

House Bill 3691
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Section 76.002, Government Code, is amended by adding Subsections (a-1) and (f) and amending Subsection (e) to read as follows:

(a-1) The statutory county court judges trying criminal cases in the county or counties served by the judicial district may establish a pretrial victim-offender mediation program in accordance with Subchapter A-1, Chapter 56, Code of Criminal Procedure.

(e) The board shall ~~may~~ adopt rules allowing departments to contract with one another for services or facilities or to contract as provided by Subsection (f).

(f) In lieu of establishing a department as required by Subsection (a), programs and services may be provided under this chapter in a judicial district through a contract with a department established for another judicial district.

SECTION 2. 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

SENATE VERSION (CS)

SECTION 1. Section 76.002, Government Code, is amended by amending Subsection (e) and adding Subsection (f) to read as follows:

(e) The board shall ~~may~~ adopt rules allowing departments to contract with one another for services or facilities or to contract as provided by Subsection (f).

(f) In lieu of establishing a department as required by Subsection (a), programs and services may be provided under this chapter in a judicial district through a contract with a department established for another judicial district.

No equivalent provision.

CONFERENCE

House Bill 3691
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

(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 3. Section 1, Article 28.01, Code of Criminal Procedure, is amended to read as follows:

Sec. 1. The court may set any criminal case for a pre-trial hearing before it is set for trial upon its merits, and direct the defendant and his attorney, if any of record, and the State's attorney, to appear before the court at the time and place stated in the court's order for a conference and hearing. The defendant must be present at the arraignment, and his presence is required during any pre-trial proceeding. The pre-trial hearing shall be to determine any of the following matters:

- (1) Arraignment of the defendant, if such be necessary; and appointment of counsel to represent the defendant, if such be necessary;
- (2) Pleadings of the defendant;
- (3) Special pleas, if any;
- (4) Exceptions to the form or substance of the indictment or information;
- (5) Motions for continuance either by the State or defendant; provided that grounds for continuance not existing or not known at the time may be presented and considered at any time before the defendant announces ready for trial;
- (6) Motions to suppress evidence--When a hearing on the motion to suppress evidence is granted, the court may determine the merits of said motion on the motions

No equivalent provision.

House Bill 3691
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

themselves, or upon opposing affidavits, or upon oral testimony, subject to the discretion of the court;

(7) Motions for change of venue by the State or the defendant; provided, however, that such motions for change of venue, if overruled at the pre-trial hearing, may be renewed by the State or the defendant during the voir dire examination of the jury;

(8) Discovery;

(9) Entrapment; ~~and~~

(10) Motion for appointment of interpreter; and

(11) Motion to allow the defendant to enter a pretrial victim-offender mediation program established under Section 76.002, Government Code.

SECTION 4. 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

SENATE VERSION (CS)

No equivalent provision.

CONFERENCE

House Bill 3691
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

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

House Bill 3691
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

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.~~]

House Bill 3691
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

SECTION 5. 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;

No equivalent provision.

House Bill 3691
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

- (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;

House Bill 3691
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

- (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 6. Chapter 56, Code of Criminal Procedure, is amended by adding Subchapter A-1 to read as follows:

SUBCHAPTER A-1. PRETRIAL VICTIM-OFFENDER MEDIATION PROGRAM

Art. 56.21. AUTHORITY TO ESTABLISH PROGRAM. (a) A statutory county court judge may establish a pretrial victim-offender mediation program under Section 76.002, Government Code, for persons who:

- (1) have been arrested for or charged with a misdemeanor

SENATE VERSION (CS)

No equivalent provision.

CONFERENCE

House Bill 3691
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

under Title 7, Penal Code, in a statutory county court in this state; and

(2) have not previously been convicted of a felony or a misdemeanor, other than a misdemeanor regulating traffic and punishable by fine only.

(b) A statutory county court that implements a program under this subchapter may adopt administrative rules as necessary or convenient to implement or operate the program, including additional criteria related to a defendant's eligibility to enter the program.

(c) The judge of a statutory county court that establishes a pretrial victim-offender mediation program under this subchapter may:

(1) allow for the referral to the program of arrested persons who have not yet been indicted or otherwise formally charged; and

(2) adopt administrative procedures as necessary to implement and operate the program, including additional program requirements that have been approved by the attorney representing the state.

