sentenced
18 the defendant is deceased or disabled or if the office is vacant and
19 the judge who originally sentenced the defendant is deceased or
20 disabled or if the office is vacant and a motion is filed in
21 accordance with Section 6 of this article, the clerk of the court
22 shall promptly forward a copy of the motion to the presiding judge
23 of the administrative judicial district for that court, who may
24 deny the motion without a hearing or appoint a judge to hold a
25 hearing on the motion.

26 (d) A judge that places a defendant on community supervision
27 may authorize the supervision officer supervising the defendant [~~or~~

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

11 (d-1) The imposition of an intermediate sanction under this
12 section must conform with the system of progressive intermediate
13 sanctions adopted under Section 76.0021, Government Code. On
14 receipt of notice under Subsection (d), the defendant shall
15 immediately accept or object to the imposition of the intermediate
16 sanction. A defendant who objects to the imposition of the
17 intermediate sanction is entitled to an administrative review to be
18 conducted by the community supervision and corrections department
19 supervising the defendant not later than the fifth day after the
20 date the defendant received the notice. At the conclusion of the
21 administrative review, the community supervision and corrections
22 department shall dismiss or affirm the imposition of the
23 intermediate sanction. If the community supervision and
24 corrections department affirms the imposition of the intermediate
25 sanction, the intermediate sanction becomes effective immediately.
26 On successful completion of an intermediate sanction, the court may
27 not revoke community supervision, proceed to an adjudication in the

1 case, or impose any other sanction based on the violation for which
2 the intermediate sanction was imposed.

3 (d-2) A supervision officer or community supervision and
4 corrections department may not:

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

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

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

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

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

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

1 SECTION 3. Section 11(a), Article 42.12, Code of Criminal
2 Procedure, is amended to read as follows:

3 (a) The judge of the court having jurisdiction of the case
4 shall determine the conditions of community supervision and may, at
5 any time during the period of community supervision, alter or
6 modify the conditions. The judge may impose any reasonable
7 condition that is designed to protect or restore the community,
8 protect or restore the victim, or punish, rehabilitate, or reform
9 the defendant. Conditions of community supervision may include,
10 but shall not be limited to, the conditions that the defendant
11 shall:

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

14 (2) Avoid injurious or vicious habits;

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

18 (4) Report to the supervision officer as directed by
19 the judge or supervision officer, ~~and~~ obey all rules and
20 regulations of the community supervision and corrections
21 department, and comply with any intermediate sanction imposed by
22 the supervision officer or community supervision and corrections
23 department under Section 10;

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

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

- 1 (7) Remain within a specified place;
- 2 (8) Pay the defendant's fine, if one is assessed, and
3 all court costs whether a fine is assessed or not, in one or several
4 sums;
- 5 (9) Support the defendant's dependents;
- 6 (10) Participate, for a time specified by the judge,
7 in any community-based program, including a community-service work
8 program under Section 16 of this article;
- 9 (11) Reimburse the county in which the prosecution was
10 instituted for compensation paid to appointed counsel for defending
11 the defendant in the case, if counsel was appointed, or if the
12 defendant was represented by a county-paid public defender, in an
13 amount that would have been paid to an appointed attorney had the
14 county not had a public defender;
- 15 (12) Remain under custodial supervision in a community
16 corrections facility, obey all rules and regulations of the
17 facility, and pay a percentage of the defendant's income to the
18 facility for room and board;
- 19 (13) Pay a percentage of the defendant's income to the
20 defendant's dependents for their support while under custodial
21 supervision in a community corrections facility;
- 22 (14) Submit to testing for alcohol or controlled
23 substances;
- 24 (15) Attend counseling sessions for substance abusers
25 or participate in substance abuse treatment services in a program
26 or facility approved or licensed by the Texas Commission on Alcohol
27 and Drug Abuse;

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

4 (17) Submit to electronic monitoring;

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

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

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

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

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

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

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

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

6 SECTION 4. Chapter 509, Government Code, is amended by
7 adding Section 509.017 to read as follows:

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

12 SECTION 5. (a) The judges described by Section 76.002,
13 Government Code, shall adopt the system and establish the review
14 process required by Section 76.0021, Government Code, as added by
15 this Act, not later than January 1, 2012.

16 (b) The community justice assistance division of the Texas
17 Department of Criminal Justice shall adopt the model list of
18 progressive intermediate sanctions as required by Section 509.017,
19 Government Code, as added by this Act, not later than November 1,
20 2011.

21 SECTION 6. This Act takes effect immediately if it receives
22 a vote of two-thirds of all the members elected to each house, as
23 provided by Section 39, Article III, Texas Constitution. If this
24 Act does not receive the vote necessary for immediate effect, this
25 Act takes effect September 1, 2011.