

By: Riddle

H.B. No. 2299

A BILL TO BE ENTITLED

AN ACT

relating to the nonsubstantive revision of certain laws concerning community supervision granted in criminal cases, including conforming amendments.

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

ARTICLE 1. NONSUBSTANTIVE REVISION OF COMMUNITY SUPERVISION LAWS

SECTION 1.01. Title 1, Code of Criminal Procedure, is amended by adding Chapter 42A to read as follows:

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CHAPTER 42A. COMMUNITY SUPERVISION

SUBCHAPTER A. GENERAL PROVISIONS

Art. 42A.001. DEFINITIONS. In this chapter:

(1) "Community supervision" means the placement of a

defendant by a court under a continuum of programs and sanctions,
with conditions imposed by the court for a specified period during
which:

(A) criminal proceedings are deferred without an
adjudication of guilt; or

(B) a sentence of imprisonment or confinement,
imprisonment and fine, or confinement and fine, is probated and the
imposition of sentence is suspended in whole or in part.

(2) "Court" means a court of record having original
criminal jurisdiction.

(3) "Electronic monitoring" includes voice tracking
systems, position tracking systems, position location systems,
biometric tracking systems, and any other electronic or
telecommunications system that may be used to assist in the
supervision of defendants under this chapter.

(4) "Supervision officer" means a person appointed or
employed under Section 76.004, Government Code, to supervise
defendants placed on community supervision. (Code Crim. Proc.,
Art. 42.12, Sec. 2.)

SUBCHAPTER B. PLACEMENT ON COMMUNITY SUPERVISION

Art. 42A.051. AUTHORITY TO GRANT COMMUNITY SUPERVISION,
IMPOSE OR MODIFY CONDITIONS, OR DISCHARGE DEFENDANT. (a) Unless
the judge has transferred jurisdiction of the case to another court
under Article 42A.151, only the court in which the defendant was
tried may:

(1) grant community supervision;

(2) impose conditions; or

1 (3) discharge the defendant.

2 (b) The judge of the court having jurisdiction of the case
3 may, at any time during the period of community supervision, modify
4 the conditions of community supervision. Except as provided by
5 Article 42A.052(a), only the judge may modify the conditions.
6 (Code Crim. Proc., Art. [42.12](#), Secs. 10(a) (part), 11(a) (part).)

7 Art. 42A.052. MODIFICATION OF CONDITIONS BY SUPERVISION
8 OFFICER OR MAGISTRATE. (a) A judge who places a defendant on
9 community supervision may authorize the supervision officer
10 supervising the defendant or a magistrate appointed by the district
11 courts in the county that give preference to criminal cases to
12 modify the conditions of community supervision for the limited
13 purpose of transferring the defendant to different programs within
14 the community supervision continuum of programs and sanctions.

15 (b) A supervision officer or magistrate who modifies the
16 conditions of community supervision shall:

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

19 (2) file a copy of the modified conditions with the
20 sentencing court; and

21 (3) note the date of delivery of the copy in the
22 defendant's file.

23 (c) If the defendant agrees to the modification in writing,
24 the officer or magistrate shall file a copy of the modified
25 conditions with the district clerk and the conditions shall be
26 enforced as modified. If the defendant does not agree to the
27 modification in writing, the supervision officer or magistrate

1 shall refer the case to the judge for modification in the manner
2 provided by Article 42A.752. (Code Crim. Proc., Art. [42.12](#), Secs.
3 10(d), (e).)

4 Art. 42A.053. JUDGE-ORDERED COMMUNITY SUPERVISION. (a) A
5 judge, in the best interest of justice, the public, and the
6 defendant, after conviction or a plea of guilty or nolo contendere,
7 may:

8 (1) suspend the imposition of the sentence and place
9 the defendant on community supervision; or

10 (2) impose a fine applicable to the offense and place
11 the defendant on community supervision.

12 (b) A judge may not deny community supervision to a
13 defendant based solely on the defendant's inability to speak, read,
14 write, hear, or understand English.

15 (c) A defendant is not eligible for community supervision
16 under this article if the defendant is sentenced to serve:

17 (1) a term of imprisonment that exceeds 10 years; or

18 (2) a term of confinement under Section [12.35](#), Penal
19 Code.

20 (d) In a felony case:

21 (1) the minimum period of community supervision is the
22 same as the minimum term of imprisonment applicable to the offense;
23 and

24 (2) the maximum period of community supervision is:

25 (A) 10 years, for a felony other than a third
26 degree felony described by Paragraph (B); and

27 (B) five years, for any of the following third

1 degree felonies:

2 (i) a third degree felony under Title 7,
3 Penal Code; and

4 (ii) a third degree felony under Chapter
5 481, Health and Safety Code.

6 (e) Notwithstanding Subsection (d), the minimum period of
7 community supervision under this article for a felony described by
8 Article 42A.453(b) is five years.

9 (f) The maximum period of community supervision in a
10 misdemeanor case is two years.

11 (g) Notwithstanding Subsection (d)(2) or (f), a judge may
12 extend the maximum period of community supervision in the manner
13 provided by Article 42A.753 or 42A.757. (Code Crim. Proc., Art.
14 [42.12](#), Secs. 3(a), (b), (c), (d), (e), (f), (g).)

15 Art. 42A.054. LIMITATION ON JUDGE-ORDERED COMMUNITY
16 SUPERVISION. (a) Article 42A.053 does not apply to a defendant
17 adjudged guilty of an offense under:

18 (1) Section [15.03](#), Penal Code, if the offense is
19 punishable as a felony of the first degree;

20 (2) Section [19.02](#), Penal Code (Murder);

21 (3) Section [19.03](#), Penal Code (Capital Murder);

22 (4) Section [20.04](#), Penal Code (Aggravated
23 Kidnapping);

24 (5) Section [20A.02](#), Penal Code (Trafficking of
25 Persons);

26 (6) Section [21.11](#)(a)(1), Penal Code (Indecency with a
27 Child);

1 (7) Section 22.011, Penal Code (Sexual Assault);
2 (8) Section 22.021, Penal Code (Aggravated Sexual
3 Assault);
4 (9) Section 22.04(a)(1), Penal Code (Injury to a
5 Child, Elderly Individual, or Disabled Individual), if:
6 (A) the offense is punishable as a felony of the
7 first degree; and
8 (B) the victim of the offense is a child;
9 (10) Section 29.03, Penal Code (Aggravated Robbery);
10 (11) Section 30.02, Penal Code (Burglary), if:
11 (A) the offense is punishable under Subsection
12 (d) of that section; and
13 (B) the actor committed the offense with the
14 intent to commit a felony under Section 21.02, 21.11, 22.011,
15 22.021, or 25.02, Penal Code;
16 (12) Section 43.05, Penal Code (Compelling
17 Prostitution);
18 (13) Section 43.25, Penal Code (Sexual Performance by
19 a Child); or
20 (14) Chapter 481, Health and Safety Code, for which
21 punishment is increased under:
22 (A) Section 481.140 of that code (Use of Child in
23 Commission of Offense); or
24 (B) Section 481.134(c), (d), (e), or (f) of that
25 code (Drug-free Zones) if it is shown that the defendant has been
26 previously convicted of an offense for which punishment was
27 increased under any of those subsections.

(b) Article 42A.053 does not apply to a defendant when it is shown that:

(1) a deadly weapon as defined by Section 1.07, Penal Code, was used or exhibited during the:

(A) commission of a felony offense; or

(B) immediate flight from the commission of a felony offense; and

(2) the defendant:

(A) used or exhibited the deadly weapon; or

(B) was a party to the offense and knew that a deadly weapon would be used or exhibited.

(c) On an affirmative finding regarding the use or exhibition of a deadly weapon as described by Subsection (b), the trial court shall enter the finding in the judgment of the court.

(d) On an affirmative finding that the deadly weapon under Subsection (c) was a firearm, the court shall enter that finding in its judgment. (Code Crim. Proc., Art. 42.12, Sec. 3g(a).)

Art. 42A.055. JURY-RECOMMENDED COMMUNITY SUPERVISION. (a) A jury that imposes confinement as punishment for an offense may recommend to the judge that the judge suspend the imposition of the sentence and place the defendant on community supervision. A judge shall suspend the imposition of the sentence and place the defendant on community supervision if the jury makes that recommendation in the verdict.

(b) A defendant is eligible for community supervision under this article only if:

(1) before the trial begins, the defendant files a

1 written sworn motion with the judge that the defendant has not
2 previously been convicted of a felony in this or any other state;
3 and

4 (2) the jury enters in the verdict a finding that the
5 information contained in the defendant's motion is true.

6 (c) If the jury recommends to the judge that the judge place
7 the defendant on community supervision, the judge shall place the
8 defendant on community supervision for any period permitted under
9 Articles 42A.053(d) and (f), as appropriate.

10 (d) A judge may extend the maximum period of community
11 supervision in the manner provided by Article 42A.753 or 42A.757.
12 (Code Crim. Proc., Art. [42.12](#), Secs. 4(a), (b), (c), (d) (part),
13 (e).)

14 Art. 42A.056. LIMITATION ON JURY-RECOMMENDED COMMUNITY
15 SUPERVISION. A defendant is not eligible for community supervision
16 under Article 42A.055 if the defendant:

17 (1) is sentenced to a term of imprisonment that
18 exceeds 10 years;

19 (2) is convicted of a state jail felony for which
20 suspension of the imposition of the sentence occurs automatically
21 under Article 42A.551;

22 (3) is adjudged guilty of an offense under Section
23 [19.02](#), Penal Code;

24 (4) is convicted of an offense under Section
25 [21.11](#)(a)(1), [22.011](#), or [22.021](#), Penal Code, if the victim of the
26 offense was younger than 14 years of age at the time the offense was
27 committed;

(5) is convicted of an offense under Section 20.04, Penal Code, if:

(A) the victim of the offense was younger than 14 years of age at the time the offense was committed; and

(B) the actor committed the offense with the intent to violate or abuse the victim sexually;

(6) is convicted of an offense under Section 20A.02, 43.05, or 43.25, Penal Code; or

(7) is convicted of an offense for which punishment is increased under Section 481.134(c), (d), (e), or (f), Health and Safety Code, if it is shown that the defendant has been previously convicted of an offense for which punishment was increased under any of those subsections. (Code Crim. Proc., Art. 42.12, Sec. 4(d) (part).)

Art. 42A.057. MINIMUM PERIOD OF COMMUNITY SUPERVISION FOR CERTAIN BURGLARIES OF VEHICLES. The minimum period of community supervision for an offense under Section 30.04, Penal Code, punishable as a Class A misdemeanor with a minimum term of confinement of six months is one year. (Code Crim. Proc., Art. 42.12, Secs. 3(h), 4(f).)

SUBCHAPTER C. DEFERRED ADJUDICATION COMMUNITY SUPERVISION

Art. 42A.101. PLACEMENT ON DEFERRED ADJUDICATION COMMUNITY SUPERVISION. (a) Except as provided by Article 42A.102(b), if in the judge's opinion the best interest of society and the defendant will be served, the judge may, after receiving a plea of guilty or nolo contendere, hearing the evidence, and finding that it substantiates the defendant's guilt, defer further proceedings

1 without entering an adjudication of guilt and place the defendant
2 on deferred adjudication community supervision.

3 (b) After placing the defendant on deferred adjudication
4 community supervision under Subsection (a), the judge shall inform
5 the defendant orally or in writing of the possible consequences
6 under Articles 42A.108 and 42A.110 of a violation of a condition of
7 deferred adjudication community supervision. If the information is
8 provided orally, the judge must record and maintain the judge's
9 statement to the defendant. The failure of a judge to inform a
10 defendant of possible consequences under Articles 42A.108 and
11 42A.110 is not a ground for reversal unless the defendant shows that
12 the defendant was harmed by the failure of the judge to provide the
13 information. (Code Crim. Proc., Art. 42.12, Sec. 5(a) (part).)

14 Art. 42A.102. ELIGIBILITY FOR DEFERRED ADJUDICATION
15 COMMUNITY SUPERVISION. (a) A judge may place on deferred
16 adjudication community supervision a defendant charged with an
17 offense under Section 21.11, 22.011, or 22.021, Penal Code,
18 regardless of the age of the victim, or a defendant charged with a
19 felony described by Article 42A.453(b) only if the judge makes a
20 finding in open court that placing the defendant on deferred
21 adjudication community supervision is in the best interest of the
22 victim. The failure of the judge to make a finding under this
23 subsection is not grounds for the defendant to set aside the plea,
24 deferred adjudication, or any subsequent conviction or sentence.

25 (b) In all other cases, the judge may grant deferred
26 adjudication community supervision unless:

27 (1) the defendant is charged with an offense:

1 (A) under Sections 49.04-49.08, Penal Code; or

2 (B) for which punishment may be increased under
3 Section 481.134(c), (d), (e), or (f), Health and Safety Code, if it
4 is shown that the defendant has been previously convicted of an
5 offense for which punishment was increased under any one of those
6 subsections;

7 (2) the defendant:

8 (A) is charged with an offense under Section
9 21.11, 22.011, or 22.021, Penal Code, regardless of the age of the
10 victim, or a felony described by Article 42A.453(b); and

11 (B) has previously been placed on community
12 supervision for an offense under Paragraph (A);

13 (3) the defendant is charged with an offense under:

14 (A) Section 21.02, Penal Code; or

15 (B) Section 22.021, Penal Code, that is
16 punishable under Subsection (f) of that section or under Section
17 12.42(c)(3) or (4), Penal Code; or

18 (4) the defendant is charged with an offense under
19 Section 19.02, Penal Code, except that the judge may grant deferred
20 adjudication community supervision on determining that the
21 defendant did not cause the death of the deceased, did not intend to
22 kill the deceased or another, and did not anticipate that a human
23 life would be taken. (Code Crim. Proc., Art. 42.12, Secs. 5(a)
24 (part), (d).)

25 Art. 42A.103. PERIOD OF DEFERRED ADJUDICATION COMMUNITY
26 SUPERVISION. (a) In a felony case, the period of deferred
27 adjudication community supervision may not exceed 10 years. For a

defendant charged with a felony under Section 21.11, 22.011, or 22.021, Penal Code, regardless of the age of the victim, and for a defendant charged with a felony described by Article 42A.453(b), the period of deferred adjudication community supervision may not be less than five years.

(b) In a misdemeanor case, the period of deferred adjudication community supervision may not exceed two years.

(c) A judge may extend the maximum period of deferred adjudication community supervision in the manner provided by Article 42A.753 or 42A.757. (Code Crim. Proc., Art. 42.12, Sec. 5(a) (part).)

Art. 42A.104. CONDITIONS OF DEFERRED ADJUDICATION COMMUNITY SUPERVISION; IMPOSITION OF FINE. (a) The judge may impose a fine applicable to the offense and require any reasonable condition of deferred adjudication community supervision that a judge could impose on a defendant placed on community supervision for a conviction that was probated and suspended, including:

(1) confinement; and

(2) mental health treatment under Article 42A.506.

(b) The provisions of Subchapter L specifying whether a defendant convicted of a state jail felony is to be confined in a county jail or state jail felony facility and establishing the minimum and maximum terms of confinement as a condition of community supervision apply in the same manner to a defendant placed on deferred adjudication community supervision after pleading guilty or nolo contendere to a state jail felony. (Code Crim. Proc., Art. 42.12, Sec. 5(a) (part).)

1 Art. 42A.105. AFFIRMATIVE FINDINGS. (a) If a judge places
2 on deferred adjudication community supervision a defendant charged
3 with a sexually violent offense, as defined by Article 62.001, the
4 judge shall make an affirmative finding of fact and file a statement
5 of that affirmative finding with the papers in the case if the judge
6 determines that the victim or intended victim was younger than 14
7 years of age at the time of the offense.

8 (b) If a judge places on deferred adjudication community
9 supervision a defendant charged with an offense under Section
10 20.02, 20.03, or 20.04, Penal Code, or an attempt, conspiracy, or
11 solicitation to commit one of those offenses, the judge shall make
12 an affirmative finding of fact and file a statement of that
13 affirmative finding with the papers in the case if the judge
14 determines that the victim or intended victim was younger than 17
15 years of age at the time of the offense.

16 (c) If a judge places on deferred adjudication community
17 supervision a defendant charged with an offense under Section 21.11
18 or 22.011, Penal Code, the judge shall make an affirmative finding
19 of fact and file a statement of that affirmative finding with the
20 papers in the case if the judge determines that:

21 (1) at the time of the offense, the defendant was not
22 more than four years older than the victim or intended victim and
23 the victim or intended victim was at least 15 years of age; and

24 (2) the charge to which the plea is entered under this
25 subchapter is based solely on the ages of the defendant and the
26 victim or intended victim at the time of the offense.

27 (d) If a judge places a defendant on deferred adjudication

community supervision, on the motion of the attorney representing the state the judge shall make an affirmative finding of fact and file a statement of that affirmative finding with the papers in the case if the judge determines that, regardless of whether the conduct at issue is the subject of the prosecution or part of the same criminal episode as the conduct that is the subject of the prosecution, a victim in the trial:

(1) is or has been a victim of a severe form of trafficking in persons, as defined by 22 U.S.C. Section 7102(9); or

(2) has suffered substantial physical or mental abuse as a result of having been a victim of criminal activity described by 8 U.S.C. Section 1101(a)(15)(U)(iii).

(e) The part of the papers in the case containing an affirmative finding under Subsection (d):

(1) must include specific information identifying the victim, as available;

(2) may not include information identifying the victim's location; and

(3) is confidential, unless written consent for the release of the affirmative finding is obtained from the victim or, if the victim is younger than 18 years of age, the victim's parent or guardian. (Code Crim. Proc., Art. [42.12](#), Secs. 5(e), (g), (i), (j).)

Art. 42A.106. RECORD NOT CONFIDENTIAL; RIGHT TO PETITION FOR ORDER OF NONDISCLOSURE. (a) Except as provided by Section [552.142](#), Government Code, a record in the custody of the court clerk regarding a case in which a defendant is granted deferred

1 adjudication community supervision is not confidential.

2 (b) Before placing a defendant on deferred adjudication
3 community supervision, the court shall inform the defendant of the
4 defendant's right to petition the court for an order of
5 nondisclosure under Section 411.081, Government Code, unless the
6 defendant is ineligible to pursue that right because of:

7 (1) the nature of the offense for which the defendant
8 is placed on deferred adjudication community supervision; or

9 (2) the defendant's criminal history. (Code Crim.
10 Proc., Art. 42.12, Secs. 5(a-1), (f).)

11 Art. 42A.107. REQUEST FOR FINAL ADJUDICATION. On written
12 motion of the defendant requesting final adjudication that is filed
13 within 30 days after the entry of the defendant's plea and the
14 deferment of adjudication, the judge shall proceed to final
15 adjudication as in all other cases. (Code Crim. Proc., Art. 42.12,
16 Sec. 5(a) (part).)

17 Art. 42A.108. VIOLATION OF CONDITION OF DEFERRED
18 ADJUDICATION COMMUNITY SUPERVISION; HEARING. (a) On violation of a
19 condition of deferred adjudication community supervision imposed
20 under Article 42A.104, the defendant may be arrested and detained
21 as provided in Article 42A.751.

22 (b) The defendant is entitled to a hearing limited to a
23 determination by the court of whether the court will proceed with an
24 adjudication of guilt on the original charge. The court may not
25 proceed with an adjudication of guilt on the original charge if the
26 court finds that the only evidence supporting the alleged violation
27 of a condition of deferred adjudication community supervision is

1 the uncorroborated results of a polygraph examination. The
2 determination to proceed with an adjudication of guilt on the
3 original charge is reviewable in the same manner as a revocation
4 hearing conducted under Article 42A.751(d) in a case in which the
5 adjudication of guilt was not deferred.

6 (c) A court retains jurisdiction to hold a hearing under
7 Subsection (b) and to proceed with an adjudication of guilt,
8 regardless of whether the period of deferred adjudication community
9 supervision imposed on the defendant has expired, if before the
10 expiration of the supervision period:

11 (1) the attorney representing the state files a motion
12 to proceed with the adjudication; and

13 (2) a capias is issued for the arrest of the defendant.
14 (Code Crim. Proc., Art. 42.12, Secs. 5(b) (part), (h).)

15 Art. 42A.109. DUE DILIGENCE DEFENSE. For the purposes of a
16 hearing under Article 42A.108, it is an affirmative defense to
17 revocation for an alleged violation based on a failure to report to
18 a supervision officer as directed or to remain within a specified
19 place that no supervision officer, peace officer, or other officer
20 with the power of arrest under a warrant issued by a judge for that
21 alleged violation contacted or attempted to contact the defendant
22 in person at the defendant's last known residence address or last
23 known employment address, as reflected in the files of the
24 department serving the county in which the order of deferred
25 adjudication community supervision was entered. (Code Crim. Proc.,
26 Art. 42.12, Sec. 24 (part).)

27 Art. 42A.110. PROCEEDINGS AFTER ADJUDICATION. (a) After

1 an adjudication of guilt, all proceedings, including assessment of
2 punishment, pronouncement of sentence, granting of community
3 supervision, and defendant's appeal, continue as if the
4 adjudication of guilt had not been deferred.

5 (b) A court assessing punishment after an adjudication of
6 guilt of a defendant charged with a state jail felony may suspend
7 the imposition of the sentence and place the defendant on community
8 supervision or may order the sentence to be executed, regardless of
9 whether the defendant has previously been convicted of a felony.
10 (Code Crim. Proc., Art. [42.12](#), Sec. 5(b) (part).)

11 Art. 42A.111. DISMISSAL AND DISCHARGE. (a) On expiration of
12 a period of deferred adjudication community supervision imposed
13 under this subchapter, if the judge has not proceeded to an
14 adjudication of guilt, the judge shall dismiss the proceedings
15 against the defendant and discharge the defendant.

16 (b) The judge may dismiss the proceedings and discharge a
17 defendant before the expiration of the period of deferred
18 adjudication community supervision if, in the judge's opinion, the
19 best interest of society and the defendant will be served, except
20 that the judge may not dismiss the proceedings and discharge a
21 defendant charged with an offense requiring the defendant to
22 register as a sex offender under Chapter 62.

23 (c) Except as provided by Section [12.42](#)(g), Penal Code, a
24 dismissal and discharge under this article may not be considered a
25 conviction for the purposes of disqualifications or disabilities
26 imposed by law for conviction of an offense.

27 (d) For any defendant who receives a dismissal and discharge

1 under this article:

2 (1) on conviction of a subsequent offense, the fact
3 that the defendant previously has received deferred adjudication
4 community supervision is admissible before the court or jury for
5 consideration on the issue of penalty;

6 (2) if the defendant is an applicant for or the holder
7 of a license under Chapter 42, Human Resources Code, the Department
8 of Family and Protective Services may consider the fact that the
9 defendant previously has received deferred adjudication community
10 supervision in issuing, renewing, denying, or revoking a license
11 under that chapter; and

12 (3) if the defendant is an applicant for or the holder
13 of a license to provide mental health or medical services for the
14 rehabilitation of sex offenders, the Council on Sex Offender
15 Treatment may consider the fact that the defendant previously has
16 received deferred adjudication community supervision in issuing,
17 renewing, denying, or revoking a license issued by that council.

18 (e) A judge who dismisses the proceedings against a
19 defendant and discharges the defendant under this article shall:

20 (1) provide the defendant with a copy of the order of
21 dismissal and discharge; and

22 (2) if applicable, inform the defendant of the
23 defendant's eligibility to petition the court for an order of
24 nondisclosure under Section [411.081](#), Government Code, and the
25 earliest date the defendant is eligible to file the petition for the
26 order of nondisclosure. (Code Crim. Proc., Art. [42.12](#), Secs. 5(c),
27 (c-1).)

SUBCHAPTER D. JURISDICTION OVER CASE; GEOGRAPHICAL JURISDICTION

Art. 42A.151. TRANSFER OF JURISDICTION. (a) After a defendant has been placed on community supervision, jurisdiction of the case may be transferred to a court of the same rank in this state that:

(1) has geographical jurisdiction where the defendant:

(A) resides; or

(B) violates a condition of community supervision; and

(2) consents to the transfer.

(b) On transfer, the clerk of the court of original jurisdiction shall forward to the court accepting jurisdiction a transcript of any portion of the record as the transferring judge shall direct. The court accepting jurisdiction subsequently shall proceed as if the defendant's trial and conviction had occurred in that court. (Code Crim. Proc., Art. [42.12](#), Secs. 10(a) (part), (b).)

Art. 42A.152. ISSUANCE OF WARRANT BY COURT HAVING GEOGRAPHICAL JURISDICTION. (a) A judge of a court having geographical jurisdiction where a defendant resides or where the defendant violates a condition of community supervision may issue a warrant for the defendant's arrest.

(b) Notwithstanding Subsection (a), the determination of the action to be taken after the defendant's arrest may be made only by the judge of the court having jurisdiction of the case at the time the action is taken. (Code Crim. Proc., Art. [42.12](#), Sec.

1 10(c).)

2 Art. 42A.153. CHANGE OF RESIDENCE WITHIN THE STATE. (a)
3 If, for good and sufficient reasons, a defendant desires to change
4 the defendant's residence within the state, the change may be
5 effected by application to the supervising supervision officer.

6 (b) The change of residence is subject to:

7 (1) the judge's consent; and

8 (2) any regulations the judge may require in the
9 absence of a supervision officer in the locality to which the
10 defendant is transferred. (Code Crim. Proc., Art. [42.12](#), Sec.
11 17(a).)

12 Art. 42A.154. LEAVING THE STATE. A defendant who leaves the
13 state without permission of the judge having jurisdiction of the
14 case is:

15 (1) considered a fugitive from justice; and

16 (2) subject to extradition as provided by law. (Code
17 Crim. Proc., Art. [42.12](#), Sec. 17(b).)

18 SUBCHAPTER E. PARTIAL EXECUTION OF SENTENCE; CONTINUING

19 JURISDICTION

20 Art. 42A.201. CONTINUING JURISDICTION IN MISDEMEANOR
21 CASES. (a) For the purposes of this article, the jurisdiction of
22 the courts in this state in which a sentence requiring confinement
23 in a jail is imposed for conviction of a misdemeanor continues for
24 180 days from the date the execution of the sentence actually
25 begins.

26 (b) The judge of a court that imposed a sentence requiring
27 confinement in a jail for conviction of a misdemeanor may, on the

1 judge's own motion, on the motion of the attorney representing the
2 state, or on the written motion of the defendant, suspend further
3 execution of the sentence and place the defendant on community
4 supervision under the terms and conditions of this chapter if, in
5 the opinion of the judge, the defendant would not benefit from
6 further confinement.

7 (c) When the defendant files a written motion with the court
8 requesting suspension of further execution of the sentence and
9 placement on community supervision or when requested to do so by the
10 judge, the clerk of the court shall request a copy of the
11 defendant's record while confined from the agency operating the
12 jail in which the defendant is confined. On receipt of the request,
13 the agency shall forward a copy of the record to the court as soon as
14 possible.

15 (d) The judge may deny the motion without holding a hearing
16 but may not grant a motion without holding a hearing and allowing
17 the attorney representing the state and the defendant to present
18 evidence in the case. (Code Crim. Proc., Art. [42.12](#), Sec. 7.)

19 Art. 42A.202. CONTINUING JURISDICTION IN FELONY CASES. (a)
20 For the purposes of this article, the jurisdiction of a court
21 imposing a sentence requiring imprisonment in the Texas Department
22 of Criminal Justice for an offense other than a state jail felony
23 continues for 180 days from the date the execution of the sentence
24 actually begins.

25 (b) Before the expiration of the 180-day period described by
26 Subsection (a), the judge of the court that imposed the sentence
27 described by that subsection may, on the judge's own motion, on the

1 motion of the attorney representing the state, or on the written
2 motion of the defendant, suspend further execution of the sentence
3 and place the defendant on community supervision under the terms
4 and conditions of this chapter if:

5 (1) in the opinion of the judge, the defendant would
6 not benefit from further imprisonment;

7 (2) the defendant is otherwise eligible for community
8 supervision under this chapter; and

9 (3) the defendant had never before been incarcerated
10 in a penitentiary serving a sentence for a felony.

11 (c) When the defendant files a written motion requesting the
12 judge to suspend further execution of the sentence and place the
13 defendant on community supervision, the defendant shall
14 immediately deliver or cause to be delivered a copy of the motion to
15 the office of the attorney representing the state.

16 (d) When the defendant or the attorney representing the
17 state files a written motion requesting the judge to suspend
18 further execution of the sentence and place the defendant on
19 community supervision, and when requested to do so by the judge, the
20 clerk of the court shall request a copy of the defendant's record
21 while imprisoned from the Texas Department of Criminal Justice or,
22 if the defendant is confined in county jail, from the sheriff. On
23 receipt of the request, the Texas Department of Criminal Justice or
24 the sheriff shall forward a copy of the record to the judge as soon
25 as possible.

26 (e) The judge may deny the motion without holding a hearing
27 but may not grant the motion without holding a hearing and providing

1 the attorney representing the state and the defendant the
2 opportunity to present evidence on the motion. (Code Crim. Proc.,
3 Art. 42.12, Sec. 6.)

