

By: Allen

H.B. No. 2653

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the establishment of a procedure for providing
3 incentives for or imposing intermediate sanctions on a person who
4 violates certain conditions of community supervision.

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

6 SECTION 1. Chapter 76, Government Code, is amended by
7 adding Section 76.0021 to read as follows:

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

13 (1) adopt a single system of incentives for consistent
14 exemplary conduct while on community supervision and progressive
15 intermediate sanctions for violations of conditions of community
16 supervision that includes:

17 (A) incentives for consistent exemplary conduct,
18 such as earned time credits, reduced reporting, certificates of
19 recognition, and other positive responses to reinforce a pattern of
20 exemplary behavior;

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

24 and

1 (C) sanctions targeted for special cases or high
2 risk offenders; and

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

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

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

14 (a) Only the court in which the defendant was tried may
15 grant community supervision, impose conditions, revoke the
16 community supervision, or discharge the defendant, unless the judge
17 has transferred jurisdiction of the case to another court with the
18 latter's consent. Except as provided by Subsections [~~Subsection~~
19 (d) and (d-1) [~~of this section~~], only the judge may alter conditions
20 of community supervision. In a felony case, only the judge who
21 originally sentenced the defendant may suspend execution thereof
22 and place the defendant under community supervision pursuant to
23 Section 6 [~~of this article~~]. If the judge who originally sentenced
24 the defendant is deceased or disabled or if the office is vacant and
25 the judge who originally sentenced the defendant is deceased or
26 disabled or if the office is vacant and a motion is filed in
27 accordance with Section 6 [~~of this article~~], the clerk of the court

1 shall promptly forward a copy of the motion to the presiding judge
2 of the administrative judicial district for that court, who may
3 deny the motion without a hearing or appoint a judge to hold a
4 hearing on the motion.

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

17 (d-1) The imposition of an intermediate sanction under this
18 section must conform with the system of incentives and progressive
19 intermediate sanctions adopted under Section 76.0021, Government
20 Code. On receipt of notice under Subsection (d), the defendant
21 shall immediately accept or object to the imposition of the
22 intermediate sanction. A defendant who objects to the imposition
23 of the intermediate sanction is entitled to an administrative
24 review to be conducted by the community supervision and corrections
25 department supervising the defendant not later than the fifth day
26 after the date the defendant received the notice. At the conclusion
27 of the administrative review, the director of the community

1 supervision and corrections department, or the director's
2 designee, shall dismiss or affirm the imposition of the
3 intermediate sanction. If the director or director's designee, as
4 applicable, affirms the imposition of the intermediate sanction,
5 the intermediate sanction becomes effective immediately. On
6 successful completion of an intermediate sanction, the court may
7 not revoke community supervision, proceed to an adjudication in the
8 case, or impose any other sanction based on the violation for which
9 the intermediate sanction was imposed.

10 (d-2) A supervision officer may not:

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

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

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

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

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

26 (3) [~~shall~~] note the date of delivery of the copy in
27 the defendant's file. [~~If the defendant agrees to the modification~~]

1 ~~in writing, the officer or magistrate shall file a copy of the~~
2 ~~modified conditions with the district clerk and the conditions~~
3 ~~shall be enforced as modified. If the defendant does not agree to~~
4 ~~the modification in writing, the supervision officer or magistrate~~
5 ~~shall refer the case to the judge of the court for modification in~~
6 ~~the manner provided by Section 22 of this article.]~~

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

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

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

20 (2) Avoid injurious or vicious habits;

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

24 (4) Report to the supervision officer as directed by
25 the judge or supervision officer, ~~and~~ obey all rules and
26 regulations of the community supervision and corrections
27 department, and comply with any intermediate sanction imposed by

1 the supervision officer under Section 10, unless the director of
2 the community supervision and corrections department, or the
3 director's designee, as applicable, dismisses the imposition of the
4 sanction under that section;

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

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

9 (7) Remain within a specified place;

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

13 (9) Support the defendant's dependents;

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

17 (11) Reimburse the county in which the prosecution was
18 instituted for compensation paid to appointed counsel for defending
19 the defendant in the case, if counsel was appointed, or if the
20 defendant was represented by a public defender's office, in an
21 amount that would have been paid to an appointed attorney had the
22 county not had a public defender's office;

23 (12) Remain under custodial supervision in a community
24 corrections facility, obey all rules and regulations of the
25 facility, and pay a percentage of the defendant's income to the
26 facility for room and board;

27 (13) Pay a percentage of the defendant's income to the

1 defendant's dependents for their support while under custodial
2 supervision in a community corrections facility;

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

5 (15) Attend counseling sessions for substance abusers
6 or participate in substance abuse treatment services in a program
7 or facility approved or licensed by the Department of State Health
8 Services;

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

12 (17) Submit to electronic monitoring;

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

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

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

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

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

8 (23) In any manner required by the judge, provide
9 public notice of the offense for which the defendant was placed on
10 community supervision in the county in which the offense was
11 committed; and

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

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

16 Sec. 509.017. MODEL LIST OF INCENTIVES AND PROGRESSIVE
17 INTERMEDIATE SANCTIONS. The division shall establish a model list
18 of incentives and progressive intermediate sanctions that may be
19 adopted in a judicial district under Section 76.0021.

20 SECTION 5. (a) The judges described by Section 76.002,
21 Government Code, shall adopt the system and establish the review
22 process required by Section 76.0021, Government Code, as added by
23 this Act, not later than January 1, 2014.

24 (b) The community justice assistance division of the Texas
25 Department of Criminal Justice shall adopt the model list of
26 incentives and progressive intermediate sanctions as required by
27 Section 509.017, Government Code, as added by this Act, not later

1 than November 1, 2013.

2 SECTION 6. This Act takes effect immediately if it receives
3 a vote of two-thirds of all the members elected to each house, as
4 provided by Section 39, Article III, Texas Constitution. If this
5 Act does not receive the vote necessary for immediate effect, this
6 Act takes effect September 1, 2013.