Art. 56.22. PROGRAM. (a) A pretrial victim-offender mediation program established under Section 76.002, Government Code, is coordinated by the attorney representing the state and must require:

(1) the attorney representing the state:

(A) to identify defendants who are eligible to participate in the program, including a consideration by the attorney representing the state of whether the defendant meets any additional locally developed eligibility criteria; and

(B) to the extent feasible, to provide to each victim of an offense described by Article 56.21(a)(1) information and literature indicating that a victim-offender mediation program

House Bill 3691
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

may be available in the criminal case if certain eligibility criteria are met by the defendant;

(2) the consent of the victim, the defendant, and the attorney representing the state to be obtained before the case may proceed to pretrial victim-offender mediation; and

(3) the defendant to enter into a binding mediation agreement in accordance with Article 56.24 that:

(A) includes an apology by the defendant; and

(B) requires the defendant to:

(i) pay restitution to the victim; or

(ii) perform community service.

(b) All communications made in a pretrial victim-offender mediation program are confidential and may not be introduced into evidence except in a proceeding involving a question concerning the meaning of a mediation agreement.

(c) A pretrial victim-offender mediation program may require the staff and other resources of pretrial services departments and community supervision correction departments to assist in monitoring the defendant's compliance with a mediation agreement reached through the program.

(d) A pretrial victim-offender mediation may be conducted by a court-appointed mediator who meets the training requirements provided by Sections 154.052(a) and (b), Civil Practice and Remedies Code, or by any other appropriate person designated by the court. Neither the attorney representing the state nor the attorney representing the defendant in the criminal action may serve as a mediator under the pretrial victim-offender mediation program.

(e) If a defendant enters a pretrial victim-offender mediation program, the court may defer the proceedings without accepting a plea of guilty or nolo contendere or entering an adjudication of guilt. The court may not require the defendant

House Bill 3691
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

to admit guilt or enter a plea of guilty or nolo contendere to enter the program.

(f) The case must be returned to the docket and proceed through the regular criminal justice system if:

(1) a pretrial victim-offender mediation does not result in a mediation agreement; or

(2) the defendant fails to successfully fulfill the terms of the mediation agreement by the date specified in the mediation agreement.

(g) If a case is returned to the docket under Subsection (f), the defendant retains all of the rights that the defendant possessed before entering the pretrial victim-offender mediation program under this subchapter. Notwithstanding any other law, for purposes of determining the duration and expiration of an applicable statute of limitation under Chapter 12, the running of the period of limitation is tolled while the defendant is enrolled in a program under this subchapter.

(h) The court on the motion of the attorney representing the state shall dismiss the indictment or information charging the defendant with the commission of the offense, if the defendant:

(1) successfully completes the mediation agreement as determined by the attorney representing the state; and

(2) either:

(A) pays all court costs; or

(B) enters a payment plan approved by the court or the attorney representing the state for such payment.

(i) The attorney representing the state or the court may extend the initial compliance period granted to the defendant. A determination by the court regarding whether the mediation agreement has been successfully completed is final and may not be appealed.

House Bill 3691
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

(j) If the defendant is not arrested or convicted of a subsequent felony or misdemeanor other than a misdemeanor regulating traffic and punishable by fine only on or before the first anniversary of the date the defendant successfully completed a mediation agreement under this subchapter, on the motion of the defendant, the court shall enter an order of nondisclosure under Section 411.081, Government Code, as if the defendant had received a discharge and dismissal under Section 5(c), Article 42.12, with respect to all records and files related to the defendant's arrest for the offense for which the defendant entered the pretrial victim-offender mediation program.

Art. 56.23. MOTION AND HEARING. (a) The court on its own motion may, and on the motion of either party shall, hold a pretrial hearing to determine whether to allow an eligible defendant to enter a pretrial victim-offender mediation program under this subchapter.

(b) The court shall conduct a pretrial hearing under this article in accordance with Chapter 28 and the rules of evidence.

(c) At a pretrial hearing under this article, either party may present any evidence relevant to the defendant's eligibility under Article 56.22 and other additional locally developed eligibility criteria to enter a pretrial victim-offender mediation program.

Art. 56.24. MEDIATION AGREEMENT. (a) A mediation agreement under this subchapter must be:

(1) signed by the defendant and the victim; and

(2) ratified by the attorney representing the state in a request for a court order documenting and approving the mediation agreement.

(b) A mediation agreement under this subchapter may require

House Bill 3691
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

testing, counseling, and treatment of the defendant to address alcohol abuse, abuse of controlled substances, mental health, or anger management or any other service that is reasonably related to the offense for which the defendant was arrested or charged.

(c) A mediation agreement under this subchapter is not valid for more than one year after the date on which the mediation agreement is ratified unless the court and the attorney representing the state approve the extension of the agreement.