4 Art. 42A.203. AUTHORITY TO SUSPEND EXECUTION OF SENTENCE IN
5 FELONY CASES. (a) Except as otherwise provided by Subsection (b),
6 only the judge who originally sentenced the defendant may suspend
7 execution of the sentence and place the defendant on community
8 supervision under Article 42A.202.

9 (b) If the judge who originally sentenced the defendant is
10 deceased or disabled or the office is vacant, and if a motion is
11 filed in accordance with Article 42A.202, the clerk of the court
12 shall promptly forward a copy of the motion to the presiding judge
13 of the administrative judicial district for that court. The
14 presiding judge may deny the motion without holding a hearing or may
15 appoint a judge to hold a hearing on the motion. (Code Crim. Proc.,
16 Art. 42.12, Sec. 10(a) (part).)

17 Art. 42A.204. PARTIAL EXECUTION OF SENTENCE: FIREARM USED
18 OR EXHIBITED. (a) If in the trial of a felony of the second degree
19 or higher there is an affirmative finding described by Article
20 42A.054(d) and the jury recommends that the court place the
21 defendant on community supervision, the court may order the
22 defendant imprisoned in the Texas Department of Criminal Justice
23 for not less than 60 and not more than 120 days.

24 (b) At any time after the defendant has served 60 days in the
25 custody of the Texas Department of Criminal Justice, the sentencing
26 judge, on the judge's own motion or on motion of the defendant, may
27 order the defendant released to community supervision.

(c) The department shall release the defendant to community supervision after the defendant has served 120 days. (Code Crim. Proc., Art. 42.12, Secs. 3g(b), 4(b) (part).)

SUBCHAPTER F. PRESENTENCE AND POSTSENTENCE REPORTS AND EVALUATIONS

Art. 42A.251. DEFINITIONS. In this subchapter:

(1) "Council" means the Council on Sex Offender Treatment.

(2) "Sex offender" means a person who has been convicted of, or has entered a plea of guilty or nolo contendere for, an offense under any one of the following provisions of the Penal Code:

(A) Section 20.04(a)(4) (Aggravated Kidnapping), if the person committed the offense with the intent to violate or abuse the victim sexually;

(B) Section 21.08 (Indecent Exposure);

(C) Section 21.11 (Indecency with a Child);

(D) Section 22.011 (Sexual Assault);

(E) Section 22.021 (Aggravated Sexual Assault);

(F) Section 25.02 (Prohibited Sexual Conduct);

(G) Section 30.02 (Burglary), if:

(i) the offense is punishable under Subsection (d) of that section; and

(ii) the person committed the offense with the intent to commit a felony listed in this subdivision;

(H) Section 43.25 (Sexual Performance by a Child); or

(I) Section 43.26 (Possession or Promotion of

Child Pornography). (Code Crim. Proc., Art. 42.12, Sec. 9A(a).)

Art. 42A.252. PRESENTENCE REPORT REQUIRED. (a) Except as provided by Subsections (b) and (c), before the imposition of the sentence by a judge, the judge shall direct a supervision officer to prepare a presentence report for the judge.

(b) The judge is not required to direct a supervision officer to prepare a presentence report in a misdemeanor case if:

(1) the defendant requests that a report not be made and the judge agrees to the request; or

(2) the judge:

(A) finds that there is sufficient information in the record to permit the meaningful exercise of sentencing discretion; and

(B) explains that finding on the record.

(c) The judge is not required to direct a supervision officer to prepare a presentence report in a felony case if:

(1) punishment is to be assessed by a jury;

(2) the defendant is convicted of or enters a plea of guilty or nolo contendere to capital murder;

(3) the only available punishment is imprisonment; or

(4) the judge is informed that a plea bargain agreement exists, under which the defendant agrees to a punishment of imprisonment, and the judge intends to follow that agreement.

(Code Crim. Proc., Art. 42.12, Secs. 9(a) (part), (b), (g).)

Art. 42A.253. CONTENTS OF PRESENTENCE REPORT. (a) A presentence report must be in writing and include:

(1) the circumstances of the offense with which the

1 defendant is charged;

2 (2) the amount of restitution necessary to adequately
3 compensate a victim of the offense;

4 (3) the criminal and social history of the defendant;

5 (4) a proposed supervision plan describing programs
6 and sanctions that the community supervision and corrections
7 department will provide the defendant if the judge suspends the
8 imposition of the sentence or grants deferred adjudication
9 community supervision;

10 (5) if the defendant is charged with a state jail
11 felony, recommendations for conditions of community supervision
12 that the community supervision and corrections department
13 considers advisable or appropriate based on the circumstances of
14 the offense and other factors addressed in the report;

15 (6) the results of a psychological evaluation of the
16 defendant that determines, at a minimum, the defendant's IQ and
17 adaptive behavior score if the defendant:

18 (A) is convicted of a felony offense; and

19 (B) appears to the judge, through the judge's own
20 observation or on the suggestion of a party, to have a mental
21 impairment;

22 (7) information regarding whether the defendant is a
23 current or former member of the state military forces or whether the
24 defendant currently serves or has previously served in the armed
25 forces of the United States in an active-duty status and, if
26 available, a copy of the defendant's military discharge papers and
27 military records;

1 (8) if the defendant has served in the armed forces of
2 the United States in an active-duty status, a determination as to
3 whether the defendant was deployed to a combat zone and whether the
4 defendant may suffer from post-traumatic stress disorder or a
5 traumatic brain injury; and

6 (9) any other information relating to the defendant or
7 the offense as requested by the judge.

8 (b) A presentence report is not required to contain a
9 sentencing recommendation. (Code Crim. Proc., Art. [42.12](#), Secs.
10 9(a) (part), (i), (l).)

11 Art. 42A.254. INSPECTION BY JUDGE; DISCLOSURE OF CONTENTS.
12 The judge may not inspect a presentence report and the contents of
13 the report may not be disclosed to any person unless:

14 (1) the defendant pleads guilty or nolo contendere or
15 is convicted of the offense; or

16 (2) the defendant, in writing, authorizes the judge to
17 inspect the report. (Code Crim. Proc., Art. [42.12](#), Sec. 9(c).)

18 Art. 42A.255. INSPECTION AND COMMENT BY DEFENDANT; ACCESS
19 TO INFORMATION BY STATE. (a) Unless waived by the defendant, at
20 least 48 hours before sentencing a defendant, the judge shall
21 permit the defendant or the defendant's attorney to read the
22 presentence report.

23 (b) The judge shall allow the defendant or the defendant's
24 attorney to comment on a presentence investigation or a
25 postsentence report and, with the approval of the judge, introduce
26 testimony or other information alleging a factual inaccuracy in the
27 investigation or report.

1 (c) The judge shall allow the attorney representing the
2 state access to any information made available to the defendant
3 under this article. (Code Crim. Proc., Art. [42.12](#), Secs. 9(d), (e),
4 (f).)

5 Art. 42A.256. RELEASE OF INFORMATION TO SUPERVISION
6 OFFICER; CONFIDENTIALITY OF REPORT. (a) The judge by order may
7 direct that any information and records that are not privileged and
8 that are relevant to a presentence or postsentence report be
9 released to a supervision officer conducting a presentence
10 investigation under this subchapter or preparing a postsentence
11 report under Article 42A.259. The judge may also issue a subpoena
12 to obtain that information.

13 (b) A presentence or postsentence report and all
14 information obtained in connection with a presentence
15 investigation or postsentence report are confidential and may be
16 released only as:

17 (1) provided by:

18 (A) Subsection (c);

19 (B) Article 42A.255;

20 (C) Article 42A.257;

21 (D) Article 42A.259; or

22 (E) Section [614.017](#), Health and Safety Code; or

23 (2) directed by the judge for the effective
24 supervision of the defendant.

25 (c) If the defendant is a sex offender, a supervision
26 officer may release information in a presentence or postsentence
27 report concerning the social and criminal history of the defendant

1 to a person who:

2 (1) is licensed or certified in this state to provide
3 mental health or medical services, including a:

4 (A) physician;

5 (B) psychiatrist;

6 (C) psychologist;

7 (D) licensed professional counselor;

8 (E) licensed marriage and family therapist; or

9 (F) certified social worker; and

10 (2) provides mental health or medical services for the
11 rehabilitation of the defendant. (Code Crim. Proc., Art. 42.12,
12 Secs. 9(j), 9A(b).)

13 Art. 42A.257. EVALUATION FOR PURPOSES OF ALCOHOL OR DRUG
14 REHABILITATION. (a) The judge shall direct a supervision officer
15 approved by the community supervision and corrections department or
16 the judge, or a person, program, or other agency approved by the
17 Department of State Health Services, to conduct an evaluation to
18 determine the appropriateness of, and a course of conduct necessary
19 for, alcohol or drug rehabilitation for a defendant and to report
20 the results of that evaluation to the judge, if:

21 (1) the judge determines that alcohol or drug abuse
22 may have contributed to the commission of the offense; or

23 (2) the case involves a second or subsequent offense
24 under:

25 (A) Section 49.04, Penal Code, if the offense was
26 committed within five years of the date on which the most recent
27 preceding offense was committed; or

1 (B) Section 49.07 or 49.08, Penal Code, if the
2 offense involved the operation of a motor vehicle and was committed
3 within five years of the date on which the most recent preceding
4 offense was committed.

5 (b) The evaluation must be made:

6 (1) after arrest and before conviction, if requested
7 by the defendant;

8 (2) after conviction and before sentencing, if the
9 judge assesses punishment in the case;

10 (3) after sentencing and before the entry of a final
11 judgment, if the jury assesses punishment in the case; or

12 (4) after community supervision is granted, if the
13 evaluation is required as a condition of community supervision
14 under Article 42A.402. (Code Crim. Proc., Art. 42.12, Sec. 9(h).)

15 Art. 42A.258. EVALUATION FOR PURPOSES OF SEX OFFENDER
16 TREATMENT, SPECIALIZED SUPERVISION, OR REHABILITATION. (a) If the
17 defendant is a sex offender, the judge shall direct a supervision
18 officer approved by the community supervision and corrections
19 department or the judge, or a person, program, or other agency
20 approved by the council, to:

21 (1) evaluate the appropriateness of, and a course of
22 conduct necessary for, treatment, specialized supervision, or
23 rehabilitation of the defendant; and

24 (2) report the results of the evaluation to the judge.

25 (b) The judge may require the evaluation to use
26 offense-specific standards of practice adopted by the council and
27 may require the report to reflect those standards.

(c) The evaluation must be made:

(1) after arrest and before conviction, if requested by the defendant; or

(2) after conviction and before the entry of a final judgment. (Code Crim. Proc., Art. 42.12, Sec. 9A(c).)

Art. 42A.259. POSTSENTENCE REPORT. (a) If a presentence report in a felony case is not required under Article 42A.252(c), the judge may direct a supervision officer to prepare a postsentence report containing the same information that would have been required for the presentence report, other than a proposed supervision plan and any information that is reflected in the judgment.

(b) If a postsentence report is ordered, the supervision officer shall send the report to the clerk of the court not later than the 30th day after the date on which sentence is pronounced or deferred adjudication community supervision is granted. The clerk shall deliver the postsentence report with the papers in the case to a designated officer of the Texas Department of Criminal Justice, to the extent required by Section 8(a), Article 42.09. (Code Crim. Proc., Art. 42.12, Sec. 9(k).)

SUBCHAPTER G. DISCRETIONARY CONDITIONS GENERALLY

Art. 42A.301. BASIC DISCRETIONARY CONDITIONS. The judge of the court having jurisdiction of the case shall determine the conditions of community supervision. 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

1 include conditions requiring the defendant to:

2 (1) commit no offense against the laws of this state or
3 of any other state or of the United States;

4 (2) avoid injurious or vicious habits;

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

8 (4) report to the supervision officer as directed by
9 the judge or supervision officer and obey all rules and regulations
10 of the community supervision and corrections department;

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

13 (6) work faithfully at suitable employment to the
14 extent possible;

15 (7) remain within a specified place;

16 (8) pay in one or more amounts:

17 (A) the defendant's fine, if one is assessed; and

18 (B) all court costs, regardless of whether a fine
19 is assessed;

20 (9) support the defendant's dependents;

21 (10) participate, for a period specified by the judge,
22 in any community-based program, including a community service
23 project under Article 42A.304;

24 (11) reimburse the county in which the prosecution was
25 instituted as follows:

26 (A) if counsel was appointed, an amount for
27 compensation paid to appointed counsel for defending the defendant

1 in the case; or

2 (B) if the defendant was represented by a public
3 defender's office, an amount that would have been paid to an
4 appointed attorney had the county not had a public defender's
5 office;

6 (12) if under custodial supervision in a community
7 corrections facility:

8 (A) remain under that supervision;

9 (B) obey all rules and regulations of the
10 facility; and

11 (C) pay a percentage of the defendant's income
12 to:

13 (i) the facility for room and board; and

14 (ii) the defendant's dependents for their
15 support during the period of custodial supervision;

16 (13) submit to testing for alcohol or controlled
17 substances;

18 (14) attend counseling sessions for substance abusers
19 or participate in substance abuse treatment services in a program
20 or facility approved or licensed by the Department of State Health
21 Services;

22 (15) with the consent of the victim of a misdemeanor
23 offense or of any offense under Title 7, Penal Code, participate in
24 victim-defendant mediation;

25 (16) submit to electronic monitoring;

26 (17) reimburse the compensation to victims of crime
27 fund for any amounts paid from that fund to or on behalf of a victim,

1 as defined by Article 56.32, of the offense or if no reimbursement
2 is required, make one payment to the compensation to victims of
3 crime fund in an amount not to exceed \$50 if the offense is a
4 misdemeanor or not to exceed \$100 if the offense is a felony;

5 (18) reimburse a law enforcement agency for the
6 analysis, storage, or disposal of raw materials, controlled
7 substances, chemical precursors, drug paraphernalia, or other
8 materials seized in connection with the offense;

9 (19) pay all or part of the reasonable and necessary
10 costs incurred by the victim for psychological counseling made
11 necessary by the offense or for counseling and education relating
12 to acquired immune deficiency syndrome or human immunodeficiency
13 virus made necessary by the offense;

14 (20) make one payment in an amount not to exceed \$50 to
15 a crime stoppers organization, as defined by Section [414.001](#),
16 Government Code, and as certified by the Texas Crime Stoppers
17 Council;

18 (21) submit a DNA sample to the Department of Public
19 Safety under Subchapter G, Chapter 411, Government Code, for the
20 purpose of creating a DNA record of the defendant;

21 (22) in any manner required by the judge, provide in
22 the county in which the offense was committed public notice of the
23 offense for which the defendant was placed on community
24 supervision; and

25 (23) reimburse the county in which the prosecution was
26 instituted for compensation paid to any interpreter in the case.
27 (Code Crim. Proc., Art. [42.12](#), Sec. 11(a) (part).)

1 Art. 42A.302. CONFINEMENT. (a) If a judge having
2 jurisdiction of a case requires as a condition of community
3 supervision that the defendant submit to a term of confinement in a
4 county jail, the term of confinement may not exceed:

5 (1) 30 days, in a misdemeanor case; or

6 (2) 180 days, in a felony case.

7 (b) A judge who requires as a condition of community
8 supervision that the defendant serve a term of confinement in a
9 community corrections facility under Subchapter M may not impose a
10 term of confinement under this article that, if added to the term
11 imposed under Subchapter M, exceeds 24 months.

12 (c) A judge may impose a term of confinement as a condition
13 of community supervision under this article on placing the
14 defendant on supervision or at any time during the supervision
15 period. The judge may impose terms of confinement as a condition of
16 community supervision in increments smaller than the maximum terms
17 provided by Subsection (a), except that the judge may not impose
18 terms of confinement that, if added together, exceed the maximum
19 terms provided by Subsection (a). (Code Crim. Proc., Art. [42.12](#),
20 Sec. 12.)

21 Art. 42A.303. SUBSTANCE ABUSE FELONY PROGRAM. (a) If a
22 court places a defendant on community supervision under any
23 provision of this chapter as an alternative to imprisonment, the
24 judge may require as a condition of community supervision that the
25 defendant serve a term of confinement and treatment in a substance
26 abuse felony punishment facility operated by the Texas Department
27 of Criminal Justice under Section [493.009](#), Government Code.

1 (b) A term of confinement and treatment imposed under this
2 article must be an indeterminate term of not more than one year or
3 less than 90 days.

4 (c) The judge may impose the condition of community
5 supervision described by this article if:

6 (1) the defendant is charged with or convicted of a
7 felony other than:

8 (A) a felony under Section 21.11, 22.011, or
9 22.021, Penal Code; or

10 (B) criminal attempt of a felony under Section
11 21.11, 22.011, or 22.021, Penal Code; and

12 (2) the judge makes an affirmative finding that:

13 (A) drug or alcohol abuse significantly
14 contributed to the commission of the offense or violation of a
15 condition of community supervision, as applicable; and

16 (B) the defendant is a suitable candidate for
17 treatment, as determined by the suitability criteria established by
18 the Texas Board of Criminal Justice under Section 493.009(b),
19 Government Code.

20 (d) If a judge requires as a condition of community
21 supervision that the defendant serve a term of confinement and
22 treatment in a substance abuse felony punishment facility under
23 this article, the judge shall also require as a condition of
24 community supervision that on release from the facility the
25 defendant:

26 (1) participate in a drug or alcohol abuse continuum
27 of care treatment plan; and

1 (2) pay a fee in an amount established by the judge for
2 residential aftercare required as part of the treatment plan.

3 (e) The Department of State Health Services shall develop
4 the continuum of care treatment plan described by Subsection
5 (d)(1).

6 (f) The clerk of a court that collects a fee imposed under
7 Subsection (d)(2) shall deposit the fee to be sent to the
8 comptroller as provided by Subchapter B, Chapter 133, Local
9 Government Code, and the comptroller shall deposit the fee into the
10 general revenue fund. If the clerk does not collect a fee imposed
11 under Subsection (d)(2), the clerk is not required to file any
12 report required by the comptroller that relates to the collection
13 of the fee. In establishing the amount of a fee under Subsection
14 (d)(2), the judge shall consider fines, fees, and other necessary
15 expenses for which the defendant is obligated. The judge may not:

16 (1) establish the fee in an amount that is greater than
17 25 percent of the defendant's gross income while the defendant is a
18 participant in residential aftercare; or

19 (2) require the defendant to pay the fee at any time
20 other than a time at which the defendant is both employed and a
21 participant in residential aftercare. (Code Crim. Proc., Art.
22 [42.12](#), Sec. 14, as amended Acts 73rd Leg., R.S., Ch. 900; Acts 74th
23 Leg., R.S., Chs. 76, 321; Acts 76th Leg., R.S., Ch. 1188; Acts 78th
24 Leg., R.S., Chs. 209, 1310.)

25 Art. 42A.304. COMMUNITY SERVICE. (a) A judge may require
26 as a condition of community supervision that the defendant work a
27 specified number of hours at one or more community service projects

1 for one or more organizations approved by the judge and designated
2 by the department. The judge may not require the defendant to work
3 at a community service project if, as determined and noted on the
4 community supervision order by the judge:

5 (1) the defendant is physically or mentally incapable
6 of participating in the project;

7 (2) participating in the project will cause a hardship
8 to the defendant or to the defendant's dependents;

9 (3) the defendant is to be confined in a substance
10 abuse felony punishment facility as a condition of community
11 supervision; or

12 (4) there is other good cause shown.

13 (b) The amount of community service work ordered by the
14 judge may not exceed:

15 (1) 1,000 hours for an offense classified as a first
16 degree felony;

17 (2) 800 hours for an offense classified as a second
18 degree felony;

19 (3) 600 hours for:

20 (A) an offense classified as a third degree
21 felony; or

22 (B) an offense under Section 30.04, Penal Code,
23 classified as a Class A misdemeanor;

24 (4) 400 hours for an offense classified as a state jail
25 felony;

26 (5) 200 hours for:

27 (A) an offense classified as a Class A

1 misdemeanor, other than an offense described by Subdivision (3)(B);
2 or

3 (B) a misdemeanor for which the maximum
4 permissible confinement, if any, exceeds six months or the maximum
5 permissible fine, if any, exceeds \$4,000; and

6 (6) 100 hours for:

7 (A) an offense classified as a Class B
8 misdemeanor; or

9 (B) a misdemeanor for which the maximum
10 permissible confinement, if any, does not exceed six months and the
11 maximum permissible fine, if any, does not exceed \$4,000.

12 (c) A defendant required to perform community service under
13 this article is not a state employee for the purposes of Chapter 501
14 or 504, Labor Code.

15 (d) If the court makes an affirmative finding under Article
16 42.014, the judge may order the defendant to perform community
17 service under this article at a project designated by the judge that
18 primarily serves the person or group who was the target of the
19 defendant. If the judge orders community service under this
20 subsection, the judge shall order the defendant to perform not less
21 than:

22 (1) 300 hours of service if the offense is classified
23 as a felony; or

24 (2) 100 hours of service if the offense is classified
25 as a misdemeanor.

26 (e) A defendant required to perform community service under
27 this article after conviction of an offense under Section [352.082](#),

1 Local Government Code, shall perform 60 hours of service. The
2 community service must consist of picking up litter in the county in
3 which the defendant resides or working at a recycling facility if a
4 program for performing that type of service is available in the
5 community in which the court is located.

6 (f) The judge may order a defendant to make a specified
7 donation to a nonprofit food bank or food pantry in the community in
8 which the defendant resides instead of requiring the defendant to
9 work a specified number of hours at one or more community service
10 projects under Subsection (a). (Code Crim. Proc., Art. [42.12](#),
11 Secs. 16(a), (b), (c), (d), (e), (f).)

12 Art. 42A.305. COMMUNITY OUTREACH. (a) This article
13 applies only to a defendant placed on community supervision for an
14 offense involving the possession, manufacture, or delivery of a
15 controlled substance under Chapter 481, Health and Safety Code.

16 (b) If a judge orders a defendant to whom this article
17 applies to perform community service, the judge may authorize the
18 defendant to perform not more than 30 hours of community outreach
19 under this article instead of performing hours of community
20 service.

21 (c) Community outreach under this article must consist of
22 working with a secondary school at the direction of the judge to
23 educate students on the dangers and legal consequences of
24 possessing, manufacturing, or delivering a controlled substance.

25 (d) A secondary school is not required to allow a defendant
26 to perform community outreach at that school.

27 (e) The judge may not authorize the defendant to perform

1 hours of community outreach under this article instead of
2 performing hours of community service if:

3 (1) the defendant is physically or mentally incapable
4 of participating in community outreach; or

5 (2) the defendant is subject to registration as a sex
6 offender under Chapter 62. (Code Crim. Proc., Art. 42.12, Sec.
7 16(g).)

8 Art. 42A.306. SUPERVISION OF DEFENDANT FROM OUT OF STATE. A
9 judge who receives a defendant for supervision as authorized by
10 Section 510.017, Government Code, may impose on the defendant any
11 term of community supervision authorized by this chapter. (Code
12 Crim. Proc., Art. 42.12, Sec. 19(c) (part).)

13 Art. 42A.307. ORCHIECTOMY PROHIBITED. A judge may not
14 require a defendant to undergo an orchiectomy as a condition of
15 community supervision. (Code Crim. Proc., Art. 42.12, Sec. 11(f).)

16 SUBCHAPTER H. MANDATORY CONDITIONS GENERALLY

17 Art. 42A.351. EDUCATIONAL SKILL LEVEL. (a) If the judge or
18 jury places a defendant on community supervision, the judge shall
19 require the defendant to demonstrate to the court whether the
20 defendant has an educational skill level that is equal to or greater
21 than the average educational skill level of students who have
22 completed the sixth grade in public schools in this state.

23 (b) If the judge determines that the defendant has not
24 attained the educational skill level described by Subsection (a),
25 the judge shall require as a condition of community supervision
26 that the defendant attain that level of educational skill, unless
27 the judge also determines that the defendant lacks the intellectual

1 capacity or the learning ability to ever achieve that level of
2 educational skill. (Code Crim. Proc., Art. 42.12, Sec. 11(c).)

3 Art. 42A.352. DNA SAMPLE. A judge granting community
4 supervision to a defendant convicted of a felony shall require as a
5 condition of community supervision that the defendant provide a DNA
6 sample under Subchapter G, Chapter 411, Government Code, for the
7 purpose of creating a DNA record of the defendant, unless the
8 defendant has already submitted the required sample under other
9 state law. (Code Crim. Proc., Art. 42.12, Sec. 11(j).)

10 SUBCHAPTER I. CONDITIONS APPLICABLE TO CERTAIN INTOXICATION
11 OFFENSES

12 Art. 42A.401. CONFINEMENT AS CONDITION OF COMMUNITY
13 SUPERVISION FOR CERTAIN INTOXICATION OFFENSES. (a) A judge
14 granting community supervision to a defendant convicted of an
15 offense under Chapter 49, Penal Code, shall require as a condition
16 of community supervision that the defendant submit to:

17 (1) not less than 72 hours of continuous confinement
18 in county jail if the defendant was punished under Section
19 49.09(a), Penal Code;

20 (2) not less than five days of confinement in county
21 jail if the defendant was punished under Section 49.09(a), Penal
22 Code, and was subject to Section 49.09(h), Penal Code;

23 (3) not less than 10 days of confinement in county jail
24 if the defendant was punished under Section 49.09(b), Penal Code;

25 (4) not less than 30 days of confinement in county jail
26 if the defendant was convicted of an offense under Section 49.07,
27 Penal Code; or

1 (5) a term of confinement of not less than 120 days if
2 the defendant was convicted of an offense under Section 49.08,
3 Penal Code.

4 (b) If a sentence of confinement is imposed on the
5 revocation of community supervision, the term of confinement served
6 under Subsection (a) may not be credited toward completion of the
7 sentence imposed. (Code Crim. Proc., Art. 42.12, Secs. 13(a)
8 (part), (b), (e).)

9 Art. 42A.402. DRUG OR ALCOHOL DEPENDENCE EVALUATION AND
10 REHABILITATION. (a) A judge granting community supervision to a
11 defendant convicted of an offense under Chapter 49, Penal Code,
12 shall require as a condition of community supervision that the
13 defendant submit to an evaluation by a supervision officer or by a
14 person, program, or facility approved by the Department of State
15 Health Services for the purpose of having the facility prescribe
16 and carry out a course of conduct necessary for the rehabilitation
17 of the defendant's drug or alcohol dependence condition.

18 (b) If the director of a facility to which a defendant is
19 referred under Subsection (a) determines that the defendant is not
20 making a good faith effort to participate in a program of
21 rehabilitation, the director shall notify the judge who referred
22 the defendant to the facility of that determination.

23 (c) If a judge requires as a condition of community
24 supervision that the defendant participate in a prescribed course
25 of conduct necessary for the rehabilitation of the defendant's drug
26 or alcohol dependence condition, the judge shall require that the
27 defendant pay for all or part of the cost of the rehabilitation

1 based on the defendant's ability to pay. The judge, in the judge's
2 discretion, may credit against the fine assessed the cost paid by
3 the defendant. In determining a defendant's ability to pay the cost
4 of rehabilitation under this subsection, the judge shall consider
5 whether the defendant has insurance coverage that will pay for
6 rehabilitation.

7 (d) A judge who grants community supervision to a defendant
8 convicted of an offense under Sections 49.04-49.08, Penal Code,
9 shall require, if the defendant has not submitted to an evaluation
10 under Article 42A.257 before receiving community supervision, that
11 the defendant submit to the evaluation as a condition of community
12 supervision. If the evaluation indicates to the judge that the
13 defendant needs treatment for drug or alcohol dependency, the judge
14 shall require the defendant to submit to that treatment as a
15 condition of community supervision in a program or facility that:

16 (1) is approved or licensed by the Department of State
17 Health Services; or

18 (2) complies with standards established by the
19 community justice assistance division of the Texas Department of
20 Criminal Justice, after consultation by the division with the
21 Department of State Health Services. (Code Crim. Proc., Art.
22 [42.12](#), Secs. 13(a) (part), (c), (d), (f).)

23 Art. 42A.403. EDUCATIONAL PROGRAM FOR CERTAIN INTOXICATION
24 OFFENDERS; WAIVER OR EXTENSION OF TIME. (a) A judge who places on
25 community supervision a defendant convicted of an offense under
26 Sections 49.04-49.08, Penal Code, shall require as a condition of
27 community supervision that the defendant attend and successfully

1 complete, before the 181st day after the date community supervision
2 is granted, an educational program designed to rehabilitate persons
3 who have driven while intoxicated that is jointly approved by:

- 4 (1) the Department of State Health Services;
- 5 (2) the Department of Public Safety;
- 6 (3) the traffic safety section of the traffic
7 operations division of the Texas Department of Transportation; and
- 8 (4) the community justice assistance division of the
9 Texas Department of Criminal Justice.

10 (b) This article does not apply to a defendant if a jury
11 recommends community supervision for the defendant and also
12 recommends that the defendant's driver's license not be suspended.

13 (c) If the defendant by a motion in writing shows good
14 cause, the judge may:

- 15 (1) waive the educational program requirement; or
- 16 (2) to enable the defendant to successfully complete
17 the program, grant an extension of time that expires not later than
18 the first anniversary of the beginning date of the defendant's
19 community supervision.

20 (d) In determining good cause, the judge may consider but is
21 not limited to:

- 22 (1) the defendant's school and work schedule;
- 23 (2) the defendant's health;
- 24 (3) the distance that the defendant must travel to
25 attend an educational program; and
- 26 (4) the fact that the defendant resides out of state,
27 does not have a valid driver's license, or does not have access to

1 transportation.

2 (e) The judge shall set out the finding of good cause for
3 waiver in the judgment. (Code Crim. Proc., Art. 42.12, Sec. 13(h)
4 (part).)

5 Art. 42A.404. EDUCATIONAL PROGRAM FOR CERTAIN REPEAT
6 INTOXICATION OFFENDERS; WAIVER. (a) The judge shall require a
7 defendant who is punished under Section 49.09, Penal Code, to
8 attend and successfully complete as a condition of community
9 supervision an educational program for repeat offenders that is
10 approved by the Department of State Health Services.

11 (b) The judge may waive the educational program requirement
12 only if the defendant by a motion in writing shows good cause. In
13 determining good cause, the judge may consider:

- 14 (1) the defendant's school and work schedule;
15 (2) the defendant's health;
16 (3) the distance that the defendant must travel to
17 attend an educational program; and
18 (4) whether the defendant resides out of state or does
19 not have access to transportation.

20 (c) The judge shall set out the finding of good cause in the
21 judgment. (Code Crim. Proc., Art. 42.12, Sec. 13(j) (part).)

22 Art. 42A.405. RULES FOR AND ADMINISTRATION OF EDUCATIONAL
23 PROGRAMS. (a) The Health and Human Services Commission shall adopt
24 rules for the educational program under Article 42A.404.

25 (b) The Department of State Health Services shall:

- 26 (1) publish the jointly approved rules for the
27 educational program under Article 42A.403; and

1 (2) monitor, coordinate, and provide training to
2 persons providing the educational programs under this subchapter.

3 (c) The Department of State Health Services is responsible
4 for the administration of the certification of approved educational
5 programs.

6 (d) The Department of State Health Services may charge a
7 nonrefundable application fee for the initial certification of
8 approval or for a renewal of the certification. (Code Crim. Proc.,
9 Art. [42.12](#), Secs. 13(h) (part), (j) (part).)

10 Art. 42A.406. EFFECT OF EDUCATIONAL PROGRAM REQUIREMENTS ON
11 DRIVING RECORD AND LICENSE. (a) If a defendant is required as a
12 condition of community supervision to attend an educational program
13 under Article 42A.403 or 42A.404, or if the court waives the
14 educational program requirement under Article 42A.403, the court
15 clerk shall immediately report that fact to the Department of
16 Public Safety, on a form prescribed by the department, for
17 inclusion in the defendant's driving record. If the court grants an
18 extension of time in which the defendant may complete the
19 educational program under Article 42A.403, the court clerk shall
20 immediately report that fact to the Department of Public Safety on a
21 form prescribed by the department. The clerk's report under this
22 subsection must include the beginning date of the defendant's
23 community supervision.

24 (b) On the defendant's successful completion of an
25 educational program under Article 42A.403 or 42A.404, the
26 defendant's instructor shall give notice to the Department of
27 Public Safety for inclusion in the defendant's driving record and

1 to the community supervision and corrections department. The
2 community supervision and corrections department shall forward the
3 notice to the court clerk for filing.

4 (c) If the Department of Public Safety does not receive
5 notice that a defendant required to complete an educational program
6 has successfully completed the program within the period required
7 by the judge under this subchapter, as shown on department records,
8 the department, as provided by Sections 521.344(e) and (f),
9 Transportation Code, shall:

10 (1) revoke the defendant's driver's license; or

11 (2) prohibit the defendant from obtaining a license.

12 (d) The Department of Public Safety may not reinstate a
13 license revoked under Subsection (c) as the result of an
14 educational program requirement imposed under Article 42A.403
15 unless the defendant whose license was revoked applies to the
16 department for reinstatement of the license and pays to the
17 department a reinstatement fee of \$100. The Department of Public
18 Safety shall remit all fees collected under this subsection to the
19 comptroller for deposit in the general revenue fund. (Code Crim.
20 Proc., Art. 42.12, Secs. 13(h) (part), (j) (part).)

21 Art. 42A.407. SUSPENSION OF DRIVER'S LICENSE. (a) A jury
22 that recommends community supervision for a defendant convicted of
23 an offense under Sections 49.04-49.08, Penal Code, may recommend
24 that any driver's license issued to the defendant under Chapter
25 521, Transportation Code, not be suspended. This subsection does
26 not apply to a defendant punished under Section 49.09(a) or (b),
27 Penal Code, and subject to Section 49.09(h), Penal Code.

1 (b) Notwithstanding Sections 521.344(d)-(i),
2 Transportation Code, if under Article 42A.404 the judge requires a
3 defendant punished under Section 49.09, Penal Code, to attend an
4 educational program as a condition of community supervision, or
5 waives the required attendance for the program, and the defendant
6 has previously been required to attend such an educational program,
7 or the required attendance at the program had been waived, the judge
8 shall order the suspension of the defendant's driver's license for a
9 period determined by the judge according to the following schedule:

10 (1) not less than 90 days or more than one year, if the
11 defendant is convicted under Sections 49.04-49.08, Penal Code;

12 (2) not less than 180 days or more than two years, if
13 the defendant is punished under Section 49.09(a) or (b), Penal
14 Code; or

15 (3) not less than one year or more than two years, if
16 the defendant is convicted of a second or subsequent offense under
17 Sections 49.04-49.08, Penal Code, committed within five years of
18 the date on which the most recent preceding offense was committed.

19 (c) If the Department of Public Safety receives notice that
20 a defendant has been required to attend a subsequent educational
21 program under Article 42A.403 or 42A.404, although the previously
22 required attendance had been waived, but the judge has not ordered a
23 period of suspension, the department shall:

24 (1) suspend the defendant's driver's license; or

25 (2) issue an order prohibiting the defendant from
26 obtaining a license for a period of one year.

27 (d) The judge shall suspend the defendant's driver's license

1 for a period provided under Subchapter O, Chapter 521,
2 Transportation Code, if:

3 (1) a judge revokes the community supervision of the
4 defendant for:

5 (A) an offense under Section 49.04, Penal Code;
6 or

7 (B) an offense involving the operation of a motor
8 vehicle under Section 49.07, Penal Code; and

9 (2) the license has not previously been ordered by the
10 judge to be suspended, or the suspension was previously probated.

11 (e) The suspension of a defendant's driver's license under
12 Subsection (d) shall be reported to the Department of Public Safety
13 as provided under Section 521.347, Transportation Code.

14 (f) Notwithstanding any other provision of this subchapter
15 or other law, a judge who places on community supervision a
16 defendant who was younger than 21 years of age at the time of the
17 offense and was convicted for an offense under Sections
18 49.04-49.08, Penal Code, shall order that the defendant's driver's
19 license be suspended for 90 days beginning on the date the defendant
20 is placed on community supervision. (Code Crim. Proc., Art. 42.12,
21 Secs. 13(g), (k), (l), (m), (n) (part).)

22 Art. 42A.408. USE OF IGNITION INTERLOCK DEVICE. (a) In
23 this article, "ignition interlock device" means a device that uses
24 a deep-lung breath analysis mechanism to make impractical the
25 operation of the motor vehicle if ethyl alcohol is detected in the
26 breath of the operator.

27 (b) The court may require as a condition of community

1 supervision that a defendant placed on community supervision after
2 conviction of an offense under Sections 49.04-49.08, Penal Code,
3 have an ignition interlock device installed on the motor vehicle
4 owned by the defendant or on the vehicle most regularly driven by
5 the defendant and that the defendant not operate any motor vehicle
6 that is not equipped with that device.

7 (c) The court shall require as a condition of community
8 supervision that a defendant described by Subsection (b) have an
9 ignition interlock device installed on the motor vehicle owned by
10 the defendant or on the vehicle most regularly driven by the
11 defendant and that the defendant not operate any motor vehicle
12 unless the vehicle is equipped with that device if:

13 (1) it is shown on the trial of the offense that an
14 analysis of a specimen of the defendant's blood, breath, or urine
15 showed an alcohol concentration level of 0.15 or more at the time
16 the analysis was performed;

17 (2) the defendant is placed on community supervision
18 after conviction of an offense under Sections 49.04-49.06, Penal
19 Code, for which the defendant is punished under Section 49.09(a) or
20 (b), Penal Code; or

21 (3) the court determines under Subsection (d) that the
22 defendant has one or more previous convictions under Sections
23 49.04-49.08, Penal Code.

24 (d) Before placing on community supervision a defendant
25 convicted of an offense under Sections 49.04-49.08, Penal Code, the
26 court shall determine from criminal history record information
27 maintained by the Department of Public Safety whether the defendant

1 has one or more previous convictions under any of those sections. A
2 previous conviction may not be used for purposes of restricting a
3 defendant to the operation of a motor vehicle equipped with an
4 ignition interlock device under Subsection (c) if:

5 (1) the previous conviction was a final conviction
6 under Section 49.04, 49.045, 49.05, 49.06, 49.07, or 49.08, Penal
7 Code, and was for an offense committed before the beginning of the
8 10-year period preceding the date of the instant offense for which
9 the defendant was convicted and placed on community supervision;
10 and

11 (2) the defendant has not been convicted of an offense
12 under Section 49.04, 49.045, 49.05, 49.06, 49.07, or 49.08, Penal
13 Code, committed within the 10-year period preceding the date of the
14 instant offense for which the defendant was convicted and placed on
15 community supervision.

16 (e) Notwithstanding any other provision of this subchapter
17 or other law, a judge who places on community supervision a
18 defendant who was younger than 21 years of age at the time of the
19 offense and was convicted for an offense under Sections
20 49.04-49.08, Penal Code, shall require as a condition of community
21 supervision that the defendant not operate any motor vehicle unless
22 the vehicle is equipped with an ignition interlock device.

23 (f) The court shall require the defendant to obtain an
24 ignition interlock device at the defendant's own cost before the
25 30th day after the date of conviction unless the court finds that to
26 do so would not be in the best interest of justice and enters its
27 findings on record. The court shall require the defendant to

1 provide evidence to the court within the 30-day period that the
2 device has been installed on the appropriate vehicle and order the
3 device to remain installed on that vehicle for a period the length
4 of which is not less than 50 percent of the supervision period. If
5 the court determines the defendant is unable to pay for the ignition
6 interlock device, the court may impose a reasonable payment
7 schedule not to exceed twice the length of the period of the court's
8 order.

9 (g) The Department of Public Safety shall approve ignition
10 interlock devices for use under this article. Section 521.247,
11 Transportation Code, applies to the approval of a device under this
12 article and the consequences of that approval.

13 (h) Notwithstanding any other provision of this subchapter,
14 if a defendant is required to operate a motor vehicle in the course
15 and scope of the defendant's employment and if the vehicle is owned
16 by the employer, the defendant may operate that vehicle without
17 installation of an approved ignition interlock device if the
18 employer has been notified of that driving privilege restriction
19 and if proof of that notification is with the vehicle. The
20 employment exemption does not apply if the business entity that
21 owns the vehicle is owned or controlled by the defendant. (Code
22 Crim. Proc., Art. 42.12, Secs. 13(i) (part), (n) (part).)

23 Art. 42A.409. COMMUNITY SUPERVISION FOR ENHANCED PUBLIC
24 INTOXICATION OFFENSE. (a) On conviction of an offense punishable
25 as a Class C misdemeanor under Section 49.02, Penal Code, for which
26 punishment is enhanced under Section 12.43(c), Penal Code, based on
27 previous convictions under Section 49.02 or 42.01, Penal Code, the

1 court may suspend the imposition of the sentence and place the
2 defendant on community supervision if the court finds that the
3 defendant would benefit from community supervision and enters its
4 finding on the record. The judge may suspend in whole or in part the
5 imposition of any fine imposed on conviction.

6 (b) All provisions of this chapter applying to a defendant
7 placed on community supervision for a misdemeanor apply to a
8 defendant placed on community supervision under Subsection (a),
9 except that the court shall require the defendant as a condition of
10 community supervision to:

11 (1) submit to diagnostic testing for addiction to
12 alcohol or a controlled substance or drug;

13 (2) submit to a psychological assessment;

14 (3) if indicated as necessary by testing and
15 assessment, participate in an alcohol or drug abuse treatment or
16 education program; and

17 (4) pay the costs of testing, assessment, and
18 treatment or education, either directly or as a court cost. (Code
19 Crim. Proc., Art. [42.12](#), Sec. 15A.)

20 SUBCHAPTER J. CONDITIONS APPLICABLE TO SEX OFFENDERS

21 Art. 42A.451. SEX OFFENDER REGISTRATION; DNA SAMPLE. A
22 judge granting community supervision to a defendant required to
23 register as a sex offender under Chapter 62 shall require that the
24 defendant, as a condition of community supervision:

25 (1) register under that chapter; and

26 (2) submit a DNA sample to the Department of Public
27 Safety under Subchapter G, Chapter 411, Government Code, for the

1 purpose of creating a DNA record of the defendant, unless the
2 defendant has already submitted the required sample under other
3 state law. (Code Crim. Proc., Art. [42.12](#), Sec. 11(e).)

4 Art. 42A.452. TREATMENT, SPECIALIZED SUPERVISION, OR
5 REHABILITATION. A judge who grants community supervision to a sex
6 offender evaluated under Article 42A.258 may require the sex
7 offender as a condition of community supervision to submit to
8 treatment, specialized supervision, or rehabilitation according to
9 offense-specific standards of practice adopted by the Council on
10 Sex Offender Treatment. On a finding that the defendant is
11 financially able to make payment, the judge shall require the
12 defendant to pay all or part of the reasonable and necessary costs
13 of the treatment, supervision, or rehabilitation. (Code Crim.
14 Proc., Art. [42.12](#), Sec. 11(i).)

15 Art. 42A.453. CHILD SAFETY ZONE. (a) In this article,
16 "playground," "premises," "school," "video arcade facility," and
17 "youth center" have the meanings assigned by Section [481.134](#),
18 Health and Safety Code.

19 (b) This article applies to a defendant placed on community
20 supervision for an offense under:

21 (1) Section [20.04](#)(a)(4), Penal Code, if the defendant
22 committed the offense with the intent to violate or abuse the victim
23 sexually;

24 (2) Section [20A.02](#), Penal Code, if the defendant:

25 (A) trafficked the victim with the intent or
26 knowledge that the victim would engage in sexual conduct, as
27 defined by Section [43.25](#), Penal Code; or

1 (B) benefited from participating in a venture
2 that involved a trafficked victim engaging in sexual conduct, as
3 defined by Section 43.25, Penal Code;

4 (3) Section 21.08, 21.11, 22.011, 22.021, or 25.02,
5 Penal Code;

6 (4) Section 30.02, Penal Code, punishable under
7 Subsection (d) of that section, if the defendant committed the
8 offense with the intent to commit a felony listed in Subdivision (1)
9 or (3); or

10 (5) Section 43.05(a)(2), 43.25, or 43.26, Penal Code.

11 (c) If a judge grants community supervision to a defendant
12 described by Subsection (b) and the judge determines that a child as
13 defined by Section 22.011(c), Penal Code, was the victim of the
14 offense, the judge shall establish a child safety zone applicable
15 to the defendant by requiring as a condition of community
16 supervision that the defendant:

17 (1) not:

18 (A) supervise or participate in any program that:

19 (i) includes as participants or recipients
20 persons who are 17 years of age or younger; and

21 (ii) regularly provides athletic, civic, or
22 cultural activities; or

23 (B) go in, on, or within 1,000 feet of a premises
24 where children commonly gather, including a school, day-care
25 facility, playground, public or private youth center, public
26 swimming pool, or video arcade facility; and

27 (2) attend psychological counseling sessions for sex

1 offenders with an individual or organization that provides sex
2 offender treatment or counseling as specified or approved by the
3 judge or the defendant's supervision officer.

4 (d) Notwithstanding Subsection (c)(1), a judge is not
5 required to impose the conditions described by Subsection (c)(1) if
6 the defendant is a student at a primary or secondary school.

7 (e) At any time after the imposition of a condition under
8 Subsection (c)(1), the defendant may request the court to modify
9 the child safety zone applicable to the defendant because the zone
10 as created by the court:

11 (1) interferes with the defendant's ability to attend
12 school or hold a job and consequently constitutes an undue hardship
13 for the defendant; or

14 (2) is broader than is necessary to protect the
15 public, given the nature and circumstances of the offense.

16 (f) A supervision officer for a defendant described by
17 Subsection (b) may permit the defendant to enter on an
18 event-by-event basis into the child safety zone from which the
19 defendant is otherwise prohibited from entering if:

20 (1) the defendant has served at least two years of the
21 period of community supervision;

22 (2) the defendant enters the zone as part of a program
23 to reunite with the defendant's family;

24 (3) the defendant presents to the supervision officer
25 a written proposal specifying where the defendant intends to go
26 within the zone, why and with whom the defendant is going, and how
27 the defendant intends to cope with any stressful situations that

1 occur;

2 (4) the sex offender treatment provider treating the
3 defendant agrees with the supervision officer that the defendant
4 should be allowed to attend the event; and

5 (5) the supervision officer and the treatment provider
6 agree on a chaperon to accompany the defendant and the chaperon
7 agrees to perform that duty.

8 (g) Article 42A.051(b) does not prohibit a supervision
9 officer from modifying a condition of community supervision by
10 permitting a defendant to enter a child safety zone under
11 Subsection (f).

12 (h) Notwithstanding Subsection (c)(1)(B), a requirement
13 that a defendant not go in, on, or within 1,000 feet of certain
14 premises does not apply to a defendant while the defendant is in or
15 going immediately to or from a:

16 (1) community supervision and corrections department
17 office;

18 (2) premises at which the defendant is participating
19 in a program or activity required as a condition of community
20 supervision;

21 (3) residential facility in which the defendant is
22 required to reside as a condition of community supervision, if the
23 facility was in operation as a residence for defendants on
24 community supervision on June 1, 2003; or

25 (4) private residence at which the defendant is
26 required to reside as a condition of community supervision.

27 (i) A supervision officer who under Subsection (c)(2)

1 specifies a sex offender treatment provider to provide counseling
2 to a defendant shall:

3 (1) contact the provider before the defendant is
4 released;

5 (2) establish the date, time, and place of the first
6 session between the defendant and the provider; and

7 (3) request the provider to immediately notify the
8 supervision officer if the defendant fails to attend the first
9 session or any subsequent scheduled session. (Code Crim. Proc.,
10 Art. [42.12](#), Sec. 13B.)

11 Art. 42A.454. CERTAIN INTERNET ACTIVITY PROHIBITED. (a)
12 This article applies only to a defendant who is required to register
13 as a sex offender under Chapter 62, by court order or otherwise,
14 and:

15 (1) is convicted of or receives a grant of deferred
16 adjudication community supervision for a violation of Section
17 [21.11](#), [22.011](#)(a)(2), [22.021](#)(a)(1)(B), [33.021](#), or [43.25](#), Penal
18 Code;

19 (2) used the Internet or any other type of electronic
20 device used for Internet access to commit the offense or engage in
21 the conduct for which the person is required to register under
22 Chapter 62; or

23 (3) is assigned a numeric risk level of three based on
24 an assessment conducted under Article 62.007.

25 (b) If the court grants community supervision to a defendant
26 described by Subsection (a), the court as a condition of community
27 supervision shall prohibit the defendant from using the Internet

1 to:

2 (1) access material that is obscene, as defined by
3 Section 43.21, Penal Code;

4 (2) access a commercial social networking site, as
5 defined by Article 62.0061(f);

6 (3) communicate with any individual concerning sexual
7 relations with an individual who is younger than 17 years of age; or

8 (4) communicate with another individual the defendant
9 knows is younger than 17 years of age.

10 (c) The court may modify at any time the condition described
11 by Subsection (b)(4) if:

12 (1) the condition interferes with the defendant's
13 ability to attend school or become or remain employed and
14 consequently constitutes an undue hardship for the defendant; or

15 (2) the defendant is the parent or guardian of an
16 individual who is younger than 17 years of age and the defendant is
17 not otherwise prohibited from communicating with that individual.
18 (Code Crim. Proc., Art. 42.12, Sec. 13G.)

19 Art. 42A.455. PAYMENT TO CHILDREN'S ADVOCACY CENTER. A
20 judge who grants community supervision to a defendant charged with
21 or convicted of an offense under Section 21.11 or 22.011(a)(2),
22 Penal Code, may require the defendant to make one payment in an
23 amount not to exceed \$50 to a children's advocacy center
24 established under Subchapter E, Chapter 264, Family Code. (Code
25 Crim. Proc., Art. 42.12, Sec. 11(g).)

SUBCHAPTER K. CONDITIONS APPLICABLE TO CERTAIN OTHER OFFENSES AND
OFFENDERS

Art. 42A.501. COMMUNITY SUPERVISION FOR OFFENSE COMMITTED
BECAUSE OF BIAS OR PREJUDICE. (a) A court granting community
supervision to a defendant convicted of an offense for which the
court has made an affirmative finding under Article 42.014 shall
require as a term of community supervision that the defendant:

(1) serve a term of not more than one year imprisonment
in the Texas Department of Criminal Justice if the offense is a
felony other than an offense under Section 19.02, Penal Code; or

(2) serve a term of not more than 90 days confinement
in jail if the offense is a misdemeanor.

(b) The court may not grant community supervision on its own
motion or on the recommendation of the jury to a defendant convicted
of an offense for which the court has made an affirmative finding
under Article 42.014 if:

(1) the offense for which the court has made the
affirmative finding is an offense under Section 19.02, Penal Code;
or

(2) the defendant has been previously convicted of an
offense for which the court made an affirmative finding under
Article 42.014. (Code Crim. Proc., Art. 42.12, Sec. 13A.)

Art. 42A.502. COMMUNITY SUPERVISION FOR CERTAIN VIOLENT
OFFENSES; CHILD SAFETY ZONE. (a) In this article, "playground,"
"premises," "school," "video arcade facility," and "youth center"
have the meanings assigned by Section 481.134, Health and Safety
Code.

1 (b) A judge granting community supervision to a defendant
2 convicted of an offense listed in Article 42A.054(a) or for which
3 the judgment contains an affirmative finding under Article
4 42A.054(c) or (d) may establish a child safety zone applicable to
5 the defendant, if the nature of the offense for which the defendant
6 is convicted warrants the establishment of a child safety zone, by
7 requiring as a condition of community supervision that the
8 defendant not:

9 (1) supervise or participate in any program that:

10 (A) includes as participants or recipients
11 persons who are 17 years of age or younger; and

12 (B) regularly provides athletic, civic, or
13 cultural activities; or

14 (2) go in or on, or within a distance specified by the
15 judge of, a premises where children commonly gather, including a
16 school, day-care facility, playground, public or private youth
17 center, public swimming pool, or video arcade facility.

18 (c) At any time after the imposition of a condition under
19 Subsection (b), the defendant may request the judge to modify the
20 child safety zone applicable to the defendant because the zone as
21 created by the judge:

22 (1) interferes with the defendant's ability to attend
23 school or hold a job and consequently constitutes an undue hardship
24 for the defendant; or

25 (2) is broader than is necessary to protect the
26 public, given the nature and circumstances of the offense.

27 (d) This article does not apply to a defendant described by

Article 42A.453. (Code Crim. Proc., Art. 42.12, Sec. 13D.)

Art. 42A.503. COMMUNITY SUPERVISION FOR CERTAIN CHILD ABUSE OFFENSES; PROHIBITED CONTACT WITH VICTIM. (a) If the court grants community supervision to a defendant convicted of an offense described by Article 17.41(a), the court may require as a condition of community supervision that the defendant not:

(1) directly communicate with the victim of the offense; or

(2) go near a residence, school, or other location, as specifically described in the copy of terms and conditions, that is frequented by the victim.

(b) In imposing the condition under Subsection (a), the court may grant the defendant supervised access to the victim.

(c) To the extent that a condition imposed under this article conflicts with an existing court order granting possession of or access to a child, the condition imposed under this article prevails for a period specified by the court granting community supervision, not to exceed 90 days. (Code Crim. Proc., Art. 42.12, Sec. 14(a), as amended Acts 73rd Leg., R.S., Ch. 165 (H.B. 119), Acts 76th Leg., R.S., Ch. 910 (H.B. 2187), Acts 78th Leg., R.S., Ch. 353 (S.B. 1054), Acts 80th Leg., R.S., Ch. 113 (S.B. 44).)

Art. 42A.504. COMMUNITY SUPERVISION FOR CERTAIN OFFENSES INVOLVING FAMILY VIOLENCE; SPECIAL CONDITIONS. (a) In this article:

(1) "Family violence" has the meaning assigned by Section 71.004, Family Code.

(2) "Family violence center" has the meaning assigned

1 by Section 51.002, Human Resources Code.

2 (b) If a judge grants community supervision to a defendant
3 convicted of an offense under Title 5, Penal Code, that the court
4 determines involves family violence, the judge shall require the
5 defendant to pay \$100 to a family violence center that:

6 (1) receives state or federal funds; and

7 (2) serves the county in which the court is located.

8 (c) If the court grants community supervision to a defendant
9 convicted of an offense involving family violence, the court may
10 require the defendant, at the direction of the supervision officer,
11 to:

12 (1) attend a battering intervention and prevention
13 program or counsel with a provider of battering intervention and
14 prevention services if the program or provider has been accredited
15 under Section 4A, Article 42.141, as conforming to program
16 guidelines under that article; or

17 (2) if the referral option under Subdivision (1) is
18 not available, attend counseling sessions for the elimination of
19 violent behavior with a licensed counselor, social worker, or other
20 professional who has completed family violence intervention
21 training that the community justice assistance division of the
22 Texas Department of Criminal Justice has approved, after
23 consultation with the licensing authorities described by Chapters
24 152, 501, 502, 503, and 505, Occupations Code, and experts in the
25 field of family violence.

26 (d) If the court requires the defendant to attend counseling
27 or a program, the court shall require the defendant to begin

1 attendance not later than the 60th day after the date the court
2 grants community supervision, notify the supervision officer of the
3 name, address, and phone number of the counselor or program, and
4 report the defendant's attendance to the supervision officer. The
5 court shall require the defendant to pay all the reasonable costs of
6 the counseling sessions or attendance in the program on a finding
7 that the defendant is financially able to make payment. If the
8 court finds the defendant is unable to make payment, the court shall
9 make the counseling sessions or enrollment in the program available
10 without cost to the defendant. The court may also require the
11 defendant to pay all or a part of the reasonable costs incurred by
12 the victim for counseling made necessary by the offense, on a
13 finding that the defendant is financially able to make payment. The
14 court may order the defendant to make payments under this
15 subsection for a period not to exceed one year after the date on
16 which the order is entered. (Code Crim. Proc., Art. [42.12](#), Sec.
17 11(h); Secs. 14(c), (c-1), (c-2), as amended Acts 73rd Leg., R.S.,
18 Ch. 165 (H.B. 119), Acts 76th Leg., R.S., Ch. 910 (H.B. 2187), Acts
19 78th Leg., R.S., Ch. 353 (S.B. 1054), Acts 80th Leg., R.S., Ch. 113
20 (S.B. 44).)

21 Art. 42A.505. COMMUNITY SUPERVISION FOR STALKING OFFENSE;
22 PROHIBITED CONTACT WITH VICTIM. (a) If the court grants community
23 supervision to a defendant convicted of an offense under Section
24 [42.072](#), Penal Code, the court may require as a condition of
25 community supervision that the defendant not:

26 (1) communicate directly or indirectly with the
27 victim; or

1 (2) go to or near:

2 (A) the residence, place of employment, or
3 business of the victim; or

4 (B) a school, day-care facility, or similar
5 facility where a dependent child of the victim is in attendance.

6 (b) If the court requires the prohibition contained in
7 Subsection (a)(2) as a condition of community supervision, the
8 court shall specifically describe the prohibited locations and the
9 minimum distances, if any, that the defendant must maintain from
10 the locations. (Code Crim. Proc., Art. [42.12](#), Sec. 11(1).)

11 Art. 42A.506. COMMUNITY SUPERVISION FOR DEFENDANT WITH
12 MENTAL IMPAIRMENT. If the judge places a defendant on community
13 supervision and the defendant is determined to be a person with
14 mental illness or a person with an intellectual disability, as
15 provided by Article 16.22 or Chapter 46B or in a psychological
16 evaluation conducted under Article 42A.253(a)(6), the judge may
17 require the defendant as a condition of community supervision to
18 submit to outpatient or inpatient mental health or intellectual
19 disability treatment if:

20 (1) the defendant's:

21 (A) mental impairment is chronic in nature; or

22 (B) ability to function independently will
23 continue to deteriorate if the defendant does not receive mental
24 health or intellectual disability services; and

25 (2) the judge determines, in consultation with a local
26 mental health or intellectual disability services provider, that
27 mental health or intellectual disability services, as appropriate,

are available for the defendant through:

(A) the Department of State Health Services or the Department of Aging and Disability Services under Section 534.053, Health and Safety Code; or

(B) another mental health or intellectual disability services provider. (Code Crim. Proc., Art. 42.12, Sec. 11(d).)