(d) A mediation agreement under this subchapter does not constitute a plea or legal admission of responsibility.

Art. 56.25. OVERSIGHT. (a) The lieutenant governor and the speaker of the house of representatives may assign to appropriate legislative committees duties relating to the oversight of pretrial victim-offender mediation programs established under this subchapter.

(b) A legislative committee or the governor may request the state auditor to perform a management, operations, or financial or accounting audit of a pretrial victim-offender mediation program established under this subchapter.

Art. 56.26. FEES. (a) A pretrial victim-offender mediation program established under this subchapter may collect from a defendant in the program:

(1) a reasonable program participation fee not to exceed \$500; and

(2) an alcohol or controlled substance testing, counseling, and treatment fee in an amount necessary to cover the costs of the testing, counseling, or treatment if such testing, counseling, or treatment is required by the mediation agreement.

(b) Fees collected under this article may be paid on a periodic basis or on a deferred payment schedule at the discretion of the judge, magistrate, or program director administering the

House Bill 3691
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

pretrial victim-offender mediation program. The fees must be:
(1) based on the defendant's ability to pay; and
(2) used only for purposes specific to the program.

SECTION 7. Subchapter A, Chapter 102, Code of Criminal Procedure, is amended by adding Article 102.0179 to read as follows:

Art. 102.0179. COSTS ATTENDANT TO PRETRIAL VICTIM-OFFENDER MEDIATION. (a) A defendant who participates in a pretrial victim-offender mediation program established under Section 76.002, Government Code, on successful completion of the terms of the defendant's mediation agreement or on conviction, shall pay as court costs \$15 plus an additional program participation fee as described by Article 56.26 in the amount prescribed by that article.

(b) The court clerk shall collect the costs imposed under this article. The clerk shall keep a separate record of any money collected under this article and shall pay any money collected to the county treasurer or to any other official who discharges the duties commonly delegated to the county treasurer for deposit in a fund to be known as the county pretrial victim-offender mediation program fund.

(c) A county that collects court costs under this article shall use the money in a fund described by Subsection (b) exclusively for the maintenance of the pretrial victim-offender mediation program operated in the county.

SECTION 8. Subchapter B, Chapter 102, Government Code, is amended by adding Section 102.0216 to read as follows:

Sec. 102.0216. ADDITIONAL COURT COSTS: CODE OF CRIMINAL PROCEDURE. A defendant who participates in a pretrial victim-offender mediation program established

No equivalent provision.

No equivalent provision.

House Bill 3691
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

under Section 76.002 shall pay on successful completion of the terms of the defendant's mediation agreement or on conviction, in addition to all other costs, to help fund pretrial victim-offender mediation programs established under that section (Art. 102.0179, Code of Criminal Procedure) . . . \$15 plus an additional program participation fee in an amount not to exceed \$500.

SECTION 9. 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.

No equivalent provision.

SECTION 10. (a) The change in law made by this Act in adding Section 76.002(a-1), Government Code, and Subchapter A-1, Chapter 56, Code of Criminal Procedure, applies to a defendant who enters a pretrial victim-offender mediation program under that subchapter regardless of whether the defendant committed the offense for which the defendant enters the program before, on, or after the effective date of this Act.

No equivalent provision.

(b) The change in law made by this Act in adding Article 102.0179, Code of Criminal Procedure, and Section 102.0216, Government Code, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this subsection, an offense was committed before the effective date of this Act if any element of the offense was committed

House Bill 3691
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

before that date.

SECTION 11. (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.

No equivalent provision.

No equivalent provision.

SECTION 2. Section 76.003(b), Government Code, is amended to read as follows:

(b) A council should consist of the following persons or their designees:

- (1) a sheriff of a county served by the department, chosen by the sheriffs of the counties to be served by the department;
- (2) a county commissioner or a county judge from a county served by the department, chosen by the county commissioners and county judges of the counties served by the department;
- (3) a city council member of the most populous municipality in a county served by the department, chosen by the members of the city councils of cities served by the department;
- (4) not more than two state legislators elected from a county served by the department, or in a county with a population of one million or more to be served by the department, not more than one state senator and one state representative elected from the county, chosen by the state legislators elected from the county or counties served by the department;
- (5) the presiding judge from a judicial district served by the

House Bill 3691
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

department, chosen by the district judges from the judicial districts served by the department;

(6) a judge of a statutory county court exercising criminal jurisdiction in a county served by the department, chosen by the judges of statutory county courts with criminal jurisdiction in the counties served by the department;

(7) a county attorney with criminal jurisdiction from a county served by the department, chosen by the county attorneys with criminal jurisdiction from the counties served by the department;

(8) a district attorney or criminal district attorney from a judicial district served by the department, chosen by the district attorneys or criminal district attorneys from the judicial districts served by the department; ~~and~~

(9) an elected member of the board of trustees of an independent school district in a county served by the department, chosen by the members of the boards of trustees of independent school districts located in counties served by the department; and

(10) the department director.