Art. 42A.507. COMMUNITY SUPERVISION FOR CERTAIN DEFENDANTS IDENTIFIED AS MEMBERS OF CRIMINAL STREET GANGS; ELECTRONIC MONITORING. (a) This article applies only to a defendant who:

(1) is identified as a member of a criminal street gang in an intelligence database established under Chapter 61; and

(2) has two or more times been previously convicted of, or received a grant of deferred adjudication community supervision or another functionally equivalent form of community supervision or probation for, a felony offense under the laws of this state, another state, or the United States.

(b) A court granting community supervision to a defendant described by Subsection (a) may, on the defendant's conviction of a felony offense, require as a condition of community supervision that the defendant submit to tracking under an electronic monitoring service or other appropriate technological service designed to track a person's location. (Code Crim. Proc., Art. 42.12, Sec. 13E.)

Art. 42A.508. COMMUNITY SUPERVISION FOR CERTAIN ORGANIZED CRIME OFFENSES; RESTRICTIONS ON OPERATION OF MOTOR VEHICLE. A court granting community supervision to a defendant convicted of an

1 offense under Chapter 71, Penal Code, may impose as a condition of
2 community supervision restrictions on the defendant's operation of
3 a motor vehicle, including specifying:

4 (1) hours during which the defendant may not operate a
5 motor vehicle; and

6 (2) locations at or in which the defendant may not
7 operate a motor vehicle. (Code Crim. Proc., Art. 42.12, Sec. 13F.)

8 Art. 42A.509. COMMUNITY SUPERVISION FOR GRAFFITI OFFENSE.

9 A court granting community supervision to a defendant convicted of
10 an offense under Section 28.08, Penal Code, shall require as a
11 condition of community supervision that the defendant perform:

12 (1) at least 15 hours of community service if the
13 amount of pecuniary loss resulting from the commission of the
14 offense is \$50 or more but less than \$500; or

15 (2) at least 30 hours of community service if the
16 amount of pecuniary loss resulting from the commission of the
17 offense is \$500 or more. (Code Crim. Proc., Art. 42.12, Sec.
18 11(k).)

19 Art. 42A.510. COMMUNITY SUPERVISION FOR ENHANCED
20 DISORDERLY CONDUCT OFFENSE. (a) On conviction of an offense
21 punishable as a Class C misdemeanor under Section 42.01, Penal
22 Code, for which punishment is enhanced under Section 12.43(c),
23 Penal Code, based on previous convictions under Section 42.01 or
24 49.02, Penal Code, the court may suspend the imposition of the
25 sentence and place the defendant on community supervision if the
26 court finds that the defendant would benefit from community
27 supervision and enters its finding on the record. The judge may

1 suspend in whole or in part the imposition of any fine imposed on
2 conviction.

3 (b) All provisions of this chapter applying to a defendant
4 placed on community supervision for a misdemeanor apply to a
5 defendant placed on community supervision under this article,
6 except that the court shall require the defendant as a condition of
7 community supervision to:

8 (1) submit to diagnostic testing for addiction to
9 alcohol or a controlled substance or drug;

10 (2) submit to a psychological assessment;

11 (3) if indicated as necessary by testing and
12 assessment, participate in an alcohol or drug abuse treatment or
13 education program; and

14 (4) pay the costs of testing, assessment, and
15 treatment or education, either directly or as a court cost. (Code
16 Crim. Proc., Art. [42.12](#), Sec. 15A.)

17 Art. 42A.511. COMMUNITY SUPERVISION FOR CERTAIN OFFENSES
18 INVOLVING ANIMALS. If a judge grants community supervision to a
19 defendant convicted of an offense under Section [42.09](#), [42.091](#),
20 [42.092](#), or [42.10](#), Penal Code, the judge may require the defendant to
21 attend a responsible pet owner course sponsored by a municipal
22 animal shelter, as defined by Section [823.001](#), Health and Safety
23 Code, that:

24 (1) receives federal, state, county, or municipal
25 funds; and

26 (2) serves the county in which the court is located.
27 (Code Crim. Proc., Art. [42.12](#), Sec. 11(m).)

1 Art. 42A.512. COMMUNITY SUPERVISION FOR ELECTRONIC
2 TRANSMISSION OF CERTAIN VISUAL MATERIAL. (a) In this article,
3 "parent" means a natural or adoptive parent, managing or possessory
4 conservator, or legal guardian. The term does not include a parent
5 whose parental rights have been terminated.

6 (b) If a judge grants community supervision to a defendant
7 who is convicted of or charged with an offense under Section 43.261,
8 Penal Code, the judge may require as a condition of community
9 supervision that the defendant attend and successfully complete an
10 educational program described by Section 37.218, Education Code, or
11 another equivalent educational program.

12 (c) The court shall require the defendant or the defendant's
13 parent to pay the cost of attending an educational program under
14 Subsection (b) if the court determines that the defendant or the
15 defendant's parent is financially able to make payment. (Code
16 Crim. Proc., Art. 42.12, Sec. 13H.)

17 Art. 42A.513. COMMUNITY SUPERVISION FOR MAKING FIREARM
18 ACCESSIBLE TO CHILD. (a) A court granting community supervision to
19 a defendant convicted of an offense under Section 46.13, Penal
20 Code, may require as a condition of community supervision that the
21 defendant:

22 (1) provide an appropriate public service activity
23 designated by the court; or

24 (2) attend a firearms safety course that meets or
25 exceeds the requirements set by the National Rifle Association as
26 of January 1, 1995, for a firearms safety course that requires not
27 more than 17 hours of instruction.

1 (b) The court shall require the defendant to pay the cost of
2 attending the firearms safety course under Subsection (a)(2).
3 (Code Crim. Proc., Art. 42.12, Sec. 13C.)

4 SUBCHAPTER L. STATE JAIL FELONY COMMUNITY SUPERVISION

5 Art. 42A.551. PLACEMENT ON COMMUNITY SUPERVISION;
6 EXECUTION OF SENTENCE. (a) Except as otherwise provided by
7 Subsection (b) or (c), on conviction of a state jail felony under
8 Section 481.115(b), 481.1151(b)(1), 481.116(b), 481.1161(b)(3),
9 481.121(b)(3), or 481.129(g)(1), Health and Safety Code, that is
10 punished under Section 12.35(a), Penal Code, the judge shall
11 suspend the imposition of the sentence and place the defendant on
12 community supervision.

13 (b) If the defendant has been previously convicted of a
14 felony, other than a felony punished under Section 12.44(a), Penal
15 Code, or if the conviction resulted from an adjudication of the
16 guilt of a defendant previously placed on deferred adjudication
17 community supervision for the offense, the judge may:

18 (1) suspend the imposition of the sentence and place
19 the defendant on community supervision; or

20 (2) order the sentence to be executed.

21 (c) Subsection (a) does not apply to a defendant who:

22 (1) under Section 481.1151(b)(1), Health and Safety
23 Code, possessed more than five abuse units of the controlled
24 substance;

25 (2) under Section 481.1161(b)(3), Health and Safety
26 Code, possessed more than one pound, by aggregate weight, including
27 adulterants or dilutants, of the controlled substance; or

1 (3) under Section 481.121(b)(3), Health and Safety
2 Code, possessed more than one pound of marihuana.

3 (d) On conviction of a state jail felony punished under
4 Section 12.35(a), Penal Code, other than a state jail felony listed
5 in Subsection (a), subject to Subsection (e), the judge may:

6 (1) suspend the imposition of the sentence and place
7 the defendant on community supervision; or

8 (2) order the sentence to be executed:

9 (A) in whole; or

10 (B) in part, with a period of community
11 supervision to begin immediately on release of the defendant from
12 confinement.

13 (e) In any case in which the jury assesses punishment, the
14 judge must follow the recommendations of the jury in suspending the
15 imposition of a sentence or ordering a sentence to be executed. If
16 a jury assessing punishment does not recommend community
17 supervision, the judge must order the sentence to be executed in
18 whole.

19 (f) A defendant is considered to be finally convicted if the
20 judge orders the sentence to be executed under Subsection (d)(2),
21 regardless of whether the judge orders the sentence to be executed
22 in whole or only in part.

23 (g) The judge may suspend in whole or in part the imposition
24 of any fine imposed on conviction. (Code Crim. Proc., Art. 42.12,
25 Sec. 15(a).)

26 Art. 42A.552. REVIEW OF PRESENTENCE REPORT. Before
27 imposing a sentence in a state jail felony case in which the judge

assesses punishment, the judge shall:

(1) review the presentence report prepared for the defendant under Subchapter F; and

(2) determine whether the best interests of justice require the judge to:

(A) suspend the imposition of the sentence and place the defendant on community supervision; or

(B) order the sentence to be executed in whole or in part as provided by Article 42A.551(d). (Code Crim. Proc., Art. 42.12, Sec. 15(c)(1) (part).)

Art. 42A.553. MINIMUM AND MAXIMUM PERIODS OF COMMUNITY SUPERVISION; EXTENSION. (a) The minimum period of community supervision a judge may impose under this subchapter is two years. The maximum period of community supervision a judge may impose under this subchapter is five years, except that the judge may extend the maximum period of community supervision under this subchapter to not more than 10 years.

(b) A judge may extend a period of community supervision under this subchapter:

(1) at any time during the period of community supervision; or

(2) before the first anniversary of the date the period of community supervision ends, if a motion for revocation of community supervision is filed before the date the period of community supervision ends. (Code Crim. Proc., Art. 42.12, Sec. 15(b).)

Art. 42A.554. CONDITIONS OF COMMUNITY SUPERVISION. (a) A

1 judge assessing punishment in a state jail felony case may impose
2 any condition of community supervision on the defendant that the
3 judge could impose on a defendant placed on supervision for an
4 offense other than a state jail felony.

5 (b) If the judge suspends the execution of the sentence or
6 orders the execution of the sentence only in part as provided by
7 Article 42A.551(d), the judge shall impose conditions of community
8 supervision consistent with the recommendations contained in the
9 presentence report prepared for the defendant under Subchapter F.

10 (c) Except as otherwise provided by this subsection, a judge
11 who places a defendant on community supervision for an offense
12 listed in Article 42A.551(a) shall require the defendant to comply
13 with substance abuse treatment conditions that are consistent with
14 standards adopted by the Texas Board of Criminal Justice under
15 Section 509.015, Government Code. A judge is not required to impose
16 the substance abuse treatment conditions if the judge makes an
17 affirmative finding that the defendant does not require imposition
18 of the conditions to successfully complete the period of community
19 supervision. (Code Crim. Proc., Art. 42.12, Secs. 15(c)(1) (part),
20 (2), (3).)

21 Art. 42A.555. CONFINEMENT AS A CONDITION OF COMMUNITY
22 SUPERVISION. (a) A judge assessing punishment in a state jail
23 felony case may impose as a condition of community supervision that
24 a defendant submit at the beginning of the period of community
25 supervision to a term of confinement in a state jail felony facility
26 for a term of:

27 (1) not less than 90 days or more than 180 days; or

1 (2) not less than 90 days or more than one year, if the
2 defendant is convicted of an offense punishable as a state jail
3 felony under Section 481.112, 481.1121, 481.113, or 481.120, Health
4 and Safety Code.

5 (b) A judge may not require a defendant to submit to both the
6 term of confinement authorized by this article and a term of
7 confinement under Subchapter C or Article 42A.302. (Code Crim.
8 Proc., Art. 42.12, Secs. 15(c)(1) (part), (d) (part).)

9 Art. 42A.556. SANCTIONS IMPOSED ON MODIFICATION OF
10 COMMUNITY SUPERVISION. If in a state jail felony case a defendant
11 violates a condition of community supervision imposed under this
12 chapter and after a hearing under Article 42A.751(d) the judge
13 modifies the defendant's community supervision, the judge may
14 impose any sanction permitted by Article 42A.752, except that if
15 the judge requires a defendant to serve a term of confinement in a
16 state jail felony facility as a modification of the defendant's
17 community supervision, the minimum term of confinement is 90 days
18 and the maximum term of confinement is 180 days. (Code Crim. Proc.,
19 Art. 42.12, Sec. 15(e).)

20 Art. 42A.557. REPORT BY DIRECTOR OF FACILITY. The facility
21 director of a state jail felony facility shall report to a judge who
22 orders a defendant confined in the facility as a condition of
23 community supervision or as a sanction imposed on a modification of
24 community supervision under Article 42A.556 not less than every 90
25 days on the defendant's programmatic progress, conduct, and
26 conformity to the rules of the facility. (Code Crim. Proc., Art.
27 42.12, Sec. 15(g).)

1 Art. 42A.558. REVOCATION; OPTIONS REGARDING EXECUTION OF
2 SENTENCE. (a) If in a state jail felony case a defendant violates a
3 condition of community supervision imposed under this chapter and
4 after a hearing under Article 42A.751(d) the judge revokes the
5 defendant's community supervision, the judge shall dispose of the
6 case in the manner provided by Article 42A.755.

7 (b) The court retains jurisdiction over the defendant for
8 the period during which the defendant is confined in a state jail
9 felony facility. At any time after the 75th day after the date the
10 defendant is received into the custody of a state jail felony
11 facility, the judge on the judge's own motion, on the motion of the
12 attorney representing the state, or on the motion of the defendant
13 may suspend further execution of the sentence and place the
14 defendant on community supervision under the conditions of this
15 subchapter.

16 (c) When the defendant or the attorney representing the
17 state files a written motion requesting the judge to suspend
18 further execution of the sentence and place the defendant on
19 community supervision, the clerk of the court, if requested to do so
20 by the judge, shall request a copy of the defendant's record while
21 confined from the facility director of the state jail felony
22 facility in which the defendant is confined or, if the defendant is
23 confined in county jail, from the sheriff. On receipt of the
24 request, the facility director or the sheriff shall forward a copy
25 of the record to the judge as soon as possible.

26 (d) When the defendant files a written motion requesting the
27 judge to suspend further execution of the sentence and place the

1 defendant on community supervision, the defendant shall
2 immediately deliver or cause to be delivered a copy of the motion to
3 the office of the attorney representing the state. The judge may
4 deny the motion without holding a hearing but may not grant the
5 motion without holding a hearing and providing the attorney
6 representing the state and the defendant the opportunity to present
7 evidence on the motion. (Code Crim. Proc., Art. [42.12](#), Sec. 15(f).)

8 Art. 42A.559. CREDITS FOR TIME SERVED. (a) For purposes of
9 this article, "diligent participation" includes:

10 (1) successful completion of an educational,
11 vocational, or treatment program;

12 (2) progress toward successful completion of an
13 educational, vocational, or treatment program that was interrupted
14 by illness, injury, or another circumstance outside the control of
15 the defendant; and

16 (3) active involvement in a work program.

17 (b) A defendant confined in a state jail felony facility
18 does not earn good conduct time for time served in the facility but
19 may be awarded diligent participation credit in accordance with
20 Subsection (f).

21 (c) A judge:

22 (1) may credit against any time a defendant is
23 required to serve in a state jail felony facility time served in a
24 county jail from the time of the defendant's arrest and confinement
25 until sentencing by the trial court; and

26 (2) shall credit against any time a defendant is
27 required to serve in a state jail felony facility time served before

1 sentencing in a substance abuse felony punishment facility operated
2 by the Texas Department of Criminal Justice under Section 493.009,
3 Government Code, or other court-ordered residential program or
4 facility as a condition of deferred adjudication community
5 supervision, but only if the defendant successfully completes the
6 treatment program in that facility.

7 (d) A judge shall credit against any time a defendant is
8 subsequently required to serve in a state jail felony facility
9 after revocation of community supervision time served after
10 sentencing:

11 (1) in a state jail felony facility; or

12 (2) in a substance abuse felony punishment facility
13 operated by the Texas Department of Criminal Justice under Section
14 493.009, Government Code, or other court-ordered residential
15 program or facility if the defendant successfully completes the
16 treatment program in that facility.

17 (e) For a defendant who has participated in an educational,
18 vocational, treatment, or work program while confined in a state
19 jail felony facility, not later than the 30th day before the date on
20 which the defendant will have served 80 percent of the defendant's
21 sentence, the Texas Department of Criminal Justice shall report to
22 the sentencing court the number of days during which the defendant
23 diligently participated in any educational, vocational, treatment,
24 or work program. The contents of a report submitted under this
25 subsection are not subject to challenge by a defendant.

26 (f) A judge, based on the report received under Subsection
27 (e), may credit against any time a defendant is required to serve in

1 a state jail felony facility additional time for each day the
2 defendant actually served in the facility while diligently
3 participating in an educational, vocational, treatment, or work
4 program. A time credit under this subsection may not exceed
5 one-fifth of the amount of time the defendant is originally
6 required to serve in the facility. A defendant may not be awarded a
7 time credit under this subsection for any period during which the
8 defendant is subject to disciplinary action. A time credit under
9 this subsection is a privilege and not a right. (Code Crim. Proc.,
10 Art. [42.12](#), Sec. 15(h).)

11 Art. 42A.560. MEDICAL RELEASE. (a) If a defendant is
12 convicted of a state jail felony and the sentence is executed, the
13 judge sentencing the defendant may release the defendant to a
14 medically suitable placement if the judge determines that the
15 defendant does not constitute a threat to public safety and the
16 Texas Correctional Office on Offenders with Medical or Mental
17 Impairments:

18 (1) in coordination with the Correctional Managed
19 Health Care Committee, prepares a case summary and medical report
20 that identifies the defendant as:

21 (A) being a person who is elderly or terminally
22 ill or a person with a physical disability;

23 (B) being a person with mental illness or an
24 intellectual disability; or

25 (C) having a condition requiring long-term care;
26 and

27 (2) in cooperation with the community supervision and

1 corrections department serving the sentencing court, prepares for
2 the defendant a medically recommended intensive supervision and
3 continuity of care plan that:

4 (A) ensures appropriate supervision of the
5 defendant by the community supervision and corrections department;
6 and

7 (B) requires the defendant to remain under the
8 care of a physician at and reside in a medically suitable placement.

9 (b) The Texas Correctional Office on Offenders with Medical
10 or Mental Impairments shall submit to a judge who releases a
11 defendant to an appropriate medical care facility under Subsection
12 (a) a quarterly status report concerning the defendant's medical
13 and treatment status.

14 (c) If a defendant released to a medically suitable
15 placement under Subsection (a) violates the terms of that release,
16 the judge may dispose of the matter as provided by Articles 42A.556
17 and 42A.558(a). (Code Crim. Proc., Art. [42.12](#), Secs. 15(i), as
18 added Acts 80th Leg., R.S., Ch. 1308, (j), as added Acts 80th Leg.,
19 R.S., Ch. 1308, (k).)

20 Art. 42A.561. MEDICAL RELEASE. (a) If a defendant is
21 convicted of a state jail felony and the sentence is executed, the
22 judge sentencing the defendant may release the defendant to a
23 medical care facility or medical treatment program if the Texas
24 Correctional Office on Offenders with Medical or Mental
25 Impairments:

26 (1) identifies the defendant as:

27 (A) being a person who is elderly or terminally

1 ill or a person with a physical disability;

2 (B) being a person with mental illness or an
3 intellectual disability; or

4 (C) having a condition requiring long-term care;
5 and

6 (2) in cooperation with the community supervision and
7 corrections department serving the sentencing court, prepares for
8 the defendant a medically recommended intensive supervision plan
9 that:

10 (A) ensures appropriate supervision of the
11 defendant; and

12 (B) requires the defendant to remain under the
13 care of a physician at the facility or in the program.

14 (b) If a defendant released to a medical care facility or
15 medical treatment program under Subsection (a) violates the terms
16 of that release, the judge may dispose of the matter as provided by
17 Articles 42A.556 and 42A.558(a). (Code Crim. Proc., Art. 42.12,
18 Secs. 15(i), as added Acts 80th Leg., R.S., Ch. 617, (j), as added
19 Acts 80th Leg., R.S., Ch. 617.)

20 SUBCHAPTER M. COMMUNITY CORRECTIONS FACILITIES

21 Art. 42A.601. DEFINITION. In this subchapter, "community
22 corrections facility" has the meaning assigned by Section 509.001,
23 Government Code. (Code Crim. Proc., Art. 42.12, Sec. 18(a).)

24 Art. 42A.602. MAXIMUM TERM OR TERMS OF CONFINEMENT. (a) If
25 a judge requires as a condition of community supervision or
26 participation in a drug court program established under Chapter
27 123, Government Code, or former law that the defendant serve a term

1 of confinement in a community corrections facility, the term may
2 not exceed 24 months.

3 (b) A judge who requires as a condition of community
4 supervision that the defendant serve a term of confinement in a
5 community corrections facility may not impose a subsequent term of
6 confinement in a community corrections facility or jail during the
7 same supervision period that, if added to the terms previously
8 imposed, exceeds 36 months. (Code Crim. Proc., Art. [42.12](#), Secs.
9 18(b), (h).)

10 Art. 42A.603. EFFECT OF REVOCATION ON CREDIT FOR TIME SPENT
11 IN FACILITY. A defendant granted community supervision under this
12 chapter and required as a condition of community supervision to
13 serve a term of confinement under this subchapter may not earn good
14 conduct credit for time spent in a community corrections facility
15 or apply time spent in the facility toward completion of a prison
16 sentence if the community supervision is revoked. (Code Crim.
17 Proc., Art. [42.12](#), Sec. 18(c).)

18 Art. 42A.604. EVALUATION OF DEFENDANT'S BEHAVIOR AND
19 ATTITUDE. (a) As directed by the judge, the community corrections
20 facility director shall file with the community supervision and
21 corrections department director or administrator of a drug court
22 program, as applicable, a copy of an evaluation made by the facility
23 director of the defendant's behavior and attitude at the facility.
24 The community supervision and corrections department director or
25 program administrator shall examine the evaluation, make written
26 comments on the evaluation that the director or administrator
27 considers relevant, and file the evaluation and comments with the

1 judge who granted community supervision to the defendant or placed
2 the defendant in a drug court program. If the evaluation indicates
3 that the defendant has made significant progress toward compliance
4 with court-ordered conditions of community supervision or
5 objectives of placement in the drug court program, as applicable,
6 the judge may release the defendant from the community corrections
7 facility. A defendant who served a term in the facility as a
8 condition of community supervision shall serve the remainder of the
9 defendant's community supervision under any terms and conditions
10 the court imposes under this chapter.

11 (b) Not later than 18 months after the date on which a
12 defendant is granted community supervision under this chapter and
13 required as a condition of community supervision to serve a term of
14 confinement under this subchapter, the community corrections
15 facility director shall file with the community supervision and
16 corrections department director a copy of an evaluation made by the
17 facility director of the defendant's behavior and attitude at the
18 facility. The community supervision and corrections department
19 director shall examine the evaluation, make written comments on the
20 evaluation that the director considers relevant, and file the
21 evaluation and comments with the judge who granted community
22 supervision to the defendant. If the report indicates that the
23 defendant has made significant progress toward court-ordered
24 conditions of community supervision, the judge shall modify the
25 judge's sentence and release the defendant in the same manner as
26 provided by Subsection (a). If the report indicates that the
27 defendant would benefit from continued participation in the

1 community corrections facility program, the judge may order the
2 defendant to remain at the community corrections facility for a
3 period determined by the judge. If the report indicates that the
4 defendant has not made significant progress toward rehabilitation,
5 the judge may revoke community supervision and order the defendant
6 to serve the term of confinement specified in the defendant's
7 sentence. (Code Crim. Proc., Art. 42.12, Secs. 18(d), (e).)

8 Art. 42A.605. PLACEMENT IN COMMUNITY SERVICE PROJECT. If
9 ordered by the judge who placed the defendant on community
10 supervision, a community corrections facility director shall
11 attempt to place a defendant as a worker in a community service
12 project of a type described by Article 42A.304. (Code Crim. Proc.,
13 Art. 42.12, Sec. 18(f).)

14 Art. 42A.606. CONFINEMENT REQUIRED; EXCEPTIONS. A
15 defendant participating in a program under this subchapter must be
16 confined in the community corrections facility at all times except
17 for time spent:

18 (1) attending and traveling to and from:

19 (A) an education or rehabilitation program as
20 ordered by the court; or

21 (B) a community service project;

22 (2) away from the facility for purposes described by
23 this subchapter; and

24 (3) traveling to and from work, if applicable. (Code
25 Crim. Proc., Art. 42.12, Sec. 18(g).)

26 Art. 42A.607. DISPOSITION OF SALARY. If a defendant who is
27 required as a condition of community supervision to serve a term of

1 confinement under this subchapter is not required by the judge to
2 deliver the defendant's salary to the restitution center director,
3 the employer of the defendant shall deliver the salary to the
4 director. The director shall deposit the salary into a fund to be
5 given to the defendant on release after the director deducts:

6 (1) the cost to the center for the defendant's food,
7 housing, and supervision;

8 (2) the necessary expense for the defendant's travel
9 to and from work and community service projects, and other
10 incidental expenses of the defendant;

11 (3) support of the defendant's dependents; and

12 (4) restitution to the victims of an offense committed
13 by the defendant. (Code Crim. Proc., Art. [42.12](#), Sec. 18(i).)

14 SUBCHAPTER N. PAYMENTS; FEES

15 Art. 42A.651. PAYMENT AS CONDITION OF COMMUNITY
16 SUPERVISION. (a) A judge may not order a defendant to make a
17 payment as a term or condition of community supervision, except
18 for:

19 (1) the payment of fines, court costs, or restitution
20 to the victim; or

21 (2) a payment ordered as a condition that relates
22 personally to the rehabilitation of the defendant or that is
23 otherwise expressly authorized by law.

24 (b) A defendant's obligation to pay a fine or court cost as
25 ordered by a judge is independent of any requirement to pay the fine
26 or court cost as a condition of the defendant's community
27 supervision. A defendant remains obligated to pay any unpaid fine

1 or court cost after the expiration of the defendant's period of
2 community supervision. (Code Crim. Proc., Art. [42.12](#), Secs. 11(b)
3 (part), (b-1).)

4 Art. 42A.652. MONTHLY FEE. (a) Except as otherwise
5 provided by this article, a judge who grants community supervision
6 to a defendant shall set a fee of not less than \$25 and not more than
7 \$60 to be paid each month during the period of community supervision
8 by the defendant to:

9 (1) the court of original jurisdiction; or

10 (2) the court accepting jurisdiction of the
11 defendant's case, if jurisdiction is transferred under Article
12 42A.151.

13 (b) The judge may make payment of the monthly fee a
14 condition of granting or continuing the community supervision. The
15 judge may waive or reduce the fee or suspend a monthly payment of
16 the fee if the judge determines that payment of the fee would cause
17 the defendant a significant financial hardship.

18 (c) A court accepting jurisdiction of a defendant's case
19 under Article 42A.151 shall enter an order directing the defendant
20 to pay the monthly fee to that court instead of to the court of
21 original jurisdiction. To the extent of any conflict between an
22 order issued under this subsection and an order issued by a court of
23 original jurisdiction, the order entered under this subsection
24 prevails.

25 (d) A judge who receives a defendant for supervision as
26 authorized by Section [510.017](#), Government Code, may require the
27 defendant to pay the fee authorized by this article.

1 (e) A judge may not require a defendant to pay the fee under
2 this article for any month after the period of community
3 supervision has been terminated by the judge under Article 42A.701.

4 (f) A judge shall deposit any fee received under this
5 article in the special fund of the county treasury, to be used for
6 the same purposes for which state aid may be used under Chapter 76,
7 Government Code. (Code Crim. Proc., Art. 42.12, Secs. 19(a),
8 (a-1), (b), (c) (part), (g).)

9 Art. 42A.653. ADDITIONAL MONTHLY FEE FOR CERTAIN SEX
10 OFFENDERS. (a) A judge who grants community supervision to a
11 defendant convicted of an offense under Section 21.08, 21.11,
12 22.011, 22.021, 25.02, 43.25, or 43.26, Penal Code, shall require
13 as a condition of community supervision that the defendant pay to
14 the defendant's supervision officer a community supervision fee of
15 \$5 each month during the period of community supervision.

16 (b) A fee imposed under this article is in addition to court
17 costs or any other fee imposed on the defendant.

18 (c) A community supervision and corrections department
19 shall deposit a fee collected under this article to be sent to the
20 comptroller as provided by Subchapter B, Chapter 133, Local
21 Government Code. The comptroller shall deposit the fee in the
22 sexual assault program fund under Section 420.008, Government Code.

23 (d) If a community supervision and corrections department
24 does not collect a fee imposed under this article, the department is
25 not required to file any report required by the comptroller that
26 relates to the collection of the fee. (Code Crim. Proc., Art.
27 42.12, Secs. 19(e), (f), as amended Acts 78th Leg., R.S., Chs. 209,

1 1310.)

2 Art. 42A.654. FEES DUE ON CONVICTION. For the purpose of
3 determining when fees due on conviction are to be paid to any
4 officer, the placement of a defendant on community supervision is
5 considered a final disposition of the case, without the necessity
6 of waiting for the termination of the period of community
7 supervision. (Code Crim. Proc., Art. 42.12, Sec. 19(d).)

8 Art. 42A.655. ABILITY TO PAY. The court shall consider the
9 defendant's ability to pay in ordering the defendant to make any
10 payments under this chapter. (Code Crim. Proc., Art. 42.12, Sec.
11 11(b) (part).)

12 SUBCHAPTER O. REDUCTION OR TERMINATION OF COMMUNITY SUPERVISION
13 PERIOD

14 Art. 42A.701. REDUCTION OR TERMINATION OF COMMUNITY
15 SUPERVISION PERIOD. (a) At any time after the defendant has
16 satisfactorily completed one-third of the original community
17 supervision period or two years of community supervision, whichever
18 is less, the judge may reduce or terminate the period of community
19 supervision.

20 (b) On completion of one-half of the original community
21 supervision period or two years of community supervision, whichever
22 is more, the judge shall review the defendant's record and consider
23 whether to reduce or terminate the period of community supervision,
24 unless the defendant:

25 (1) is delinquent in paying required costs, fines,
26 fees, or restitution that the defendant has the ability to pay; or

27 (2) has not completed court-ordered counseling or

1 treatment.

2 (c) Before reducing or terminating a period of community
3 supervision or conducting a review under this article, the judge
4 shall notify the attorney representing the state and the defendant
5 or, if the defendant has an attorney, the defendant's attorney.

6 (d) If the judge determines that the defendant has failed to
7 satisfactorily fulfill the conditions of community supervision,
8 the judge shall advise the defendant in writing of the requirements
9 for satisfactorily fulfilling those conditions.

10 (e) On the satisfactory fulfillment of the conditions of
11 community supervision and the expiration of the period of community
12 supervision, the judge by order shall:

13 (1) amend or modify the original sentence imposed, if
14 necessary, to conform to the community supervision period; and

15 (2) discharge the defendant.

16 (f) If the judge discharges the defendant under this
17 article, the judge may set aside the verdict or permit the defendant
18 to withdraw the defendant's plea. A judge acting under this
19 subsection shall dismiss the accusation, complaint, information,
20 or indictment against the defendant. A defendant who receives a
21 discharge and dismissal under this subsection is released from all
22 penalties and disabilities resulting from the offense of which the
23 defendant has been convicted or to which the defendant has pleaded
24 guilty, except that:

25 (1) proof of the conviction or plea of guilty shall be
26 made known to the judge if the defendant is convicted of any
27 subsequent offense; and

1 (2) if the defendant is an applicant for or the holder
2 of a license under Chapter 42, Human Resources Code, the Department
3 of Family and Protective Services may consider the fact that the
4 defendant previously has received community supervision under this
5 chapter in issuing, renewing, denying, or revoking a license under
6 Chapter 42, Human Resources Code.

7 (g) This article does not apply to a defendant convicted of:

8 (1) an offense under Sections 49.04-49.08, Penal Code;

9 (2) an offense the conviction of which requires
10 registration as a sex offender under Chapter 62; or

11 (3) a felony described by Article 42A.054. (Code
12 Crim. Proc., Art. 42.12, Sec. 20.)

13 Art. 42A.702. TIME CREDITS FOR COMPLETION OF CERTAIN
14 CONDITIONS OF COMMUNITY SUPERVISION. (a) This article applies
15 only to a defendant who:

16 (1) is granted community supervision, including
17 deferred adjudication community supervision, for an offense
18 punishable as a state jail felony or a felony of the third degree,
19 other than an offense:

20 (A) included as a "reportable conviction or
21 adjudication" under Article 62.001(5);

22 (B) involving family violence as defined by
23 Section 71.004, Family Code;

24 (C) under Section 20.03 or 28.02, Penal Code; or

25 (D) under Chapter 49, Penal Code;

26 (2) is not delinquent in paying required costs, fines,
27 or fees; and

1 (3) has fully satisfied any order to pay restitution
2 to a victim.

3 (b) A defendant described by Subsection (a) is entitled to
4 receive any combination of time credits toward the completion of
5 the defendant's period of community supervision in accordance with
6 this article if the court ordered the defendant as a condition of
7 community supervision to:

8 (1) make a payment described by Subsection (c);

9 (2) complete a treatment or rehabilitation program
10 described by Subsection (d); or

11 (3) earn a diploma, certificate, or degree described
12 by Subsection (e).

13 (c) A defendant is entitled to time credits toward the
14 completion of the defendant's period of community supervision for
15 the full payment of court costs, fines, attorney's fees, and
16 restitution as follows:

17 (1) court costs: 15 days;

18 (2) fines: 30 days;

19 (3) attorney's fees: 30 days; and

20 (4) restitution: 60 days.

21 (d) A defendant is entitled to time credits toward the
22 completion of the defendant's period of community supervision for
23 the successful completion of treatment or rehabilitation programs
24 as follows:

25 (1) parenting class or parental responsibility
26 program: 30 days;

27 (2) anger management program: 30 days;

(3) life skills training program: 30 days;

(4) vocational, technical, or career education or training program: 60 days; and

(5) alcohol or substance abuse counseling or treatment: 90 days.

(e) A defendant is entitled to time credits toward the completion of the defendant's period of community supervision for earning the following diplomas, certificates, or degrees:

(1) a high school diploma or high school equivalency certificate: 90 days; and

(2) an associate's degree: 120 days.

(f) A defendant's supervision officer shall notify the court if one or more time credits under this article, cumulated with the amount of the original community supervision period the defendant has completed, allow or require the court to conduct a review of the defendant's community supervision under Article 42A.701. On receipt of the notice from the supervision officer, the court shall conduct the review of the defendant's community supervision to determine if the defendant is eligible for a reduction or termination of community supervision under Article 42A.701, taking into account any time credits to which the defendant is entitled under this article in determining if the defendant has completed, as applicable:

(1) the lesser of one-third of the original community supervision period or two years of community supervision; or

(2) the greater of one-half of the original community supervision period or two years of community supervision.

1 (g) A court may order that some or all of the time credits to
2 which a defendant is entitled under this article be forfeited if,
3 before the expiration of the original period or a reduced period of
4 community supervision, the court:

5 (1) after a hearing under Article 42A.751(d), finds
6 that a defendant violated one or more conditions of community
7 supervision; and

8 (2) modifies or continues the defendant's period of
9 community supervision under Article 42A.752 or revokes the
10 defendant's community supervision under Article 42A.755. (Code
11 Crim. Proc., Art. [42.12](#), Sec. 20A.)

12 SUBCHAPTER P. REVOCATION AND OTHER SANCTIONS

13 Art. 42A.751. VIOLATION OF CONDITIONS OF COMMUNITY
14 SUPERVISION; DETENTION AND HEARING. (a) At any time during the
15 period of community supervision, the judge may issue a warrant for a
16 violation of any condition of community supervision and cause a
17 defendant convicted under Section [43.02](#), Penal Code, Chapter 481,
18 Health and Safety Code, or Sections [485.031](#) through [485.035](#), Health
19 and Safety Code, or placed on deferred adjudication community
20 supervision after being charged with one of those offenses, to be
21 subject to:

22 (1) the control measures of Section [81.083](#), Health and
23 Safety Code; and

24 (2) the court-ordered-management provisions of
25 Subchapter G, Chapter 81, Health and Safety Code.

26 (b) At any time during the period of community supervision,
27 the judge may issue a warrant for a violation of any condition of

1 community supervision and cause the defendant to be arrested. Any
2 supervision officer, police officer, or other officer with the
3 power of arrest may arrest the defendant with or without a warrant
4 on the order of the judge to be noted on the docket of the court.
5 Subject to Subsection (c), a defendant arrested under this
6 subsection may be detained in the county jail or other appropriate
7 place of confinement until the defendant can be taken before the
8 judge for a determination regarding the alleged violation. The
9 arresting officer shall immediately report the arrest and detention
10 to the judge.

11 (c) Without any unnecessary delay, but not later than 48
12 hours after the defendant is arrested, the arresting officer or the
13 person with custody of the defendant shall take the defendant
14 before the judge who ordered the arrest for the alleged violation of
15 a condition of community supervision or, if the judge is
16 unavailable, before a magistrate of the county in which the
17 defendant was arrested. The judge or magistrate shall perform all
18 appropriate duties and may exercise all appropriate powers as
19 provided by Article 15.17 with respect to an arrest for a new
20 offense, except that only the judge who ordered the arrest for the
21 alleged violation may authorize the defendant's release on
22 bail. The defendant may be taken before the judge or magistrate
23 under this subsection by means of an electronic broadcast system as
24 provided by and subject to the requirements of Article 15.17.

25 (d) If the defendant has not been released on bail as
26 permitted under Subsection (c), on motion by the defendant, the
27 judge who ordered the arrest for the alleged violation of a

1 condition of community supervision shall cause the defendant to be
2 brought before the judge for a hearing on the alleged violation
3 within 20 days of the date the motion is filed. After a hearing
4 without a jury, the judge may continue, extend, modify, or revoke
5 the community supervision.

6 (e) A judge may revoke without a hearing the community
7 supervision of a defendant who is imprisoned in a penal institution
8 if the defendant in writing before a court of record in the
9 jurisdiction where the defendant is imprisoned:

10 (1) waives the defendant's right to a hearing and to
11 counsel;

12 (2) affirms that the defendant has nothing to say as to
13 why sentence should not be pronounced against the defendant; and

14 (3) requests the judge to revoke community supervision
15 and to pronounce sentence.

16 (f) In a felony case, the state may amend the motion to
17 revoke community supervision at any time before the seventh day
18 before the date of the revocation hearing, after which time the
19 motion may not be amended except for good cause shown. The state
20 may not amend the motion after the commencement of taking evidence
21 at the revocation hearing.

22 (g) The judge may continue the revocation hearing for good
23 cause shown by either the defendant or the state.

24 (h) The court may not revoke the community supervision of a
25 defendant if, at the revocation hearing, the court finds that the
26 only evidence supporting the alleged violation of a condition of
27 community supervision is the uncorroborated results of a polygraph

1 examination.

2 (i) In a revocation hearing at which it is alleged only that
3 the defendant violated the conditions of community supervision by
4 failing to pay compensation paid to appointed counsel, community
5 supervision fees, or court costs, the state must prove by a
6 preponderance of the evidence that the defendant was able to pay and
7 did not pay as ordered by the judge.

8 (j) The court may order a community supervision and
9 corrections department to obtain information pertaining to the
10 factors listed under Article 42.037(h) and include that information
11 in the presentence report required under Article 42A.252(a) or a
12 separate report, as the court directs.

13 (k) A defendant has a right to counsel at a hearing under
14 this article. The court shall appoint counsel for an indigent
15 defendant in accordance with the procedures adopted under Article
16 26.04.

17 (l) A court retains jurisdiction to hold a hearing under
18 Subsection (d) and to revoke, continue, or modify community
19 supervision, regardless of whether the period of community
20 supervision imposed on the defendant has expired, if before the
21 expiration of the supervision period:

22 (1) the attorney representing the state files a motion
23 to revoke, continue, or modify community supervision; and

24 (2) a capias is issued for the arrest of the defendant.
25 (Code Crim. Proc., Art. [42.12](#), Sec. 21.)

26 Art. 42A.752. CONTINUATION OR MODIFICATION OF COMMUNITY
27 SUPERVISION AFTER VIOLATION. (a) If after a hearing under Article

1 42A.751(d) a judge continues or modifies community supervision
2 after determining that the defendant violated a condition of
3 community supervision, the judge may impose any other conditions
4 the judge determines are appropriate, including:

5 (1) a requirement that the defendant perform community
6 service for a number of hours specified by the court under Article
7 42A.304, or an increase in the number of hours that the defendant
8 has previously been required to perform under that article in an
9 amount not to exceed double the number of hours permitted by that
10 article;

11 (2) an extension of the period of community
12 supervision, in the manner described by Article 42A.753;

13 (3) an increase in the defendant's fine, in the manner
14 described by Subsection (b); or

15 (4) the placement of the defendant in a substance
16 abuse felony punishment program operated under Section 493.009,
17 Government Code, if:

18 (A) the defendant is convicted of a felony other
19 than:

20 (i) a felony under Section 21.11, 22.011,
21 or 22.021, Penal Code; or

22 (ii) criminal attempt of a felony under
23 Section 21.11, 22.011, or 22.021, Penal Code; and

24 (B) the judge makes an affirmative finding that:

25 (i) drug or alcohol abuse significantly
26 contributed to the commission of the offense or violation of a
27 condition of community supervision, as applicable; and

1 (ii) the defendant is a suitable candidate
2 for treatment, as determined by the suitability criteria
3 established by the Texas Board of Criminal Justice under Section
4 493.009(b), Government Code.

5 (b) A judge may impose a sanction on a defendant described
6 by Subsection (a)(3) by increasing the fine imposed on the
7 defendant. The original fine imposed on the defendant and an
8 increase in the fine imposed under this subsection may not exceed
9 the maximum fine for the offense for which the defendant was
10 sentenced. The judge shall deposit money received from an increase
11 in the defendant's fine under this subsection in the special fund of
12 the county treasury to be used for the same purposes for which state
13 aid may be used under Chapter 76, Government Code.

14 (c) If the judge imposes a sanction under Subsection (a)(4),
15 the judge shall also impose a condition requiring the defendant on
16 successful completion of the program to participate in a drug or
17 alcohol abuse continuum of care treatment plan. (Code Crim. Proc.,
18 Art. 42.12, Secs. 22(a), (b), (d).)

19 Art. 42A.753. EXTENSION OF COMMUNITY SUPERVISION AFTER
20 VIOLATION. (a) On a showing of good cause, the judge may extend a
21 period of community supervision under Article 42A.752(a)(2) as
22 frequently as the judge determines is necessary, but the period of
23 community supervision in a first, second, or third degree felony
24 case may not exceed 10 years and, except as otherwise provided by
25 Subsection (b), the period of community supervision in a
26 misdemeanor case may not exceed three years.

27 (b) The judge may extend the period of community supervision

1 in a misdemeanor case for any period the judge determines is
2 necessary, not to exceed an additional two years beyond the
3 three-year limit provided by Subsection (a), if:

4 (1) the defendant fails to pay a previously assessed
5 fine, cost, or restitution; and

6 (2) the judge determines that extending the
7 supervision period increases the likelihood that the defendant will
8 fully pay the fine, cost, or restitution.

9 (c) A court may extend a period of community supervision
10 under Article 42A.752(a)(2):

11 (1) at any time during the supervision period; or

12 (2) before the first anniversary of the date the
13 supervision period ends, if a motion for revocation of community
14 supervision is filed before the date the supervision period ends.
15 (Code Crim. Proc., Art. 42.12, Sec. 22(c).)

16 Art. 42A.754. AUTHORITY TO REVOKE COMMUNITY SUPERVISION.
17 Only the court in which the defendant was tried may revoke the
18 defendant's community supervision unless the judge has transferred
19 jurisdiction of the case to another court under Article 42A.151.
20 (Code Crim. Proc., Art. 42.12, Sec. 10(a) (part).)

21 Art. 42A.755. REVOCATION OF COMMUNITY SUPERVISION. (a) If
22 community supervision is revoked after a hearing under Article
23 42A.751(d), the judge may:

24 (1) proceed to dispose of the case as if there had been
25 no community supervision; or

26 (2) if the judge determines that the best interests of
27 society and the defendant would be served by a shorter term of

1 confinement, reduce the term of confinement originally assessed to
2 any term of confinement not less than the minimum prescribed for the
3 offense of which the defendant was convicted.

4 (b) The judge shall enter in the judgment in the case the
5 amount of restitution owed by the defendant on the date of
6 revocation.

7 (c) Except as otherwise provided by Subsection (d), no part
8 of the period that the defendant is on community supervision may be
9 considered as any part of the term that the defendant is sentenced
10 to serve.

11 (d) On revocation, the judge shall credit to the defendant
12 time served as a condition of community supervision in a substance
13 abuse felony punishment facility operated by the Texas Department
14 of Criminal Justice under Section 493.009, Government Code, or
15 other court-ordered residential program or facility, but only if
16 the defendant successfully completes the treatment program in that
17 facility.

18 (e) The right of the defendant to appeal for a review of the
19 conviction and punishment, as provided by law, shall be accorded
20 the defendant at the time the defendant is placed on community
21 supervision. When the defendant is notified that the defendant's
22 community supervision is revoked for a violation of the conditions
23 of community supervision and the defendant is called on to serve a
24 sentence in a jail or in the Texas Department of Criminal Justice,
25 the defendant may appeal the revocation. (Code Crim. Proc.,
26 Art. 42.12, Sec. 23.)

27 Art. 42A.756. DUE DILIGENCE DEFENSE. For the purposes of a

1 hearing under Article 42A.751(d), it is an affirmative defense to
2 revocation for an alleged violation based on a failure to report to
3 a supervision officer as directed or to remain within a specified
4 place that no supervision officer, peace officer, or other officer
5 with the power of arrest under a warrant issued by a judge for that
6 alleged violation contacted or attempted to contact the defendant
7 in person at the defendant's last known residence address or last
8 known employment address, as reflected in the files of the
9 department serving the county in which the order of deferred
10 adjudication community supervision was entered. (Code Crim. Proc.,
11 Art. [42.12](#), Sec. 24 (part).)

12 Art. 42A.757. EXTENSION OF COMMUNITY SUPERVISION FOR
13 CERTAIN SEX OFFENDERS. (a) If a defendant is placed on deferred
14 adjudication community supervision after being convicted of an
15 offense under Section [21.11](#), [22.011](#), or [22.021](#), Penal Code, at any
16 time during the period of community supervision, the judge may
17 extend the period of community supervision as provided by this
18 article.

19 (b) At a hearing at which the defendant is provided the same
20 rights as are provided to a defendant at a hearing under Article
21 42A.751(d), the judge may extend the defendant's supervision period
22 for a period not to exceed 10 additional years if the judge
23 determines that:

24 (1) the defendant has not sufficiently demonstrated a
25 commitment to avoid future criminal behavior; and

26 (2) the release of the defendant from supervision
27 would endanger the public.

1 (c) A judge may extend a period of community supervision
2 under this article only once.

3 (d) A judge may extend a period of community supervision for
4 a defendant under both Article 42A.752(a)(2) and this article.

5 (e) The prohibition in Article 42A.753(a) against a period
6 of community supervision in a felony case exceeding 10 years does
7 not apply to a defendant for whom community supervision is
8 increased under this article or under both Article 42A.752(a)(2)
9 and this article. (Code Crim. Proc., Art. 42.12, Sec. 22A.)

10 ARTICLE 2. CONFORMING AMENDMENTS

11 SECTION 2.01. Sections 106.06(d) and (e), Alcoholic
12 Beverage Code, are amended to read as follows:

13 (d) A judge, acting under Chapter 42A [~~Article 42.12~~], Code
14 of Criminal Procedure, who places a defendant charged with an
15 offense under this section on community supervision under that
16 chapter [~~article~~] shall, if the defendant committed the offense at
17 a gathering where participants were involved in the abuse of
18 alcohol, including binge drinking or forcing or coercing
19 individuals to consume alcohol, in addition to any other condition
20 imposed by the judge:

21 (1) require the defendant to:

22 (A) perform community service for not less than
23 20 or more than 40 hours; and

24 (B) attend an alcohol awareness program approved
25 under Section 106.115; and

26 (2) order the Department of Public Safety to suspend
27 the driver's license or permit of the defendant or, if the defendant

1 does not have a driver's license or permit, to deny the issuance of
2 a driver's license or permit to the defendant for 180 days.

3 (e) Community service ordered under Subsection (d) is in
4 addition to any community service ordered by the judge under
5 Article 42A.304 [~~Section 16, Article 42.12~~], Code of Criminal
6 Procedure, and must be related to education about or prevention of
7 misuse of alcohol if programs or services providing that education
8 are available in the community in which the court is located. If
9 programs or services providing that education are not available,
10 the court may order community service that the court considers
11 appropriate for rehabilitative purposes.

12 SECTION 2.02. Section 142.002(b), Civil Practice and
13 Remedies Code, is amended to read as follows:

14 (b) This section does not preclude a cause of action for
15 negligent hiring or the failure of an employer, general contractor,
16 premises owner, or other third party to provide adequate
17 supervision of an employee, if:

18 (1) the employer, general contractor, premises owner,
19 or other third party knew or should have known of the conviction;
20 and

21 (2) the employee was convicted of:

22 (A) an offense that was committed while
23 performing duties substantially similar to those reasonably
24 expected to be performed in the employment, or under conditions
25 substantially similar to those reasonably expected to be
26 encountered in the employment, taking into consideration the
27 factors listed in Sections 53.022 and 53.023(a), Occupations Code,

1 without regard to whether the occupation requires a license;

2 (B) an offense listed in Article 42A.054 [~~Section~~
3 ~~3g, Article 42.12~~], Code of Criminal Procedure; or

4 (C) a sexually violent offense, as defined by
5 Article 62.001, Code of Criminal Procedure.

6 SECTION 2.03. Section 152.003(c), Civil Practice and
7 Remedies Code, is amended to read as follows:

8 (c) A criminal case may not be referred to the system if the
9 defendant is charged with or convicted of an offense listed in
10 Article 42A.054(a) [~~Section 3g(a)(1), Article 42.12~~], Code of
11 Criminal Procedure, or convicted of an offense, the judgment for
12 which contains an affirmative finding under Article 42A.054(c) or
13 (d) [~~Section 3g(a)(2), Article 42.12~~], Code of Criminal Procedure.

14 SECTION 2.04. Article 5.08, Code of Criminal Procedure, is
15 amended to read as follows:

16 Art. 5.08. MEDIATION IN FAMILY VIOLENCE CASES.
17 Notwithstanding Article 26.13(g) or 42A.301(15) [~~Section~~
18 ~~11(a)(16), Article 42.12, of this code~~], in a criminal prosecution
19 arising from family violence, as that term is defined by Section
20 71.004, Family Code, a court shall not refer or order the victim or
21 the defendant involved to mediation, dispute resolution,
22 arbitration, or other similar procedures.

23 SECTION 2.05. Article 17.091, Code of Criminal Procedure,
24 is amended to read as follows:

25 Art. 17.091. NOTICE OF CERTAIN BAIL REDUCTIONS REQUIRED.
26 Before a judge or magistrate reduces the amount of bail set for a
27 defendant charged with an offense listed in Article 42A.054

1 ~~[Section 3g, Article 42.12]~~, an offense described by Article
2 62.001(5), or an offense under Section 20A.03, Penal Code, the
3 judge or magistrate shall provide:

4 (1) to the attorney representing the state, reasonable
5 notice of the proposed bail reduction; and

6 (2) on request of the attorney representing the state
7 or the defendant or the defendant's counsel, an opportunity for a
8 hearing concerning the proposed bail reduction.

9 SECTION 2.06. Article 26.052(d)(3), Code of Criminal
10 Procedure, is amended to read as follows:

11 (3) The standards must require that an attorney
12 appointed as lead appellate counsel in the direct appeal of a
13 capital case:

14 (A) be a member of the State Bar of Texas;

15 (B) exhibit proficiency and commitment to
16 providing quality representation to defendants in death penalty
17 cases;

18 (C) have not been found by a federal or state
19 court to have rendered ineffective assistance of counsel during the
20 trial or appeal of any capital case, unless the local selection
21 committee determines under Subsection (n) that the conduct
22 underlying the finding no longer accurately reflects the attorney's
23 ability to provide effective representation;

24 (D) have at least five years of criminal law
25 experience;

26 (E) have authored a significant number of
27 appellate briefs, including appellate briefs for homicide cases and

1 other cases involving an offense punishable as a capital felony or a
2 felony of the first degree or an offense described by Article
3 42A.054(a) [~~Section 3g(a)(1), Article 42.12~~];

4 (F) have trial or appellate experience in:

5 (i) the use of and challenges to mental
6 health or forensic expert witnesses; and

7 (ii) the use of mitigating evidence at the
8 penalty phase of a death penalty trial; and

9 (G) have participated in continuing legal
10 education courses or other training relating to criminal defense in
11 appealing death penalty cases.

12 SECTION 2.07. Section 3(d), Article 37.07, Code of Criminal
13 Procedure, is amended to read as follows:

14 (d) When the judge assesses the punishment, the judge [~~he~~]
15 may order a presentence [~~an investigative~~] report as contemplated
16 in Subchapter F, Chapter 42A, [~~Section 9 of Article 42.12 of this~~
17 ~~code~~] and after considering the report, and after the hearing of the
18 evidence hereinabove provided for, the judge [~~he~~] shall forthwith
19 announce the judge's [~~his~~] decision in open court as to the
20 punishment to be assessed.

21 SECTION 2.08. Sections 4(a), (b), and (c), Article 37.07,
22 Code of Criminal Procedure, are amended to read as follows:

23 (a) In the penalty phase of the trial of a felony case in
24 which the punishment is to be assessed by the jury rather than the
25 court, if the offense of which the jury has found the defendant
26 guilty is an offense under Section 71.02, Penal Code, other than an
27 offense punishable as a state jail felony under that section, an

1 offense under Section 71.023, Penal Code, or an offense listed in
2 Article 42A.054(a) [~~Section 3g(a)(1), Article 42.12~~], or if the
3 judgment contains an affirmative finding under Article 42A.054(c)
4 or (d) [~~Section 3g(a)(2), Article 42.12~~], unless the defendant has
5 been convicted of an offense under Section 21.02, Penal Code, an
6 offense under Section 22.021, Penal Code, that is punishable under
7 Subsection (f) of that section, or a capital felony, the court shall
8 charge the jury in writing as follows:

9 "Under the law applicable in this case, the defendant, if
10 sentenced to a term of imprisonment, may earn time off the period of
11 incarceration imposed through the award of good conduct time.
12 Prison authorities may award good conduct time to a prisoner who
13 exhibits good behavior, diligence in carrying out prison work
14 assignments, and attempts at rehabilitation. If a prisoner engages
15 in misconduct, prison authorities may also take away all or part of
16 any good conduct time earned by the prisoner.

17 "It is also possible that the length of time for which the
18 defendant will be imprisoned might be reduced by the award of
19 parole.

20 "Under the law applicable in this case, if the defendant is
21 sentenced to a term of imprisonment, the defendant will not become
22 eligible for parole until the actual time served equals one-half of
23 the sentence imposed or 30 years, whichever is less, without
24 consideration of any good conduct time the defendant may earn. If
25 the defendant is sentenced to a term of less than four years, the
26 defendant must serve at least two years before the defendant is
27 eligible for parole. Eligibility for parole does not guarantee

1 that parole will be granted.

2 "It cannot accurately be predicted how the parole law and
3 good conduct time might be applied to this defendant if sentenced to
4 a term of imprisonment, because the application of these laws will
5 depend on decisions made by prison and parole authorities.

6 "You may consider the existence of the parole law and good
7 conduct time. However, you are not to consider the extent to which
8 good conduct time may be awarded to or forfeited by this particular
9 defendant. You are not to consider the manner in which the parole
10 law may be applied to this particular defendant."

11 (b) In the penalty phase of the trial of a felony case in
12 which the punishment is to be assessed by the jury rather than the
13 court, if the offense is punishable as a felony of the first degree,
14 if a prior conviction has been alleged for enhancement of
15 punishment as provided by Section 12.42(b), (c)(1) or (2), or (d),
16 Penal Code, or if the offense is a felony not designated as a
17 capital felony or a felony of the first, second, or third degree and
18 the maximum term of imprisonment that may be imposed for the offense
19 is longer than 60 years, unless the offense of which the jury has
20 found the defendant guilty is an offense that is punishable under
21 Section 21.02(h), Penal Code, or is listed in Article 42A.054(a)
22 [~~Section 3g(a)(1), Article 42.12, of this code~~] or the judgment
23 contains an affirmative finding under Article 42A.054(c) or (d)
24 [~~Section 3g(a)(2), Article 42.12, of this code~~], the court shall
25 charge the jury in writing as follows:

26 "Under the law applicable in this case, the defendant, if
27 sentenced to a term of imprisonment, may earn time off the period of

1 incarceration imposed through the award of good conduct time.
2 Prison authorities may award good conduct time to a prisoner who
3 exhibits good behavior, diligence in carrying out prison work
4 assignments, and attempts at rehabilitation. If a prisoner engages
5 in misconduct, prison authorities may also take away all or part of
6 any good conduct time earned by the prisoner.

7 "It is also possible that the length of time for which the
8 defendant will be imprisoned might be reduced by the award of
9 parole.

10 "Under the law applicable in this case, if the defendant is
11 sentenced to a term of imprisonment, he will not become eligible for
12 parole until the actual time served plus any good conduct time
13 earned equals one-fourth of the sentence imposed or 15 years,
14 whichever is less. Eligibility for parole does not guarantee that
15 parole will be granted.

16 "It cannot accurately be predicted how the parole law and
17 good conduct time might be applied to this defendant if he is
18 sentenced to a term of imprisonment, because the application of
19 these laws will depend on decisions made by prison and parole
20 authorities.