SECTION 3. Chapter 492, Government Code, is amended by adding Section 492.017 to read as follows:

Sec. 492.017. LEGISLATIVE APPROPRIATIONS REQUEST. (a) The board shall require the department to submit each legislative appropriations request, accompanied by the most recent report prepared by the community justice assistance division of the department under Section 509.004(c), to the board for approval before the department submits the appropriations request to the Legislative Budget Board.

(b) In deciding whether to approve a legislative

No equivalent provision.

House Bill 3691
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

appropriations request submitted under Subsection (a), the board shall consider the most recent report prepared by the community justice assistance division of the department under Section 509.004(c).

No equivalent provision.

SECTION 4. Chapter 493, Government Code, is amended by adding Section 493.0081 to read as follows:
Sec. 493.0081. LEGISLATIVE APPROPRIATIONS REQUEST. The department shall include in each legislative appropriations request submitted to the Legislative Budget Board the information contained in the most recent report prepared by the community justice assistance division under Section 509.004(c).

No equivalent provision.

SECTION 5. Section 509.004, Government Code, is amended by adding Subsections (c), (d), and (e) to read as follows:
(c) The division shall prepare a report that contains a detailed summary of the programs and services provided by departments, as described in each community justice plan submitted to the division under Section 509.007. The report must include:
(1) all financial information relating to the programs and services described in each community justice plan; and
(2) information concerning the amount of state aid and funding that is not state aid used to support each program or service provided by a department.
(d) As soon as is practicable after the completion of the report, the division shall submit the report prepared under Subsection (c) to the Texas Board of Criminal Justice and the executive director of the Texas Department of Criminal Justice.
(e) Not later than the date on which the Texas Department of

House Bill 3691
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

Criminal Justice is required to submit the department's legislative appropriations request to the Legislative Budget Board, the division shall submit the report prepared under Subsection (c) to the Legislative Budget Board.

No equivalent provision.

SECTION 6. Section 509.007, Government Code, is amended to read as follows:

Sec. 509.007. COMMUNITY JUSTICE PLAN. (a) The division shall require as a condition to payment of state aid to a department or county under Section 509.011 and eligibility for payment of costs under Section 499.124 that a community justice plan be submitted for the department. The community justice council shall submit the plan required by this subsection. A community justice council may not submit a plan under this section unless the plan is first approved by the judges described by Section 76.002 who established the department served by the council. The council shall submit a revised plan to the division each ~~even-numbered~~ ~~[odd-numbered]~~ year not later than March 1 ~~[by a date designated by the division]~~. A plan may be amended at any time with the approval of the division.

(b) A community justice plan required under this section must include:

- (1) a statement of goals and priorities and of commitment by the community justice council, the judges described by Section 76.002 who established the department, and the department director to achieve a targeted level of alternative sanctions;
- (2) a description of methods for measuring the success of programs provided by the department or provided by an entity served by the department; ~~and~~
- (3) a proposal for the use of state jail felony facilities and, at

House Bill 3691
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

the discretion of the community justice council, a regional proposal for the construction, operation, maintenance, or management of a state jail felony facility by a county, a community supervision and corrections department, or a private vendor under a contract with a county or a community supervision and corrections department;

(4) a description of the programs and services the department provides or intends to provide, including a separate description of any programs or services the department intends to provide to enhance public safety, reduce recidivism, strengthen the investigation and prosecution of criminal offenses, improve programs and services available to victims of crime, and increase the amount of restitution collected from persons supervised by the department; and

(5) an outline of the department's projected programmatic and budgetary needs, based on the programs and services the department both provides and intends to provide.

No equivalent provision.

SECTION 7. Chapter 509, Government Code, is amended by adding Section 509.0071 to read as follows:

Sec. 509.0071. COMMITMENT REDUCTION PLAN. (a) In addition to submitting a community justice plan to the division under Section 509.007, a department or a regional partnership of departments may submit a commitment reduction plan to the division not later than the 60th day after the date on which the time for gubernatorial action on the state budget has expired under Section 14, Article IV, Texas Constitution.