21 "You may consider the existence of the parole law and good
22 conduct time. However, you are not to consider the extent to which
23 good conduct time may be awarded to or forfeited by this particular
24 defendant. You are not to consider the manner in which the parole
25 law may be applied to this particular defendant."

26 (c) In the penalty phase of the trial of a felony case in
27 which the punishment is to be assessed by the jury rather than the

1 court, if the offense is punishable as a felony of the second or
 2 third degree, if a prior conviction has been alleged for
 3 enhancement as provided by Section 12.42(a), Penal Code, or if the
 4 offense is a felony not designated as a capital felony or a felony
 5 of the first, second, or third degree and the maximum term of
 6 imprisonment that may be imposed for the offense is 60 years or
 7 less, unless the offense of which the jury has found the defendant
 8 guilty is listed in Article 42A.054(a) [~~Section 3g(a)(1), Article~~
 9 ~~42.12, of this code~~] or the judgment contains an affirmative
 10 finding under Article 42A.054(c) or (d) [~~Section 3g(a)(2), Article~~
 11 ~~42.12, of this code~~], the court shall charge the jury in writing as
 12 follows:

13 "Under the law applicable in this case, the defendant, if
 14 sentenced to a term of imprisonment, may earn time off the period of
 15 incarceration imposed through the award of good conduct time.
 16 Prison authorities may award good conduct time to a prisoner who
 17 exhibits good behavior, diligence in carrying out prison work
 18 assignments, and attempts at rehabilitation. If a prisoner engages
 19 in misconduct, prison authorities may also take away all or part of
 20 any good conduct time earned by the prisoner.

21 "It is also possible that the length of time for which the
 22 defendant will be imprisoned might be reduced by the award of
 23 parole.

24 "Under the law applicable in this case, if the defendant is
 25 sentenced to a term of imprisonment, he will not become eligible for
 26 parole until the actual time served plus any good conduct time
 27 earned equals one-fourth of the sentence imposed. Eligibility for

1 parole does not guarantee that parole will be granted.

2 "It cannot accurately be predicted how the parole law and
3 good conduct time might be applied to this defendant if he is
4 sentenced to a term of imprisonment, because the application of
5 these laws will depend on decisions made by prison and parole
6 authorities.

7 "You may consider the existence of the parole law and good
8 conduct time. However, you are not to consider the extent to which
9 good conduct time may be awarded to or forfeited by this particular
10 defendant. You are not to consider the manner in which the parole
11 law may be applied to this particular defendant."

12 SECTION 2.09. Section 1, Article 38.33, Code of Criminal
13 Procedure, is amended to read as follows:

14 Sec. 1. The court shall order that a defendant who is
15 convicted of a felony or a misdemeanor offense that is punishable by
16 confinement in jail have a thumbprint of the defendant's right
17 thumb rolled legibly on the judgment or the docket sheet in the
18 case. The court shall order a defendant who is placed on deferred
19 adjudication community supervision [~~probation~~] under Subchapter C,
20 Chapter 42A [~~Section 5 of Article 42.12, Code of Criminal~~
21 ~~Procedure~~], for an offense described by this section to have a
22 thumbprint of the defendant's right thumb rolled legibly on the
23 order placing the defendant on deferred adjudication community
24 supervision [~~probation~~]. If the defendant does not have a right
25 thumb, the defendant must have a thumbprint of the defendant's left
26 thumb rolled legibly on the judgment, order, or docket sheet. The
27 defendant must have a fingerprint of the defendant's index finger

1 rolled legibly on the judgment, order, or docket sheet if the
2 defendant does not have a right thumb or a left thumb. The
3 judgment, order, or docket sheet must contain a statement that
4 describes from which thumb or finger the print was taken, unless a
5 rolled 10-finger print set was taken. A clerk or bailiff of the
6 court or other person qualified to take fingerprints shall take the
7 thumbprint or fingerprint, either by use of the ink-rolled print
8 method or by use of a live-scanning device that prints the
9 thumbprint or fingerprint image on the judgment, order, or docket
10 sheet.

11 SECTION 2.10. Section 1, Article [42.01](#), Code of Criminal
12 Procedure, is amended to read as follows:

13 Sec. 1. A judgment is the written declaration of the court
14 signed by the trial judge and entered of record showing the
15 conviction or acquittal of the defendant. The sentence served
16 shall be based on the information contained in the judgment. The
17 judgment shall reflect:

- 18 1. The title and number of the case;
- 19 2. That the case was called and the parties appeared,
20 naming the attorney for the state, the defendant, and the attorney
21 for the defendant, or, where a defendant is not represented by
22 counsel, that the defendant knowingly, intelligently, and
23 voluntarily waived the right to representation by counsel;
- 24 3. The plea or pleas of the defendant to the offense
25 charged;
- 26 4. Whether the case was tried before a jury or a jury
27 was waived;

1 5. The submission of the evidence, if any;

2 6. In cases tried before a jury that the jury was
3 charged by the court;

4 7. The verdict or verdicts of the jury or the finding
5 or findings of the court;

6 8. In the event of a conviction that the defendant is
7 adjudged guilty of the offense as found by the verdict of the jury
8 or the finding of the court, and that the defendant be punished in
9 accordance with the jury's verdict or the court's finding as to the
10 proper punishment;

11 9. In the event of conviction where death or any
12 punishment is assessed that the defendant be sentenced to death, a
13 term of confinement or community supervision, or to pay a fine, as
14 the case may be;

15 10. In the event of conviction where the imposition of
16 sentence is suspended and the defendant is placed on community
17 supervision, setting forth the punishment assessed, the length of
18 community supervision, and the conditions of community
19 supervision;

20 11. In the event of acquittal that the defendant be
21 discharged;

22 12. The county and court in which the case was tried
23 and, if there was a change of venue in the case, the name of the
24 county in which the prosecution was originated;

25 13. The offense or offenses for which the defendant
26 was convicted;

27 14. The date of the offense or offenses and degree of

offense for which the defendant was convicted;

15. The term of sentence;

16. The date judgment is entered;

17. The date sentence is imposed;

18. The date sentence is to commence and any credit for time served;

19. The terms of any order entered pursuant to Article 42.08 ~~[of this code]~~ that the defendant's sentence is to run cumulatively or concurrently with another sentence or sentences;

20. The terms of any plea bargain;

21. Affirmative findings entered pursuant to Article 42A.054(c) or (d) ~~[Subdivision (2) of Subsection (a) of Section 3g of Article 42.12 of this code]~~;

22. The terms of any fee payment ordered under Article 42.151 ~~[of this code]~~;

23. The defendant's thumbprint taken in accordance with Article 38.33 ~~[of this code]~~;

24. In the event that the judge orders the defendant to repay a reward or part of a reward under Articles 37.073 and 42.152 ~~[of this code]~~, a statement of the amount of the payment or payments required to be made;

25. In the event that the court orders restitution to be paid to the victim, a statement of the amount of restitution ordered and:

(A) the name and address of a person or agency that will accept and forward restitution payments to the victim; or

(B) if the court specifically elects to have

1 payments made directly to the crime victim, the name and permanent
2 address of the victim at the time of judgment;

3 26. In the event that a presentence investigation is
4 required by Subchapter F, Chapter 42A [~~Section 9(a), (b), (h), or~~
5 ~~(i), Article 42.12 of this code~~], a statement that the presentence
6 investigation was done according to the applicable provision;

7 27. In the event of conviction of an offense for which
8 registration as a sex offender is required under Chapter 62, a
9 statement that the registration requirement of that chapter applies
10 to the defendant and a statement of the age of the victim of the
11 offense;

12 28. The defendant's state identification number
13 required by Section 60.052(a)(2), if that number has been assigned
14 at the time of the judgment; and

15 29. The incident number required by Section
16 60.052(a)(4), if that number has been assigned at the time of the
17 judgment.

18 SECTION 2.11. Article 42.025(b), Code of Criminal
19 Procedure, is amended to read as follows:

20 (b) A judge may, at a secondary school, receive a plea of
21 guilty or nolo contendere from a defendant charged with an offense
22 described by Subsection (a) and place the defendant on deferred
23 adjudication under Subchapter C, Chapter 42A [~~Section 5, Article~~
24 ~~42.12~~], if:

25 (1) the judge makes the determination that the
26 proceeding would have educational value, as provided by Subsection
27 (a)(1);

1 (2) the defendant and the school agree to the location
2 of the proceeding, as provided by Subsections (a)(2) and (3); and

3 (3) appropriate measures are taken in regard to the
4 safety of students and the rights of the defendant, as described by
5 Subsection (a)(4).

6 SECTION 2.12. Section 2(b), Article 42.03, Code of Criminal
7 Procedure, is amended to read as follows:

8 (b) In all revocations of a suspension of the imposition of
9 a sentence the judge shall enter the restitution ~~[or reparation]~~
10 due and owing on the date of the revocation.

11 SECTION 2.13. Articles 42.037(i) and (j), Code of Criminal
12 Procedure, are amended to read as follows:

13 (i) In addition to any other terms and conditions of
14 community supervision ~~[probation]~~ imposed under Chapter 42A
15 ~~[Article 42.12]~~, the court may require a defendant ~~[probationer]~~ to
16 reimburse the compensation to victims of crime fund created under
17 Subchapter B, Chapter 56, for any amounts paid from that fund to or
18 on behalf of a victim of the defendant's ~~[probationer's]~~ offense.
19 In this subsection, "victim" has the meaning assigned by Article
20 56.32.

21 (j) The court may order a community supervision and
22 corrections department to obtain information pertaining to the
23 factors listed in Subsection (c) ~~[of this article]~~. The
24 supervision ~~[probation]~~ officer shall include the information in
25 the report required under Article 42A.252(a) ~~[Section 9(a), Article~~
26 ~~42.12, of this code]~~ or a separate report, as the court directs.
27 The court shall permit the defendant and the prosecuting attorney

1 to read the report.

2 SECTION 2.14. Article 42.08(a), Code of Criminal Procedure,
3 is amended to read as follows:

4 (a) When the same defendant has been convicted in two or
5 more cases, judgment and sentence shall be pronounced in each case
6 in the same manner as if there had been but one conviction. Except
7 as provided by Subsections ~~[Sections]~~ (b) and (c) ~~[of this~~
8 ~~article]~~, in the discretion of the court, the judgment in the second
9 and subsequent convictions may either be that the sentence imposed
10 or suspended shall begin when the judgment and the sentence imposed
11 or suspended in the preceding conviction has ceased to operate, or
12 that the sentence imposed or suspended shall run concurrently with
13 the other case or cases, and sentence and execution shall be
14 accordingly; provided, however, that the cumulative total of
15 suspended sentences in felony cases shall not exceed 10 years, and
16 the cumulative total of suspended sentences in misdemeanor cases
17 shall not exceed the maximum period of confinement in jail
18 applicable to the misdemeanor offenses, though in no event more
19 than three years, including extensions of periods of community
20 supervision under Article 42A.752(a)(2) ~~[Section 22, Article~~
21 ~~42.12, of this code]~~, if none of the offenses are offenses under
22 Chapter 49, Penal Code, or four years, including extensions, if any
23 of the offenses are offenses under Chapter 49, Penal Code.

24 SECTION 2.15. Section 7, Article 42.09, Code of Criminal
25 Procedure, is amended to read as follows:

26 Sec. 7. If a defendant is sentenced to a term of
27 imprisonment in the Texas Department of Criminal Justice but is not

transferred to the department under Section 3 or 4, the court, before the date on which it would lose jurisdiction under Article 42A.202(a) [~~Section 6(a), Article 42.12~~], shall send to the department a document containing a statement of the date on which the defendant's sentence was pronounced and credits earned by the defendant under Article 42.03 as of the date of the statement.

SECTION 2.16. Section 8(a), Article 42.09, Code of Criminal Procedure, is amended to read as follows:

(a) A county that transfers a defendant to the Texas Department of Criminal Justice under this article shall deliver to an officer designated by the department:

(1) a copy of the judgment entered pursuant to Article 42.01, completed on a standardized felony judgment form described by Section 4 of that article;

(2) a copy of any order revoking community supervision and imposing sentence pursuant to Article 42A.755 [~~Section 23, Article 42.12~~], including:

(A) any amounts owed for restitution, fines, and court costs, completed on a standardized felony judgment form described by Section 4, Article 42.01; and

(B) a copy of the client supervision plan prepared for the defendant by the community supervision and corrections department supervising the defendant, if such a plan was prepared;

(3) a written report that states the nature and the seriousness of each offense and that states the citation to the provision or provisions of the Penal Code or other law under which

1 the defendant was convicted;

2 (4) a copy of the victim impact statement, if one has
3 been prepared in the case under Article 56.03;

4 (5) a statement as to whether there was a change in
5 venue in the case and, if so, the names of the county prosecuting
6 the offense and the county in which the case was tried;

7 (6) if requested, information regarding the criminal
8 history of the defendant, including the defendant's state
9 identification number if the number has been issued;

10 (7) a copy of the indictment or information for each
11 offense;

12 (8) a checklist sent by the department to the county
13 and completed by the county in a manner indicating that the
14 documents required by this subsection and Subsection (c) accompany
15 the defendant;

16 (9) if prepared, a copy of a presentence or
17 postsentence [~~investigation~~] report prepared under Subchapter F,
18 Chapter 42A [~~Section 9, Article 42.12~~];

19 (10) a copy of any detainer, issued by an agency of the
20 federal government, that is in the possession of the county and that
21 has been placed on the defendant;

22 (11) if prepared, a copy of the defendant's Texas
23 Uniform Health Status Update Form; and

24 (12) a written description of a hold or warrant,
25 issued by any other jurisdiction, that the county is aware of and
26 that has been placed on or issued for the defendant.

27 SECTION 2.17. Article 42.14(b), Code of Criminal Procedure,

1 is amended to read as follows:

2 (b) In a felony case, the judgment and sentence may be
3 rendered in the absence of the defendant only if:

4 (1) the defendant is confined in a penal institution;

5 (2) the defendant is not charged with a felony
6 offense:

7 (A) that is listed in Article 42A.054(a) [~~Section~~
8 ~~3g(a)(1), Article 42.12~~]; or

9 (B) for which it is alleged that:

10 (i) a deadly weapon was used or exhibited
11 during the commission of the offense or during immediate flight
12 from the commission of the offense; and

13 (ii) the defendant used or exhibited the
14 deadly weapon or was a party to the offense and knew that a deadly
15 weapon would be used or exhibited;

16 (3) the defendant in writing before the appropriate
17 court having jurisdiction in the county in which the penal
18 institution is located:

19 (A) waives the right to be present at the
20 rendering of the judgment and sentence or to have counsel present;

21 (B) affirms that the defendant does not have
22 anything to say as to why the sentence should not be pronounced and
23 that there is no reason to prevent the sentence under Article 42.07;

24 (C) states that the defendant has entered into a
25 written plea agreement with the attorney representing the state in
26 the prosecution of the case; and

27 (D) requests the court to pronounce sentence in

1 the case in accordance with the plea agreement;

2 (4) the defendant and the attorney representing the
3 state in the prosecution of the case have entered into a written
4 plea agreement that is made a part of the record in the case; and

5 (5) sentence is pronounced in accordance with the plea
6 agreement.

7 SECTION 2.18. Article 44.01(j), Code of Criminal Procedure,
8 is amended to read as follows:

9 (j) Nothing in this article is to interfere with the
10 defendant's right to appeal under the procedures of Article 44.02
11 ~~[of this code]~~. The defendant's right to appeal under Article 44.02
12 may be prosecuted by the defendant where the punishment assessed is
13 in accordance with Subchapter C, Chapter 42A ~~[Subsection (a),~~
14 ~~Section 3d, Article 42.12 of this code]~~, as well as any other
15 punishment assessed in compliance with Article 44.02 ~~[of this~~
16 ~~code]~~.

17 SECTION 2.19. Article 44.04(b), Code of Criminal Procedure,
18 is amended to read as follows:

19 (b) The defendant may not be released on bail pending the
20 appeal from any felony conviction where the punishment equals or
21 exceeds 10 years confinement or where the defendant has been
22 convicted of an offense listed under Article 42A.054(a) ~~[Section~~
23 ~~3g(a)(1), Article 42.12]~~, but shall immediately be placed in
24 custody and the bail discharged.

25 SECTION 2.20. Articles 46B.073(c) and (d), Code of Criminal
26 Procedure, are amended to read as follows:

27 (c) If the defendant is charged with an offense listed in

Article 17.032(a), other than an offense listed in Article 17.032(a)(6), or the indictment alleges an affirmative finding under Article 42A.054(c) or (d) [~~Section 3g(a)(2), Article 42.12~~], the court shall enter an order committing the defendant to the maximum security unit of any facility designated by the department, to an agency of the United States operating a mental hospital, or to a Department of Veterans Affairs hospital.

(d) If the defendant is not charged with an offense described by Subsection (c) and the indictment does not allege an affirmative finding under Article 42A.054(c) or (d) [~~Section 3g(a)(2), Article 42.12~~], the court shall enter an order committing the defendant to a mental health facility or residential care facility determined to be appropriate by the local mental health authority or local mental retardation authority.

SECTION 2.21. Article 46B.104, Code of Criminal Procedure, is amended to read as follows:

Art. 46B.104. CIVIL COMMITMENT PLACEMENT: FINDING OF VIOLENCE. A defendant committed to a facility as a result of proceedings initiated under this chapter shall be committed to the maximum security unit of any facility designated by the department if:

(1) the defendant is charged with an offense listed in Article 17.032(a), other than an offense listed in Article 17.032(a)(6); or

(2) the indictment charging the offense alleges an affirmative finding under Article 42A.054(c) or (d) [~~Section 3g(a)(2), Article 42.12~~].

SECTION 2.22. Article 48.01(b), Code of Criminal Procedure, is amended to read as follows:

(b) The Board of Pardons and Paroles may recommend that the Governor grant a pardon to a person who:

(1) is placed on deferred adjudication community supervision under Subchapter C, Chapter 42A [~~Section 5, Article 42.12~~], and subsequently receives a discharge and dismissal under Article 42A.111 [~~Section 5(c) of that article~~]; and

(2) on or after the 10th anniversary of the date of discharge and dismissal, submits a written request to the board for a recommendation under this subsection.

SECTION 2.23. Articles 55.01(a) and (a-1), Code of Criminal Procedure, are amended to read as follows:

(a) A person who has been placed under a custodial or noncustodial arrest for commission of either a felony or misdemeanor is entitled to have all records and files relating to the arrest expunged if:

(1) the person is tried for the offense for which the person was arrested and is:

(A) acquitted by the trial court, except as provided by Subsection (c); or

(B) convicted and subsequently:

(i) pardoned for a reason other than that described by Subparagraph (ii); or

(ii) pardoned or otherwise granted relief on the basis of actual innocence with respect to that offense, if the applicable pardon or court order clearly indicates on its face

1 that the pardon or order was granted or rendered on the basis of the
2 person's actual innocence; or

3 (2) the person has been released and the charge, if
4 any, has not resulted in a final conviction and is no longer pending
5 and there was no court-ordered community supervision under Chapter
6 42A [~~Article 42.12~~] for the offense, unless the offense is a Class C
7 misdemeanor, provided that:

8 (A) regardless of whether any statute of
9 limitations exists for the offense and whether any limitations
10 period for the offense has expired, an indictment or information
11 charging the person with the commission of a misdemeanor offense
12 based on the person's arrest or charging the person with the
13 commission of any felony offense arising out of the same
14 transaction for which the person was arrested:

15 (i) has not been presented against the
16 person at any time following the arrest, and:

17 (a) at least 180 days have elapsed
18 from the date of arrest if the arrest for which the expunction was
19 sought was for an offense punishable as a Class C misdemeanor and if
20 there was no felony charge arising out of the same transaction for
21 which the person was arrested;

22 (b) at least one year has elapsed from
23 the date of arrest if the arrest for which the expunction was sought
24 was for an offense punishable as a Class B or A misdemeanor and if
25 there was no felony charge arising out of the same transaction for
26 which the person was arrested;

27 (c) at least three years have elapsed

1 from the date of arrest if the arrest for which the expunction was
2 sought was for an offense punishable as a felony or if there was a
3 felony charge arising out of the same transaction for which the
4 person was arrested; or

5 (d) the attorney representing the
6 state certifies that the applicable arrest records and files are
7 not needed for use in any criminal investigation or prosecution,
8 including an investigation or prosecution of another person; or

9 (ii) if presented at any time following the
10 arrest, was dismissed or quashed, and the court finds that the
11 indictment or information was dismissed or quashed because the
12 person completed a pretrial intervention program authorized under
13 Section 76.011, Government Code, because the presentment had been
14 made because of mistake, false information, or other similar reason
15 indicating absence of probable cause at the time of the dismissal to
16 believe the person committed the offense, or because the indictment
17 or information was void; or

18 (B) prosecution of the person for the offense for
19 which the person was arrested is no longer possible because the
20 limitations period has expired.

21 (a-1) Notwithstanding any other provision of this article,
22 a person may not expunge records and files relating to an arrest
23 that occurs pursuant to a warrant issued under Article 42A.751(b)
24 [~~Section 21, Article 42.12~~].

25 SECTION 2.24. Article 60.052(c), Code of Criminal
26 Procedure, is amended to read as follows:

27 (c) Information in the corrections tracking system relating

1 to the handling of offenders must include the following information
2 about each imprisonment, confinement, or execution of an offender:

3 (1) the date of the imprisonment or confinement;

4 (2) if the offender was sentenced to death:

5 (A) the date of execution; and

6 (B) if the death sentence was commuted, the
7 sentence to which the sentence of death was commuted and the date of
8 commutation;

9 (3) the date the offender was released from
10 imprisonment or confinement and whether the release was a discharge
11 or a release on parole or mandatory supervision;

12 (4) if the offender is released on parole or mandatory
13 supervision:

14 (A) the offense for which the offender was
15 convicted by offense code and incident number;

16 (B) the date the offender was received by an
17 office of the parole division;

18 (C) the county in which the offender resides
19 while under supervision;

20 (D) any program in which an offender is placed or
21 has previously been placed and the level of supervision the
22 offender is placed on while under the jurisdiction of the parole
23 division;

24 (E) the date a program described by Paragraph (D)
25 begins, the date the program ends, and whether the program was
26 completed successfully;

27 (F) the date a level of supervision described by

Paragraph (D) begins and the date the level of supervision ends;

(G) if the offender's release status is revoked,
the reason for the revocation and the date of revocation;

(H) the expiration date of the sentence; and

(I) the date of the offender's release from the
parole division or the date on which the offender is granted
clemency; and

(5) if the offender is released under Article
42A.202(b) [~~Section 6(a), Article 42.12~~], the date of the
offender's release.

SECTION 2.25. Article 60.08(e), Code of Criminal Procedure,
is amended to read as follows:

(e) A court that orders the release of an offender under
Article 42A.202(b) [~~Section 6(a), Article 42.12~~] at a time when
the offender is under a bench warrant and not physically imprisoned
in the Texas Department of Criminal Justice shall report the
release to the department not later than the seventh day after the
date of the release.

SECTION 2.26. Article 62.063(b), Code of Criminal
Procedure, is amended to read as follows:

(b) A person subject to registration under this chapter
because of a reportable conviction or adjudication for which an
affirmative finding is entered under Article 42.015(b) or
42A.105(a) [~~Section 5(e)(2), Article 42.12~~], as appropriate, may
not, for compensation:

(1) operate or offer to operate a bus;

(2) provide or offer to provide a passenger taxicab or

1 limousine transportation service;

2 (3) provide or offer to provide any type of service in
3 the residence of another person unless the provision of service
4 will be supervised; or

5 (4) operate or offer to operate any amusement ride.

6 SECTION 2.27. Articles 62.301(b) and (c), Code of Criminal
7 Procedure, are amended to read as follows:

8 (b) A person is eligible to petition the court as described
9 by Subsection (a) if:

10 (1) the person is required to register only as a result
11 of a single reportable conviction or adjudication, other than an
12 adjudication of delinquent conduct; and

13 (2) the court has entered in the appropriate judgment
14 or has filed with the appropriate papers a statement of an
15 affirmative finding described by Article 42.017 or 42A.105(c)
16 [~~Section 5(g), Article 42.12~~].

17 (c) A defendant who before September 1, 2011, is convicted
18 of or placed on deferred adjudication community supervision for an
19 offense under Section 21.11 or 22.011, Penal Code, is eligible to
20 petition the court as described by Subsection (a). The court may
21 consider the petition only if the petition states and the court
22 finds that the defendant would have been entitled to the entry of an
23 affirmative finding under Article 42.017 or 42A.105(c) [~~Section~~
24 ~~5(g), Article 42.12~~], as appropriate, had the conviction or
25 placement on deferred adjudication community supervision occurred
26 after September 1, 2011.

27 SECTION 2.28. Article 102.018(b), Code of Criminal

Procedure, is amended to read as follows:

(b) Except as provided by Subsection (d) ~~[of this article]~~, on conviction of an offense relating to the driving or operating of a motor vehicle punishable under Section 49.04(b), Penal Code, the court shall impose as a cost of court on the defendant an amount that is equal to the cost of an evaluation of the defendant performed under Article 42A.402(a) ~~[Section 13(a), Article 42.12, of this code]~~. Costs imposed under this subsection are in addition to other court costs and are due whether or not the defendant is granted community supervision ~~[probation]~~ in the case, except that if the court determines that the defendant is indigent and unable to pay the cost, the court may waive the imposition of the cost.

SECTION 2.29. Article 102.020(a), Code of Criminal Procedure, is amended to read as follows:

(a) A person shall pay as a cost of court:

(1) \$250 on conviction of an offense listed in Section 411.1471(a)(1), Government Code;

(2) \$50 on conviction of an offense listed in Section 411.1471(a)(3) of that code; or

(3) \$34 on placement of the person on community supervision, including deferred adjudication community supervision, if the person is required to submit a DNA sample under Article 42A.352 ~~[Section 11(j), Article 42.12]~~.

SECTION 2.30. Section 37.152(f), Education Code, is amended to read as follows:

(f) Except if an offense causes the death of a student, in sentencing a person convicted of an offense under this section, the

1 court may require the person to perform community service, subject
2 to the same conditions imposed on a person placed on community
3 supervision under Chapter 42A [~~Section 11, Article 42.12~~], Code of
4 Criminal Procedure, for an appropriate period of time in lieu of
5 confinement in county jail or in lieu of a part of the time the
6 person is sentenced to confinement in county jail.

7 SECTION 2.31. Section 53.045(a), Family Code, is amended to
8 read as follows:

9 (a) Except as provided by Subsection (e), the prosecuting
10 attorney may refer the petition to the grand jury of the county in
11 which the court in which the petition is filed presides if the
12 petition alleges that the child engaged in delinquent conduct that
13 constitutes habitual felony conduct as described by Section 51.031
14 or that included the violation of any of the following provisions:

15 (1) Section 19.02, Penal Code (murder);
16 (2) Section 19.03, Penal Code (capital murder);
17 (3) Section 19.04, Penal Code (manslaughter);
18 (4) Section 20.04, Penal Code (aggravated
19 kidnapping);

20 (5) Section 22.011, Penal Code (sexual assault) or
21 Section 22.021, Penal Code (aggravated sexual assault);

22 (6) Section 22.02, Penal Code (aggravated assault);

23 (7) Section 29.03, Penal Code (aggravated robbery);

24 (8) Section 22.04, Penal Code (injury to a child,
25 elderly individual, or disabled individual), if the offense is
26 punishable as a felony, other than a state jail felony;

27 (9) Section 22.05(b), Penal Code (felony deadly

conduct involving discharging a firearm);

(10) Subchapter D, Chapter 481, Health and Safety Code, if the conduct constitutes a felony of the first degree or an aggravated controlled substance felony (certain offenses involving controlled substances);

(11) Section 15.03, Penal Code (criminal solicitation);

(12) Section 21.11(a)(1), Penal Code (indecent with a child);

(13) Section 15.031, Penal Code (criminal solicitation of a minor);

(14) Section 15.01, Penal Code (criminal attempt), if the offense attempted was an offense under Section 19.02, Penal Code (murder), or Section 19.03, Penal Code (capital murder), or an offense listed by Article 42A.054(a) [~~Section 3g(a)(1), Article 42.12~~], Code of Criminal Procedure;

(15) Section 28.02, Penal Code (arson), if bodily injury or death is suffered by any person by reason of the commission of the conduct;

(16) Section 49.08, Penal Code (intoxication manslaughter); or

(17) Section 15.02, Penal Code (criminal conspiracy), if the offense made the subject of the criminal conspiracy includes a violation of any of the provisions referenced in Subdivisions (1) through (16).

SECTION 2.32. Section 54.0409(a), Family Code, is amended to read as follows:

(a) This section applies only to conduct constituting the commission of a felony:

(1) that is listed in Article 42A.054(a) [~~Section 3g(a)(1), Article 42.12~~], Code of Criminal Procedure; or

(2) for which it is shown that a deadly weapon, as defined by Section 1.07, Penal Code, was used or exhibited during the commission of the conduct or during immediate flight from the commission of the conduct.

SECTION 2.33. Sections 54.051(e), (e-1), (e-2), and (e-3), Family Code, are amended to read as follows:

(e) A district court that exercises jurisdiction over a person transferred under Subsection (d) shall place the person on community supervision under Chapter 42A [~~Article 42.12~~], Code of Criminal Procedure, for the remainder of the person's probationary period and under conditions consistent with those ordered by the juvenile court.

(e-1) The restrictions on a judge placing a defendant on community supervision imposed by Article 42A.054 [~~Section 3g, Article 42.12~~], Code of Criminal Procedure, do not apply to a case transferred from the juvenile court. The minimum period of community supervision imposed by Article 42A.053(d) [~~Section 3(b), Article 42.12~~], Code of Criminal Procedure, does not apply to a case transferred from the juvenile court.

(e-2) If a person who is placed on community supervision under this section violates a condition of that supervision or if the person violated a condition of probation ordered under Section 54.04(q) and that probation violation was not discovered by the

1 state before the person's 19th birthday, the district court shall
2 dispose of the violation of community supervision or probation, as
3 appropriate, in the same manner as if the court had originally
4 exercised jurisdiction over the case. If the judge revokes
5 community supervision, the judge may reduce the prison sentence to
6 any length without regard to the minimum term imposed by Article
7 42A.755(a) [~~Section 23(a), Article 42.12~~], Code of Criminal
8 Procedure.

9 (e-3) The time that a person serves on probation ordered
10 under Section 54.04(q) is the same as time served on community
11 supervision ordered under this section for purposes of determining
12 the person's eligibility for early discharge from community
13 supervision under Article 42A.701 [~~Section 20, Article 42.12~~], Code
14 of Criminal Procedure.

15 SECTION 2.34. Section 55.45(c), Family Code, is amended to
16 read as follows:

17 (c) If the referred child, as described in Subsection (b),
18 is alleged to have committed an offense listed in Article 42A.054
19 [~~Section 3g, Article 42.12~~], Code of Criminal Procedure, the
20 administrator of the residential care facility shall apply, in
21 writing, by certified mail, return receipt requested, to the
22 juvenile court that ordered commitment of the child or that
23 referred the case to a court that ordered commitment of the child
24 and show good cause for any release of the child from the facility
25 for more than 48 hours. Notice of this request must be provided to
26 the prosecuting attorney responsible for the case. The prosecuting
27 attorney, the juvenile, or the administrator may apply for a

1 hearing on this application. If no one applies for a hearing, the
2 trial court shall resolve the application on the written
3 submission. The rules of evidence do not apply to this hearing. An
4 appeal of the trial court's ruling on the application is not
5 allowed. The release of a child described in this subsection
6 without the express approval of the trial court is punishable by
7 contempt.

8 SECTION 2.35. Section 76.001(2), Government Code, is
9 amended to read as follows:

10 (2) "Community supervision" has the meaning assigned
11 by Article 42A.001 [~~Section 2, Article 42.12~~], Code of Criminal
12 Procedure.

13 SECTION 2.36. Section 76.015(c), Government Code, is
14 amended to read as follows:

15 (c) A department may assess a reasonable administrative fee
16 of not less than \$25 and not more than \$60 per month on an individual
17 who participates in a program operated by the department or
18 receives services from the department and who is not paying a
19 monthly fee under Article 42A.652 [~~Section 19, Article 42.12~~], Code
20 of Criminal Procedure.

21 SECTION 2.37. Section 103.021, Government Code, is amended
22 to read as follows:

23 Sec. 103.021. ADDITIONAL FEES AND COSTS IN CRIMINAL OR
24 CIVIL CASES: CODE OF CRIMINAL PROCEDURE. An accused or defendant,
25 or a party to a civil suit, as applicable, shall pay the following
26 fees and costs under the Code of Criminal Procedure if ordered by
27 the court or otherwise required:

1 (1) a personal bond fee (Art. 17.42, Code of Criminal
2 Procedure) . . . the greater of \$20 or three percent of the amount
3 of the bail fixed for the accused;

4 (2) cost of electronic monitoring as a condition of
5 release on personal bond (Art. 17.43, Code of Criminal Procedure)
6 . . . actual cost;

7 (3) a fee for verification of and monitoring of motor
8 vehicle ignition interlock (Art. 17.441, Code of Criminal
9 Procedure) . . . not to exceed \$10;

10 (3-a) costs associated with operating a global
11 positioning monitoring system as a condition of release on bond
12 (Art. 17.49(b)(2), Code of Criminal Procedure) . . . actual costs,
13 subject to a determination of indigency;

14 (3-b) costs associated with providing a defendant's
15 victim with an electronic receptor device as a condition of the
16 defendant's release on bond (Art. 17.49(b)(3), Code of Criminal
17 Procedure) . . . actual costs, subject to a determination of
18 indigency;

19 (4) repayment of reward paid by a crime stoppers
20 organization on conviction of a felony (Art. 37.073, Code of
21 Criminal Procedure) . . . amount ordered;

22 (5) reimbursement to general revenue fund for payments
23 made to victim of an offense as condition of community supervision
24 (Chapter 42A [~~Art. 42.12~~], Code of Criminal Procedure) . . . not to
25 exceed \$50 for a misdemeanor offense or \$100 for a felony offense;

26 (6) payment to a crime stoppers organization as
27 condition of community supervision (Chapter 42A [~~Art. 42.12~~], Code

of Criminal Procedure) . . . not to exceed \$50;

(7) children's advocacy center fee (Chapter 42A [~~Art. 42.12~~], Code of Criminal Procedure) . . . not to exceed \$50;

(8) family violence center fee (Chapter 42A [~~Art. 42.12~~], Code of Criminal Procedure) . . . \$100;

(9) community supervision fee (Chapter 42A [~~Art. 42.12~~], Code of Criminal Procedure) . . . not less than \$25 or more than \$60 per month;

(10) additional community supervision fee for certain offenses (Chapter 42A [~~Art. 42.12~~], Code of Criminal Procedure) . . . \$5 per month;

(11) for certain financially able sex offenders as a condition of community supervision, the costs of treatment, specialized supervision, or rehabilitation (Chapter 42A [~~Art. 42.12~~], Code of Criminal Procedure) . . . all or part of the reasonable and necessary costs of the treatment, supervision, or rehabilitation as determined by the judge;

(12) fee for failure to appear for trial in a justice or municipal court if a jury trial is not waived (Art. 45.026, Code of Criminal Procedure) . . . costs incurred for impaneling the jury;

(13) costs of certain testing, assessments, or programs during a deferral period (Art. 45.051, Code of Criminal Procedure) . . . amount ordered;

(14) special expense on dismissal of certain misdemeanor complaints (Art. 45.051, Code of Criminal Procedure) . . . not to exceed amount of fine assessed;

1 (15) an additional fee:

2 (A) for a copy of the defendant's driving record
3 to be requested from the Department of Public Safety by the judge
4 (Art. 45.0511(c-1), Code of Criminal Procedure) . . . amount equal
5 to the sum of the fee established by Section 521.048,
6 Transportation Code, and the state electronic Internet portal fee;

7 (B) as an administrative fee for requesting a
8 driving safety course or a course under the motorcycle operator
9 training and safety program for certain traffic offenses to cover
10 the cost of administering the article (Art. 45.0511(f)(1), Code of
11 Criminal Procedure) . . . not to exceed \$10; or

12 (C) for requesting a driving safety course or a
13 course under the motorcycle operator training and safety program
14 before the final disposition of the case (Art. 45.0511(f)(2), Code
15 of Criminal Procedure) . . . not to exceed the maximum amount of the
16 fine for the offense committed by the defendant;

17 (16) a request fee for teen court program (Art.
18 45.052, Code of Criminal Procedure) . . . \$20, if the court
19 ordering the fee is located in the Texas-Louisiana border region,
20 but otherwise not to exceed \$10;

21 (17) a fee to cover costs of required duties of teen
22 court (Art. 45.052, Code of Criminal Procedure) . . . \$20, if the
23 court ordering the fee is located in the Texas-Louisiana border
24 region, but otherwise \$10;

25 (18) a mileage fee for officer performing certain
26 services (Art. 102.001, Code of Criminal Procedure) . . . \$0.15 per
27 mile;

(19) certified mailing of notice of hearing date (Art. 102.006, Code of Criminal Procedure) . . . \$1, plus postage;

(20) certified mailing of certified copies of an order of expunction (Art. 102.006, Code of Criminal Procedure) . . . \$2, plus postage;

(20-a) a fee to defray the cost of notifying state agencies of orders of expungement (Art. 45.0216, Code of Criminal Procedure) . . . \$30 per application;

(20-b) a fee to defray the cost of notifying state agencies of orders of expunction (Art. 45.055, Code of Criminal Procedure) . . . \$30 per application;

(21) sight orders:

(A) if the face amount of the check or sight order does not exceed \$10 (Art. 102.007, Code of Criminal Procedure) . . . not to exceed \$10;

(B) if the face amount of the check or sight order is greater than \$10 but does not exceed \$100 (Art. 102.007, Code of Criminal Procedure) . . . not to exceed \$15;

(C) if the face amount of the check or sight order is greater than \$100 but does not exceed \$300 (Art. 102.007, Code of Criminal Procedure) . . . not to exceed \$30;

(D) if the face amount of the check or sight order is greater than \$300 but does not exceed \$500 (Art. 102.007, Code of Criminal Procedure) . . . not to exceed \$50; and

(E) if the face amount of the check or sight order is greater than \$500 (Art. 102.007, Code of Criminal Procedure) . . . not to exceed \$75;

(22) fees for a pretrial intervention program:

(A) a supervision fee (Art. 102.012(a), Code of Criminal Procedure) . . . \$60 a month plus expenses; and

(B) a district attorney, criminal district attorney, or county attorney administrative fee (Art. 102.0121, Code of Criminal Procedure) . . . not to exceed \$500;

(23) parking fee violations for child safety fund in municipalities with populations:

(A) greater than 850,000 (Art. 102.014, Code of Criminal Procedure) . . . not less than \$2 and not to exceed \$5; and

(B) less than 850,000 (Art. 102.014, Code of Criminal Procedure) . . . not to exceed \$5;

(24) an administrative fee for collection of fines, fees, restitution, or other costs (Art. 102.072, Code of Criminal Procedure) . . . not to exceed \$2 for each transaction; and

(25) a collection fee, if authorized by the commissioners court of a county or the governing body of a municipality, for certain debts and accounts receivable, including unpaid fines, fees, court costs, forfeited bonds, and restitution ordered paid (Art. 103.0031, Code of Criminal Procedure) . . . 30 percent of an amount more than 60 days past due.

SECTION 2.38. Section 123.001(b), Government Code, is amended to read as follows:

(b) If a defendant successfully completes a drug court program, regardless of whether the defendant was convicted of the offense for which the defendant entered the program or whether the court deferred further proceedings without entering an

1 adjudication of guilt, after notice to the state and a hearing on
2 whether the defendant is otherwise entitled to the petition and
3 whether issuance of the order is in the best interest of justice,
4 the court shall enter an order of nondisclosure under Section
5 411.081 as if the defendant had received a discharge and dismissal
6 under Article 42A.111 [~~Section 5(c), Article 42.12~~], Code of
7 Criminal Procedure, with respect to all records and files related
8 to the defendant's arrest for the offense for which the defendant
9 entered the program if the defendant:

10 (1) has not been previously convicted of an offense
11 listed in Article 42A.054 [~~Section 3g, Article 42.12~~], Code of
12 Criminal Procedure, or a sexually violent offense, as defined by
13 Article 62.001, Code of Criminal Procedure; and

14 (2) is not convicted for any felony offense between
15 the date on which the defendant successfully completed the program
16 and the second anniversary of that date.

17 SECTION 2.39. Section 123.008(a), Government Code, is
18 amended to read as follows:

19 (a) Notwithstanding Article 42A.304 [~~Sections 13 and 16,~~
20 ~~Article 42.12~~], Code of Criminal Procedure, to encourage
21 participation in a drug court program established under this
22 chapter, the judge or magistrate administering the program may
23 suspend any requirement that, as a condition of community
24 supervision, a participant in the program work a specified number
25 of hours at a community service project or projects.

26 SECTION 2.40. Sections 411.081(d) and (e), Government Code,
27 are amended to read as follows:

(d) Notwithstanding any other provision of this subchapter, if a person is placed on deferred adjudication community supervision under Subchapter C, Chapter 42A [~~Section 5, Article 42.12~~], Code of Criminal Procedure, subsequently receives a discharge and dismissal under Article 42A.111 [~~Section 5(c), Article 42.12~~], and satisfies the requirements of Subsection (e), the person may petition the court that placed the defendant on deferred adjudication for an order of nondisclosure under this subsection. Except as provided by Subsection (e), a person may petition the court for an order of nondisclosure regardless of whether the person has been previously placed on deferred adjudication community supervision for another offense. After notice to the state, an opportunity for a hearing, and a determination that the person is entitled to file the petition and issuance of the order is in the best interest of justice, the court shall issue an order prohibiting criminal justice agencies from disclosing to the public criminal history record information related to the offense giving rise to the deferred adjudication. A criminal justice agency may disclose criminal history record information that is the subject of the order only to other criminal justice agencies[7] for criminal justice or regulatory licensing purposes, an agency or entity listed in Subsection (i), or the person who is the subject of the order. A person may petition the court that placed the person on deferred adjudication for an order of nondisclosure only on or after:

(1) the discharge and dismissal, if the offense for which the person was placed on deferred adjudication was a

1 misdemeanor other than a misdemeanor described by Subdivision (2);

2 (2) the second anniversary of the discharge and
3 dismissal, if the offense for which the person was placed on
4 deferred adjudication was a misdemeanor under Chapter 20, 21, 22,
5 25, 42, or 46, Penal Code; or

6 (3) the fifth anniversary of the discharge and
7 dismissal, if the offense for which the person was placed on
8 deferred adjudication was a felony.

9 (e) A person is entitled to petition the court under
10 Subsection (d) only if during the period of the deferred
11 adjudication community supervision for which the order of
12 nondisclosure is requested and during the applicable period
13 described by Subsection (d)(1), (2), or (3), as appropriate, the
14 person is not convicted of or placed on deferred adjudication
15 community supervision under Subchapter C, Chapter 42A [~~Section 5,~~
16 ~~Article 42.12~~], Code of Criminal Procedure, for any offense other
17 than an offense under the Transportation Code punishable by fine
18 only. A person is not entitled to petition the court under
19 Subsection (d) if the person was placed on the deferred
20 adjudication community supervision for or has been previously
21 convicted or placed on any other deferred adjudication for:

22 (1) an offense requiring registration as a sex
23 offender under Chapter 62, Code of Criminal Procedure;

24 (2) an offense under Section 20.04, Penal Code,
25 regardless of whether the offense is a reportable conviction or
26 adjudication for purposes of Chapter 62, Code of Criminal
27 Procedure;

1 (3) an offense under Section 19.02, 19.03, 22.04,
2 22.041, 25.07, 25.072, or 42.072, Penal Code; or

3 (4) any other offense involving family violence, as
4 defined by Section 71.004, Family Code.

5 SECTION 2.41. Section 411.145(c), Government Code, is
6 amended to read as follows:

7 (c) A fee collected under this section shall be deposited in
8 the state treasury to the credit of the state highway fund, and
9 money deposited to the state highway fund under this section and
10 under Chapter 42A [~~Articles 42.12~~] and Article 102.020(h), Code of
11 Criminal Procedure, may be used only to defray the cost of
12 administering this subchapter and Section 411.0205.

13 SECTION 2.42. Section 414.010(a), Government Code, is
14 amended to read as follows:

15 (a) Except as provided by Subsection (d), a crime stoppers
16 organization certified by the council to receive money in the form
17 of payments from defendants placed on community supervision under
18 Chapter 42A [~~Article 42.12~~], Code of Criminal Procedure, or money
19 in the form of repayments of rewards under Articles 37.073 and
20 42.152, Code of Criminal Procedure, may use not more than 20 percent
21 of the money annually received to pay costs incurred in
22 administering the organization and shall use the remainder of the
23 money, including any interest earned on the money, only to reward
24 persons who report information concerning criminal activity. Not
25 later than January 31 of each year, a crime stoppers organization
26 that receives or expends money under this section shall file a
27 detailed report with the council.

SECTION 2.43. Sections 414.011(a) and (b), Government Code, are amended to read as follows:

(a) The council shall, on application by a crime stoppers organization, determine whether the organization is qualified to receive repayments of rewards under Articles 37.073 and 42.152, Code of Criminal Procedure, or payments from a defendant under Chapter 42A [~~Article 42.12~~], Code of Criminal Procedure. The council shall certify a crime stoppers organization to receive those repayments or payments if, considering the organization, continuity, leadership, community support, and general conduct of the crime stoppers organization, the council determines that the repayments or payments will be spent to further the crime prevention purposes of the organization.

(b) Each crime stoppers organization certified by the council to receive repayments under Articles 37.073 and 42.152, Code of Criminal Procedure, or payments from a defendant under Chapter 42A [~~Article 42.12~~], Code of Criminal Procedure, is subject to a review or audit, including financial and programmatic reviews or audits, of finances or programs at the direction of the criminal justice division of the governor's office or its designee. A copy of the review or audit report shall be submitted to the criminal justice division.

SECTION 2.44. Section 420.008(b), Government Code, is amended to read as follows:

(b) The fund consists of fees collected under:

(1) Article 42A.653(a) [~~Section 19(e), Article 42.12~~], Code of Criminal Procedure;

(2) Section 508.189, Government Code; and

(3) Subchapter B, Chapter 102, Business & Commerce Code, and deposited under Section 102.054.

SECTION 2.45. Sections 420.014(a) and (e), Government Code, are amended to read as follows:

(a) If the attorney general reasonably believes that a court or a community supervision office has not properly assessed or made a reasonable effort to collect costs due under Chapter 42A [~~Article 42.12 or 42.18~~], Code of Criminal Procedure, or Chapter 508, Government Code, the attorney general shall send a warning letter to the court or the governing body of the governmental unit in which the court is located.

(e) If the attorney general finds from available evidence that a court or a community supervision office has not properly assessed or made a reasonable effort to collect costs due under Chapter 42A [~~Article 42.12 or 42.18~~], Code of Criminal Procedure, or Chapter 508, Government Code, the attorney general may:

(1) refuse to award grants under this subchapter to residents of the jurisdiction served by the court or community supervision office; or

(2) in the case of a court, notify the State Commission on Judicial Conduct of the findings.

SECTION 2.46. Sections 493.009(a), (a-1), (b), (c), (d), (e), (g), (h), (k), and (q), Government Code, are amended to read as follows:

(a) The department shall establish a program to confine and treat:

1 (1) defendants required to participate in the program
2 under Article 42A.303 [~~Section 14, Article 42.12~~], Code of Criminal
3 Procedure; and

4 (2) individuals referred for treatment as part of a
5 drug court program established under Chapter 123 or a similar
6 program created under other law.

7 (a-1) The board by rule may modify requirements imposed by
8 this section and Chapter 42A [~~Article 42.12~~], Code of Criminal
9 Procedure, as necessary to properly treat individuals who are not
10 participating in the program as a condition of community
11 supervision.

12 (b) The board shall adopt criteria to determine the
13 suitability of candidates for participation in the program. The
14 department and the Department of State Health Services [~~Texas~~
15 ~~Commission on Alcohol and Drug Abuse~~] shall jointly develop methods
16 of screening and assessing defendants required to participate in
17 the program under Article 42A.303 [~~Section 14, Article 42.12~~], Code
18 of Criminal Procedure, to determine their need for specific types
19 of treatment for alcohol or drug abuse problems.

20 (c) The program for persons required to participate in the
21 program under Article 42A.303 [~~Section 14, Article 42.12~~], Code of
22 Criminal Procedure, must consist of treatment programs that may
23 vary in time from 90 days to 12 months.

24 (d) The program for persons required to participate in the
25 program under Article 42A.303 [~~Section 14, Article 42.12~~], Code of
26 Criminal Procedure, provided under this section must contain highly
27 structured work, education, and treatment schedules, a clearly

1 delineated authority structure, and well-defined goals and
2 guidelines. The department shall establish a graded system of
3 rewards and sanctions for defendants who participate in the
4 program, but a defendant required to participate in the program
5 under Article 42A.303 [~~Section 14, Article 42.12~~], Code of Criminal
6 Procedure, is not entitled to earn awards of time for good conduct.
7 A qualified professional, at least every 60 days, must perform an
8 evaluation on a defendant that determines the defendant's treatment
9 progress and institutional behavior. Not later than three days
10 after the date on which a four-month evaluation is performed, the
11 qualified professional shall establish a tentative release date for
12 the defendant, notify the sentencing court of that fact, and
13 include with the notice a copy of the four-month evaluation. The
14 qualified professional immediately shall notify the court if the
15 professional determines the defendant's conduct requires a
16 revision of the tentative release date.

17 (e) The department shall employ or contract with qualified
18 professionals to implement the program for persons required to
19 participate in the program under Article 42A.303 [~~Section 14,~~
20 ~~Article 42.12~~], Code of Criminal Procedure. For purposes of this
21 subsection, a "qualified professional" is a person who:

- 22 (1) is a licensed chemical dependency counselor;
23 (2) is a licensed social worker who has at least two
24 years of experience in chemical dependency counseling; or
25 (3) is a licensed professional counselor, physician,
26 or psychologist and who has at least two years of experience in
27 chemical dependency counseling.

1 (g) The department shall provide beds for the purpose of
2 operating the program for persons required to participate in the
3 program under Article 42A.303 [~~Section 14, Article 42.12~~], Code of
4 Criminal Procedure, [~~as amended by Chapter 900, Acts of the 73rd~~
5 ~~Legislature, Regular Session, 1993,~~] except that the beds may also
6 be used to house the following categories of persons:

7 (1) persons transferred under Subchapter A, Chapter
8 499, and Section 508.118;

9 (2) persons whose community supervision or parole has
10 been modified;

11 (3) defendants confined in county jails awaiting
12 transfer to the institutional division; and

13 (4) inmates participating in the program described by
14 Section 501.0931.

15 (h) On and after the date persons are required under Article
16 42A.303 [~~Section 14, Article 42.12~~], Code of Criminal Procedure, to
17 participate in the program established under this section, the
18 department shall give priority to housing those persons over the
19 categories of persons described by Subsections (g)(1)-(4).

20 (k) It is the intent of the legislature that facilities
21 established under this section be used primarily to house persons
22 required to participate in the program under Article 42A.303
23 [~~Section 14, Article 42.12~~], Code of Criminal Procedure, except
24 that if treatment beds are empty, this subsection does not prohibit
25 the department from using those empty beds to treat the categories
26 of persons listed in Subsection (g).

27 (q) The department not less often than every two years shall

determine whether the department should increase the number of beds provided by the department for the operation of the program for persons required to participate in the program under Article 42A.303 [~~Section 14, Article 42.12~~], Code of Criminal Procedure[~~7 as amended by Chapter 900, Acts of the 73rd Legislature, Regular Session, 1993~~].

SECTION 2.47. Sections 493.009(f)(1) and (3), Government Code, are amended to read as follows:

(f)(1) The department shall adopt rules of conduct for persons required to participate in the program under Article 42A.303 [~~Section 14, Article 42.12~~], Code of Criminal Procedure, or required to participate in the program following modification of community supervision or parole.

(3) The department, immediately on receiving notice, shall request the sentencing court to reassume custody of the defendant if the defendant was required to participate in the program under Article 42A.303 [~~Section 14, Article 42.12~~], Code of Criminal Procedure, or required to participate in the program following modification of community supervision. The court shall reassume custody before the 12th day after the date on which the department notifies the court. If the court revokes the defendant's community supervision, the admission of the defendant to the institutional division is an admission for which the department must account in the scheduled admissions policy established under Section 499.071.

SECTION 2.48. Section 493.017(a), Government Code, is amended to read as follows:

1 (a) A sex offender correction program that provides
2 counseling sessions for a sex offender under Article 42A.453
3 [~~Section 13B, Article 42.12~~], Code of Criminal Procedure, shall
4 report to the community supervision and corrections department
5 officer supervising the offender, not later than the 15th day of
6 each month, the following information about the offender:

7 (1) the total number of counseling sessions attended
8 by the sex offender during the preceding month; and

9 (2) if during the preceding month the sex offender
10 terminates participation in the program before completing
11 counseling, the reason for the sex offender's termination of
12 counseling.

13 SECTION 2.49. Section 499.027(b), Government Code, is
14 amended to read as follows:

15 (b) An inmate is not eligible under this subchapter to be
16 considered for release to intensive supervision parole if:

17 (1) the inmate is awaiting transfer to the
18 institutional division, or serving a sentence, for an offense for
19 which the judgment contains an affirmative finding under Article
20 42A.054(c) or (d) [~~Section 39(a)(2), Article 42.12~~], Code of
21 Criminal Procedure;

22 (2) the inmate is awaiting transfer to the
23 institutional division, or serving a sentence, for an offense
24 listed in one of the following sections of the Penal Code:

25 (A) Section 19.02 (murder);

26 (B) Section 19.03 (capital murder);

27 (C) Section 19.04 (manslaughter);

- 1 (D) Section 20.03 (kidnapping);
- 2 (E) Section 20.04 (aggravated kidnapping);
- 3 (F) Section 21.11 (indecenty with a child);
- 4 (G) Section 22.011 (sexual assault);
- 5 (H) Section 22.02 (aggravated assault);
- 6 (I) Section 22.021 (aggravated sexual assault);
- 7 (J) Section 22.04 (injury to a child, elderly
- 8 individual, or disabled individual);
- 9 (K) Section 25.02 (prohibited sexual conduct);
- 10 (L) Section 25.08 (sale or purchase of a child);
- 11 (M) Section 28.02 (arson);
- 12 (N) Section 29.02 (robbery);
- 13 (O) Section 29.03 (aggravated robbery);
- 14 (P) Section 30.02 (burglary), if the offense is
- 15 punished as a first-degree felony under that section;
- 16 (Q) Section 43.04 (aggravated promotion of
- 17 prostitution);
- 18 (R) Section 43.05 (compelling prostitution);
- 19 (S) Section 43.24 (sale, distribution, or
- 20 display of harmful material to minor);
- 21 (T) Section 43.25 (sexual performance by a
- 22 child);
- 23 (U) Section 46.10 (deadly weapon in penal
- 24 institution);
- 25 (V) Section 15.01 (criminal attempt), if the
- 26 offense attempted is listed in this subsection;
- 27 (W) Section 15.02 (criminal conspiracy), if the

offense that is the subject of the conspiracy is listed in this subsection;

(X) Section 15.03 (criminal solicitation), if the offense solicited is listed in this subsection;

(Y) Section 21.02 (continuous sexual abuse of young child or children);

(Z) Section 20A.02 (trafficking of persons); or

(AA) Section 20A.03 (continuous trafficking of persons); or

(3) the inmate is awaiting transfer to the institutional division, or serving a sentence, for an offense under Chapter 481, Health and Safety Code, punishable by a minimum term of imprisonment or a maximum fine that is greater than the minimum term of imprisonment or the maximum fine for a first degree felony.

SECTION 2.50. Section 499.053(d), Government Code, is amended to read as follows:

(d) A person transferred from the Texas Juvenile Justice Department for the offense of capital murder shall become eligible for parole as provided in Section 508.145(d) for an offense listed in Article 42A.054 [~~Section 3g, Article 42.12~~], Code of Criminal Procedure, or an offense for which a deadly weapon finding has been made.

SECTION 2.51. Section 508.145(d), Government Code, is amended to read as follows:

(d)(1) This subsection applies only to an [An] inmate who is serving a sentence for:

(A) an offense described by Article 42A.054(a)

1 ~~[Section 3g(a)(1)(A), (C), (D), (E), (F), (G), (H), (I), (J), (K),~~
2 ~~(L), (M), or (N), Article 42.12]~~, Code of Criminal Procedure, other
3 than an offense under Section 19.03, Penal Code;

4 (B) an offense for which the judgment contains an
5 affirmative finding under Article 42A.054(c) or (d), Code of
6 Criminal Procedure;

7 (C) ~~[Section 3g(a)(2) of that article,~~ an
8 offense under Section 20A.03, Penal Code; [or

9 (D) an offense under Section 71.02 or 71.023,
10 Penal Code.

11 (2) An inmate described by Subdivision (1) [is not
12 eligible for release on parole until the inmate's actual calendar
13 time served, without consideration of good conduct time, equals
14 one-half of the sentence or 30 calendar years, whichever is less,
15 but in no event is the inmate eligible for release on parole in less
16 than two calendar years.

17 (3) ~~[~~ Notwithstanding Subdivision (2) ~~]~~, an
18 inmate who is serving a sentence for an offense under Section
19 22.021, Penal Code ~~[described by Section 3g(a)(1)(E), Article~~
20 ~~42.12, Code of Criminal Procedure]~~, is not eligible for release on
21 parole if the inmate is serving a sentence for an offense for which
22 punishment was enhanced under Section 12.42(c)(4), Penal Code.