(b) A commitment reduction plan submitted under this section may contain a request for additional state funding in the manner described by Subsection (e). A commitment reduction plan must contain:

House Bill 3691
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

(1) a target number by which the county or counties served by the department or regional partnership of departments will, relative to the number of individuals committed in the preceding state fiscal year from the county or counties to the Texas Department of Criminal Justice for offenses not listed in or described by Section 3g, Article 42.12, Code of Criminal Procedure, reduce that number in the fiscal year for which the commitment reduction plan is submitted by reducing the number of:

(A) direct sentencing commitments;

(B) community supervision revocations; or

(C) direct sentencing commitments and community supervision revocations;

(2) a calculation, based on the most recent Criminal Justice Uniform Cost Report published by the Legislative Budget Board, of the savings to the state that will result from the county or counties reaching the target number described by Subdivision (1);

(3) an explanation of the programs and services the department or regional partnership of departments intends to provide using any funding received under Subsection (e)(1), including any programs or services designed to enhance public safety, reduce recidivism, strengthen the investigation and prosecution of criminal offenses, improve programs and services available to victims of crime, and increase the amount of restitution collected from persons supervised by the department or regional partnership of departments;

(4) a pledge by the department or regional partnership of departments to provide accurate data to the division at the time and in the manner required by the division;

(5) a pledge to repay to the state, not later than the 30th day after the last day of the state fiscal year in which the lump-

House Bill 3691
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

sum award is made, a percentage of the lump sum received under Subsection (e)(1) that is equal to the percentage by which the county or counties fail to reach the target number described by Subdivision (1), if the county or counties do not reach that target number; and

(6) if the commitment reduction plan is submitted by a regional partnership of departments, an agreement and plan for the receipt, division, and administration of any funding received under Subsection (e).

(c) For purposes of Subsection (b)(5), if the target number contained in the commitment reduction plan is described by Subsection (b)(1)(B), the county or counties fail to reach the target number if the sum of any increase in the number of direct sentencing commitments and any reduction in community supervision revocations is less than the target number contained in the commitment reduction plan.

(d) A pledge described by Subsection (b)(4) or (5) must be signed by:

(1) the director of the department submitting the commitment reduction plan; or

(2) if the commitment reduction plan is submitted by a regional partnership of departments, a director of one of the departments in the regional partnership submitting the commitment reduction plan.

(e) After reviewing a commitment reduction plan, if the division is satisfied that the plan is feasible and would achieve desirable outcomes, the division may award to the department or regional partnership of departments:

(1) a one-time lump sum in an amount equal to 35 percent of the savings to the state described by Subsection (b)(2); and

(2) on a biennial basis, and from the 65 percent of the savings to the state that remains after payment of the lump sum

House Bill 3691
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

described by Subdivision (1), the following incentive payments for the department's or regional partnership's performance in the two years immediately preceding the payment:

(A) 15 percent, for reducing the percentage of persons supervised by the department or regional partnership of departments who commit a new felony while under supervision;

(B) five percent, for increasing the percentage of persons supervised by the department or regional partnership of departments who are not delinquent in making any restitution payments; and

(C) five percent, for increasing the percentage of persons supervised by the department or regional partnership of departments who are gainfully employed, as determined by the division.

(f) A department or regional partnership of departments may use funds received under Subsection (e) to provide any program or service that a department is authorized to provide under other law, including implementing, administering, and supporting evidence-based community supervision strategies, electronic monitoring, substance abuse and mental health counseling and treatment, specialized community supervision caseloads, intermediate sanctions, victims' services, restitution collection, short-term incarceration in county jails, specialized courts, pretrial services and intervention programs, and work release and day reporting centers.

(g) Any funds received by a department or regional partnership of departments under Subsection (e):

(1) are in addition to any per capita or formula funding received under Section 509.011; and

(2) may not be deducted from any per capita or formula

House Bill 3691
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

funding received or to be received by:

(A) another department, if the commitment reduction plan is submitted by a department; or

(B) any department, if the commitment reduction plan is submitted by a regional partnership of departments.

(h) The division shall deduct from future state aid paid to a department, or from any incentive payments under Subsection (e)(2) for which a department is otherwise eligible, an amount equal to the amount of any pledge described by Subsection (b)(5) that remains unpaid on the 31st day after the last day of the state fiscal year in which a lump-sum award is made under Subsection (e)(1). If the lump-sum award was made to a regional partnership of departments, the division shall deduct, in accordance with the agreement and plan described by Subsection (b)(6), the amount of the unpaid pledge from the future state aid to each department that is part of the partnership or from any incentive payments under Subsection (e)(2) for which the regional partnership of departments is otherwise eligible.

SECTION 12. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2011.

SECTION 8. Same as House version.