23 SECTION 2.52. Sections 508.146(a) and (f), Government Code,
24 are amended to read as follows:

25 (a) An inmate other than an inmate who is serving a sentence
26 of death or life without parole may be released on medically
27 recommended intensive supervision on a date designated by a parole

1 panel described by Subsection (e), except that an inmate with an
2 instant offense that is an offense described in Article 42A.054
3 ~~[Section 3g, Article 42.12]~~, Code of Criminal Procedure, or an
4 inmate who has a reportable conviction or adjudication under
5 Chapter 62, Code of Criminal Procedure, may only be considered if a
6 medical condition of terminal illness or long-term care has been
7 diagnosed by a physician, if:

8 (1) the Texas Correctional Office on Offenders with
9 Medical or Mental Impairments, in cooperation with the Correctional
10 Managed Health Care Committee, identifies the inmate as being:

11 (A) a person who is elderly or terminally ill, a
12 person with mental illness, an intellectual disability, or a
13 physical disability, ~~[physically disabled, mentally ill,~~
14 ~~terminally ill, or mentally retarded]~~ or a person who has ~~[having]~~ a
15 condition requiring long-term care, if the inmate is an inmate with
16 an instant offense that is described in Article 42A.054 ~~[Section~~
17 ~~3g, Article 42.12]~~, Code of Criminal Procedure; or

18 (B) in a persistent vegetative state or being a
19 person with an organic brain syndrome with significant to total
20 mobility impairment, if the inmate is an inmate who has a reportable
21 conviction or adjudication under Chapter 62, Code of Criminal
22 Procedure;

23 (2) the parole panel determines that, based on the
24 inmate's condition and a medical evaluation, the inmate does not
25 constitute a threat to public safety; and

26 (3) the Texas Correctional Office on Offenders with
27 Medical or Mental Impairments, in cooperation with the pardons and

1 paroles division, has prepared for the inmate a medically
2 recommended intensive supervision plan that requires the inmate to
3 submit to electronic monitoring, places the inmate on
4 super-intensive supervision, or otherwise ensures appropriate
5 supervision of the inmate.

6 (f) An inmate who is not a citizen of the United States, as
7 defined by federal law, who is not under a sentence of death or life
8 without parole, and who does not have a reportable conviction or
9 adjudication under Chapter 62, Code of Criminal Procedure, or an
10 instant offense described in Article 42A.054 [~~Section 3g, Article~~
11 ~~42.12~~], Code of Criminal Procedure, may be released to immigration
12 authorities pending deportation on a date designated by a parole
13 panel described by Subsection (e) if the parole panel determines
14 that on release the inmate would be deported to another country and
15 that the inmate does not constitute a threat to public safety in the
16 other country or this country and is unlikely to reenter this
17 country illegally.

18 SECTION 2.53. Section 508.149(a), Government Code, is
19 amended to read as follows:

20 (a) An inmate may not be released to mandatory supervision
21 if the inmate is serving a sentence for or has been previously
22 convicted of:

23 (1) an offense for which the judgment contains an
24 affirmative finding under Article 42A.054(c) or (d) [~~Section~~
25 ~~3g(a)(2), Article 42.12~~], Code of Criminal Procedure;

26 (2) a first degree felony or a second degree felony
27 under Section 19.02, Penal Code;

- 1 (3) a capital felony under Section 19.03, Penal Code;
- 2 (4) a first degree felony or a second degree felony
- 3 under Section 20.04, Penal Code;
- 4 (5) an offense under Section 21.11, Penal Code;
- 5 (6) a felony under Section 22.011, Penal Code;
- 6 (7) a first degree felony or a second degree felony
- 7 under Section 22.02, Penal Code;
- 8 (8) a first degree felony under Section 22.021, Penal
- 9 Code;
- 10 (9) a first degree felony under Section 22.04, Penal
- 11 Code;
- 12 (10) a first degree felony under Section 28.02, Penal
- 13 Code;
- 14 (11) a second degree felony under Section 29.02, Penal
- 15 Code;
- 16 (12) a first degree felony under Section 29.03, Penal
- 17 Code;
- 18 (13) a first degree felony under Section 30.02, Penal
- 19 Code;
- 20 (14) a felony for which the punishment is increased
- 21 under Section 481.134 or Section 481.140, Health and Safety Code;
- 22 (15) an offense under Section 43.25, Penal Code;
- 23 (16) an offense under Section 21.02, Penal Code;
- 24 (17) a first degree felony under Section 15.03, Penal
- 25 Code;
- 26 (18) an offense under Section 43.05, Penal Code;
- 27 (19) an offense under Section 20A.02, Penal Code;

(20) an offense under Section 20A.03, Penal Code; or

(21) a first degree felony under Section 71.02 or 71.023, Penal Code.

SECTION 2.54. Section 508.151(a), Government Code, is amended to read as follows:

(a) For the purpose of diverting inmates to halfway houses under Section 508.118, a parole panel, after reviewing all available pertinent information, may designate a presumptive parole date for an inmate who:

(1) has never been convicted of an offense listed under Article 42A.054(a) [~~Section 3g(a)(1), Article 42.12~~], Code of Criminal Procedure, or an offense under Section 20A.03 or 21.02, Penal Code; and

(2) has never had a conviction with a judgment that contains an affirmative finding under Article 42A.054(c) or (d) [~~Section 3g(a)(2), Article 42.12~~], Code of Criminal Procedure.

SECTION 2.55. Section 508.221, Government Code, is amended to read as follows:

Sec. 508.221. CONDITIONS PERMITTED GENERALLY. A parole panel may impose as a condition of parole or mandatory supervision any condition that a court may impose on a defendant placed on community supervision under Chapter 42A [~~Article 42.12~~], Code of Criminal Procedure, including the condition that a releasee submit to testing for controlled substances or submit to electronic monitoring if the parole panel determines that without testing for controlled substances or participation in an electronic monitoring program the inmate would not be released on parole.

SECTION 2.56. Section 508.225(a), Government Code, is amended to read as follows:

(a) If the nature of the offense for which an inmate is serving a sentence warrants the establishment of a child safety zone, a parole panel may establish a child safety zone applicable to an inmate serving a sentence for an offense listed in Article 42A.054(a) [~~Section 3g(a)(1), Article 42.12~~], Code of Criminal Procedure, or for which the judgment contains an affirmative finding under Article 42A.054(c) or (d) [~~Section 3g(a)(2), Article 42.12~~], Code of Criminal Procedure, by requiring as a condition of parole or release to mandatory supervision that the inmate not:

(1) supervise or participate in any program that includes as participants or recipients persons who are 17 years of age or younger and that regularly provides athletic, civic, or cultural activities; or

(2) go in or on, or within a distance specified by the panel of, a premises where children commonly gather, including a school, day-care facility, playground, public or private youth center, public swimming pool, or video arcade facility.

SECTION 2.57. Section 509.0071(b), Government Code, is amended to read as follows:

(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:

(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 Article 42A.054 [~~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-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).

SECTION 2.58. Section 509.015, Government Code, is amended to read as follows:

Sec. 509.015. TREATMENT STANDARDS FOR CERTAIN STATE JAIL FELONIES. The division shall propose and the board shall adopt best practices standards for substance abuse treatment conditions imposed under Article 42A.554(c) [~~Section 15(c)(2), Article 42.12~~], Code of Criminal Procedure.

SECTION 2.59. Section 509.017, Government Code, is amended to read as follows:

Sec. 509.017. SPECIAL ALLOCATION FOR CERTAIN DEFENDANTS PLACED ON STATE JAIL FELONY COMMUNITY SUPERVISION. Notwithstanding any other provision of this chapter, the Texas Department of Criminal Justice shall adopt policies and procedures to:

(1) determine the cost savings to the Texas Department of Criminal Justice realized through the release of defendants on

community supervision under Article 42A.551(d)(2)(B) [~~Section 15(a)(2)(B)(ii), Article 42.12~~], Code of Criminal Procedure; and

(2) provide 30 percent of that cost savings to the division to be allocated to individual departments and used for the same purpose that state aid is used under Section 509.011.

SECTION 2.60. Section 557.001(c), Government Code, is amended to read as follows:

(c) A person convicted of an offense under this section may not receive community supervision [~~probation~~] under Chapter 42A [~~Article 42.12~~], Code of Criminal Procedure.

SECTION 2.61. Section 772.0071(a)(1), Government Code, is amended to read as follows:

(1) "Border crime" means any crime that occurs in the border region and that undermines public safety or security, including an offense:

(A) during the prosecution of which an affirmative finding may be requested under Article 42A.054(c) or (d) [~~Section 39(a)(2), Article 42.12~~], Code of Criminal Procedure;

(B) under Chapter 19, 20, 20A, 46, or 71, Penal Code;

(C) under Title 7 or 8, Penal Code;

(D) under Chapter 481, Health and Safety Code;

(E) committed by a person who is not a citizen or national of the United States and is not lawfully present in the United States; or

(F) that is coordinated with or related to activities or crimes that occur or are committed in the United

1 Mexican States.

2 SECTION 2.62. Section 2001.221, Government Code, is amended
3 to read as follows:

4 Sec. 2001.221. DRIVER'S LICENSES. This chapter does not
5 apply to a suspension, revocation, cancellation, denial, or
6 disqualification of a driver's license or commercial driver's
7 license as authorized by:

8 (1) Subchapter N, Chapter 521, Transportation Code,
9 except Sections 521.304 and 521.305 of that subchapter, or by
10 Subchapter O or P of that chapter;

11 (2) Chapter 522, Transportation Code;

12 (3) Chapter 601, Transportation Code; or

13 (4) Article 42A.406 or 42A.407 [~~Section 13, Article~~
14 ~~42.12~~], Code of Criminal Procedure.

15 SECTION 2.63. Section 2002.023, Government Code, is amended
16 to read as follows:

17 Sec. 2002.023. EXCEPTIONS. This subchapter does not apply
18 to:

19 (1) a suspension, revocation, cancellation, denial,
20 or disqualification of a driver's license or commercial driver's
21 license as authorized by:

22 (A) Subchapter N, Chapter 521, Transportation
23 Code, except Sections 521.304 and 521.305 of that subchapter, or by
24 Subchapter O or P of that chapter;

25 (B) Chapter 522, Transportation Code;

26 (C) Chapter 601, Transportation Code;

27 (D) Chapter 724, Transportation Code; or

1 (E) Article 42A.406 or 42A.407 [~~Section 13,~~
2 ~~Article 42.12~~], Code of Criminal Procedure;

3 (2) matters related solely to the internal personnel
4 rules and practices of a state agency;

5 (3) the Texas Workforce Commission, other than to
6 matters of unemployment insurance maintained by the commission; or

7 (4) a rule or internal procedure of the Texas
8 Department of Criminal Justice or Texas Board of Criminal Justice
9 that applies to an inmate or any other person under the custody or
10 control of the department or to an action taken under that rule or
11 procedure.

12 SECTION 2.64. Section 81.093(b), Health and Safety Code, is
13 amended to read as follows:

14 (b) The court shall order that a presentence
15 [~~presentencing~~] report be prepared under Subchapter F, Chapter 42A
16 [~~Section 9, Article 42.12~~], Code of Criminal Procedure, to
17 determine if a person convicted of an offense under Chapter 481
18 (Texas Controlled Substances Act) or under Sections 485.031 through
19 485.035 should be subject to Section 81.083 and Subchapter G.

20 SECTION 2.65. Section 169.001(b), Health and Safety Code,
21 is amended to read as follows:

22 (b) If a defendant successfully completes a first offender
23 prostitution prevention program, regardless of whether the
24 defendant was convicted of the offense for which the defendant
25 entered the program or whether the court deferred further
26 proceedings without entering an adjudication of guilt, after notice
27 to the state and a hearing on whether the defendant is otherwise

entitled to the petition, including whether the required time period has elapsed, and whether issuance of the order is in the best interest of justice, 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 Article 42A.111 [~~Section 5(c), Article 42.12~~], Code of Criminal Procedure, with respect to all records and files related to the defendant's arrest for the offense for which the defendant entered the program if the defendant:

(1) has not been previously convicted of a felony offense; and

(2) is not convicted of any other felony offense before the second anniversary of the defendant's successful completion of the program.

SECTION 2.66. Section 169.002(b), Health and Safety Code, is amended to read as follows:

(b) A defendant is eligible to participate in a first offender prostitution prevention program established under this chapter only if:

(1) the attorney representing the state consents to the defendant's participation in the program; and

(2) the court in which the criminal case is pending finds that the defendant has not been previously convicted of:

(A) an offense under Section 20A.02, 43.02, 43.03, 43.04, or 43.05, Penal Code;

(B) an offense listed in Article 42A.054(a) [~~Section 3g(a)(1), Article 42.12~~], Code of Criminal Procedure; or

1 (C) an offense punishable as a felony under
2 Chapter 481.

3 SECTION 2.67. Section 169A.001(b), Health and Safety Code,
4 is amended to read as follows:

5 (b) If a defendant successfully completes a prostitution
6 prevention program, regardless of whether the defendant was
7 convicted of the offense for which the defendant entered the
8 program or whether the court deferred further proceedings without
9 entering an adjudication of guilt, after notice to the state and a
10 hearing on whether the defendant is otherwise entitled to the
11 petition, including whether the required time has elapsed, and
12 whether issuance of the order is in the best interest of justice,
13 the court shall enter an order of nondisclosure under Section
14 411.081, Government Code, as if the defendant had received a
15 discharge and dismissal under Article 42A.111 [~~Section 5(c),~~
16 ~~Article 42.12~~], Code of Criminal Procedure, with respect to all
17 records and files related to the defendant's arrest for the offense
18 for which the defendant entered the program.

19 SECTION 2.68. Section 250.006(d), Health and Safety Code,
20 is amended to read as follows:

21 (d) For purposes of this section, a person who is placed on
22 deferred adjudication community supervision for an offense listed
23 in this section, successfully completes the period of deferred
24 adjudication community supervision, and receives a dismissal and
25 discharge in accordance with Article 42A.111 [~~Section 5(c), Article~~
26 ~~42.12~~], Code of Criminal Procedure, is not considered convicted of
27 the offense for which the person received deferred adjudication

community supervision.

SECTION 2.69. Section 534.053(c), Health and Safety Code, is amended to read as follows:

(c) To the extent that resources are available, the department shall:

(1) ensure that the services listed in this section are available for children, including adolescents, as well as adults, in each service area;

(2) emphasize early intervention services for children, including adolescents, who meet the department's definition of being at high risk of developing severe emotional disturbances or severe mental illnesses; and

(3) ensure that services listed in this section are available for defendants required to submit to mental health treatment under Article 17.032, 42A.104, or 42A.506 [~~Section 5(a) or 11(d), Article 42.12~~], Code of Criminal Procedure.

SECTION 2.70. Section 614.0032(a), Health and Safety Code, is amended to read as follows:

(a) The office shall:

(1) perform duties imposed on the office by Section 508.146, Government Code; and

(2) periodically identify state jail felony defendants suitable for release under Article 42A.561 [~~Section 15(i), Article 42.12~~], Code of Criminal Procedure, and perform other duties imposed on the office by that article [~~section~~].

SECTION 2.71. Section 773.0614(c), Health and Safety Code, is amended to read as follows:

(c) A certificate holder's certificate shall be revoked if the certificate holder has been convicted of or placed on deferred adjudication community supervision or deferred disposition for:

(1) an offense listed in Article 42A.054(a)(2), (3), (4), (6), (7), (8), (10), or (14) [~~Sections 3g(a)(1)(A) through (H), Article 42.12~~], Code of Criminal Procedure; or

(2) an offense, other than an offense described by Subdivision (1), committed on or after September 1, 2009, for which the person is subject to registration under Chapter 62, Code of Criminal Procedure.

SECTION 2.72. Section 773.06141(a), Health and Safety Code, is amended to read as follows:

(a) The commissioner may suspend, revoke, or deny an emergency medical services provider license on the grounds that the provider's administrator of record, employee, or other representative:

(1) has been convicted of, or placed on deferred adjudication community supervision or deferred disposition for, an offense that directly relates to the duties and responsibilities of the administrator, employee, or representative, other than an offense for which points are assigned under Section 708.052, Transportation Code;

(2) has been convicted of or placed on deferred adjudication community supervision or deferred disposition for an offense, including:

(A) an offense listed in Article 42A.054(a)(2), (3), (4), (6), (7), (8), (10), or (14) [~~Sections 3g(a)(1)(A)~~

1 ~~through (H), Article 42.12]~~, Code of Criminal Procedure; or

2 (B) an offense, other than an offense described
3 by Subdivision (1), for which the person is subject to registration
4 under Chapter 62, Code of Criminal Procedure; or

5 (3) has been convicted of Medicare or Medicaid fraud,
6 has been excluded from participation in the state Medicaid program,
7 or has a hold on payment for reimbursement under the state Medicaid
8 program under Subchapter C, Chapter 531, Government Code.

9 SECTION 2.73. Section 841.082(a), Health and Safety Code,
10 is amended to read as follows:

11 (a) Before entering an order directing a person's
12 outpatient civil commitment, the judge shall impose on the person
13 requirements necessary to ensure the person's compliance with
14 treatment and supervision and to protect the community. The
15 requirements shall include:

16 (1) requiring the person to reside in a Texas
17 residential facility under contract with the office or at another
18 location or facility approved by the office;

19 (2) prohibiting the person's contact with a victim or
20 potential victim of the person;

21 (3) prohibiting the person's possession or use of
22 alcohol, inhalants, or a controlled substance;

23 (4) requiring the person's participation in and
24 compliance with a specific course of treatment provided by the
25 office and compliance with all written requirements imposed by the
26 case manager or otherwise by the office;

27 (5) requiring the person to:

1 (A) submit to tracking under a particular type of
2 tracking service and to any other appropriate supervision; and

3 (B) refrain from tampering with, altering,
4 modifying, obstructing, or manipulating the tracking equipment;

5 (6) prohibiting the person from changing the person's
6 residence without prior authorization from the judge and from
7 leaving the state without that prior authorization;

8 (7) if determined appropriate by the judge,
9 establishing a child safety zone in the same manner as a child
10 safety zone is established by a judge under Article 42A.453
11 [~~Section 13B, Article 42.12~~], Code of Criminal Procedure, and
12 requiring the person to comply with requirements related to the
13 safety zone; and

14 (8) any other requirements determined necessary by the
15 judge.

16 SECTION 2.74. Section 133.055(b), Local Government Code, is
17 amended to read as follows:

18 (b) If the treasurer does not collect any fees during a
19 calendar quarter, the treasurer shall file the report required for
20 the quarter in the regular manner. The report must state that no
21 fees were collected. This subsection does not apply to fees
22 collected under Article 42A.303 or 42A.653 [~~Sections 14 and 19,~~
23 ~~Article 42.12~~], Code of Criminal Procedure, or under Section
24 76.013, Government Code.

25 SECTION 2.75. Section 133.058(d), Local Government Code, is
26 amended to read as follows:

27 (d) A county may not retain a service fee on the collection

1 of a fee:

2 (1) for the judicial fund;

3 (2) under Article 42A.303 or 42A.653 [~~Sections 14 and~~
4 ~~19, Article 42.12~~], Code of Criminal Procedure; or

5 (3) under Section 51.851, Government Code.

6 SECTION 2.76. Section 152.017, Local Government Code, is
7 amended to read as follows:

8 Sec. 152.017. EXCEPTIONS. This subchapter does not apply
9 to:

10 (1) a judge of a court of record;

11 (2) a presiding judge of a commissioners court in a
12 county with a population of 3.3 million or more;

13 (3) a district attorney paid wholly by state funds or
14 the district attorney's assistants, investigators, or other
15 employees;

16 (4) a county auditor, county purchasing agent, or the
17 auditor's or purchasing agent's assistants or other employees; or

18 (5) a person employed under Section 76.004, Government
19 Code [~~10, Article 42.12, Code of Criminal Procedure~~].

20 SECTION 2.77. Section 157.002(a), Local Government Code, is
21 amended to read as follows:

22 (a) The commissioners court by rule may provide for medical
23 care and hospitalization and may provide for compensation,
24 accident, hospital, and disability insurance for the following
25 persons if their salaries are paid from the funds of the county or
26 funds of a flood control district located entirely in the county, or
27 funds of a hospital district described by Section 281.0475, Health

1 and Safety Code, located entirely in the county, or if they are
2 employees of another governmental entity for which the county is
3 obligated to provide benefits:

4 (1) deputies, assistants, and other employees of the
5 county, or of the flood control district, or of the hospital
6 district, who work under the commissioners court or its appointees;

7 (2) county and district officers and their deputies
8 and assistants appointed under Subchapter A, Chapter 151;

9 (3) employees appointed under Section 76.004(b),
10 Government Code [~~10(a), Article 42.12, Code of Criminal Procedure~~];

11 (4) any retired person formerly holding any status
12 listed above; and

13 (5) the dependents of any person listed above.

14 SECTION 2.78. Section 352.082(d), Local Government Code, is
15 amended to read as follows:

16 (d) An offense under this section is a Class C misdemeanor.
17 On conviction of an offense under this section, the court shall
18 require the defendant, in addition to any fine, to perform
19 community service as provided by Article 42A.304(e) [~~Section 16(e),~~
20 ~~Article 42.12~~], Code of Criminal Procedure.

21 SECTION 2.79. Section 53.021(a), Occupations Code, is
22 amended to read as follows:

23 (a) A licensing authority may suspend or revoke a license,
24 disqualify a person from receiving a license, or deny to a person
25 the opportunity to take a licensing examination on the grounds that
26 the person has been convicted of:

27 (1) an offense that directly relates to the duties and

responsibilities of the licensed occupation;

(2) an offense that does not directly relate to the duties and responsibilities of the licensed occupation and that was committed less than five years before the date the person applies for the license;

(3) an offense listed in Article 42A.054 [~~Section 3g, Article 42.12~~], Code of Criminal Procedure; or

(4) a sexually violent offense, as defined by Article 62.001, Code of Criminal Procedure.

SECTION 2.80. Section 109.001(3), Occupations Code, is amended to read as follows:

(3) "Sex offender" has the meaning assigned by Article 42A.251(2) [~~Section 9(m), Article 42.12~~], Code of Criminal Procedure.

SECTION 2.81. Section 12.35(c), Penal Code, is amended to read as follows:

(c) An individual adjudged guilty of a state jail felony shall be punished for a third degree felony if it is shown on the trial of the offense that:

(1) a deadly weapon as defined by Section 1.07 was used or exhibited during the commission of the offense or during immediate flight following the commission of the offense, and that the individual used or exhibited the deadly weapon or was a party to the offense and knew that a deadly weapon would be used or exhibited; or

(2) the individual has previously been finally convicted of any felony:

(A) under Section 20A.03 or 21.02 or listed in Article 42A.054(a) [~~Section 3g(a)(1), Article 42.12~~], Code of Criminal Procedure; or

(B) for which the judgment contains an affirmative finding under Article 42A.054(c) or (d) [~~Section 3g(a)(2), Article 42.12~~], Code of Criminal Procedure.

SECTION 2.82. Section 12.42(h), Penal Code, is amended to read as follows:

(h) In this section, "sexually violent offense" means an offense:

(1) described by Article 62.001(6), Code of Criminal Procedure; and

(2) for which an affirmative finding has been entered under Article 42.015(b) or 42A.105(a) [~~Section 5(c)(2), Article 42.12~~], Code of Criminal Procedure, for an offense other than an offense under Section 21.02 or 22.021.

SECTION 2.83. Section 15.031(a), Penal Code, is amended to read as follows:

(a) A person commits an offense if, with intent that an offense listed by Article 42A.054(a) [~~Section 3g(a)(1), Article 42.12~~], Code of Criminal Procedure, be committed, the person requests, commands, or attempts to induce a minor to engage in specific conduct that, under the circumstances surrounding the actor's conduct as the actor believes them to be, would constitute an offense listed by Article 42A.054(a) [~~Section 3g(a)(1), Article 42.12~~], or make the minor a party to the commission of an offense listed by Article 42A.054(a) [~~Section 3g(a)(1), Article 42.12~~].

SECTION 2.84. Section 49.09(h), Penal Code, is amended to read as follows:

(h) This subsection applies only to a person convicted of a second or subsequent offense relating to the operating of a motor vehicle while intoxicated committed within five years of the date on which the most recent preceding offense was committed. The court shall enter an order that requires the defendant to have a device installed, on each motor vehicle owned or operated by the defendant, that uses a deep-lung breath analysis mechanism to make impractical the operation of the motor vehicle if ethyl alcohol is detected in the breath of the operator, and that requires that before the first anniversary of the ending date of the period of license suspension under Section 521.344, Transportation Code, the defendant not operate any motor vehicle that is not equipped with that device. The court shall require the defendant to obtain the device at the defendant's own cost on or before that ending date, require the defendant to provide evidence to the court on or before that ending date that the device has been installed on each appropriate vehicle, and order the device to remain installed on each vehicle until the first anniversary of that ending date. If the court determines the offender is unable to pay for the device, the court may impose a reasonable payment schedule not to extend beyond the first anniversary of the date of installation. The Department of Public Safety shall approve devices for use under this subsection. Section 521.247, Transportation Code, applies to the approval of a device under this subsection and the consequences of that approval. Failure to comply with an order entered under

1 this subsection is punishable by contempt. For the purpose of
2 enforcing this subsection, the court that enters an order under
3 this subsection retains jurisdiction over the defendant until the
4 date on which the device is no longer required to remain installed.
5 To the extent of a conflict between this subsection and Article
6 42A.408 [~~Section 13(i), Article 42.12~~], Code of Criminal Procedure,
7 this subsection controls.

8 SECTION 2.85. Section 71.023(a), Penal Code, is amended to
9 read as follows:

10 (a) A person commits an offense if the person, as part of the
11 identifiable leadership of a criminal street gang, knowingly
12 finances, directs, or supervises the commission of, or a conspiracy
13 to commit, one or more of the following offenses by members of a
14 criminal street gang:

15 (1) a felony offense that is listed in Article
16 42A.054(a) [~~Section 3g(a)(1), Article 42.12~~], Code of Criminal
17 Procedure;

18 (2) a felony offense for which it is shown that a
19 deadly weapon, as defined by Section 1.07, was used or exhibited
20 during the commission of the offense or during immediate flight
21 from the commission of the offense; or

22 (3) an offense that is punishable under Section
23 481.112(e), 481.112(f), 481.1121(b)(4), 481.115(f), or
24 481.120(b)(6), Health and Safety Code.

25 SECTION 2.86. Section 521.245(b), Transportation Code, is
26 amended to read as follows:

27 (b) The program required under Subsection (a) may not be the

1 program provided by Section 521.344 or by Article 42A.403 or
2 42A.404 [~~Section 13, Article 42.12~~], Code of Criminal Procedure.

3 SECTION 2.87. Section 521.320(f), Transportation Code, is
4 amended to read as follows:

5 (f) For the purposes of this section, a person is convicted
6 of an offense regardless of whether sentence is imposed or the
7 person is placed on community supervision for the offense under
8 Chapter 42A [~~Article 42.12~~], Code of Criminal Procedure.

9 SECTION 2.88. Section 521.342(b), Transportation Code, is
10 amended to read as follows:

11 (b) The department shall suspend for one year the license of
12 a person who is under 21 years of age and is convicted of an offense
13 under Section 49.04, 49.045, 49.07, or 49.08, Penal Code,
14 regardless of whether the person is required to attend an
15 educational program under Article 42A.403 [~~Section 13(h), Article~~
16 ~~42.12~~], Code of Criminal Procedure, that is designed to
17 rehabilitate persons who have operated motor vehicles while
18 intoxicated, unless the person is placed under community
19 supervision under Chapter 42A, Code of Criminal Procedure, [~~that~~
20 ~~article~~] and is required as a condition of the community
21 supervision to not operate a motor vehicle unless the vehicle is
22 equipped with the device described by Article 42A.408 [~~Section~~
23 ~~13(i)~~] of that chapter [~~article~~]. If the person is required to
24 attend such a program and does not complete the program before the
25 end of the person's suspension, the department shall suspend the
26 person's license or continue the suspension, as appropriate, until
27 the department receives proof that the person has successfully

completed the program. On the person's successful completion of the program, the person's instructor shall give notice to the department and to the community supervision and corrections department in the manner provided by Article 42A.406(b) [~~Section 13(h), Article 42.12~~], Code of Criminal Procedure.

SECTION 2.89. Sections 521.344(d), (f), and (i), Transportation Code, are amended to read as follows:

(d) Except as provided by Subsection (e) and Section 521.342(b), during a period of probation the department may not revoke the person's license if the person is required under Article 42A.403 or 42A.404 [~~Section 13(h) or (j), Article 42.12~~], Code of Criminal Procedure, to successfully complete an educational program designed to rehabilitate persons who have operated motor vehicles while intoxicated, unless the person was punished under Section 49.09(a) or (b), Penal Code, and was subject to Section 49.09(h) of that code. The department may not revoke the license of a person:

(1) for whom the jury has recommended that the license not be revoked under Article 42A.407(a) [~~Section 13(g), Article 42.12~~], Code of Criminal Procedure; or

(2) who is placed under community supervision under Chapter 42A, Code of Criminal Procedure, [~~that article~~] and is required as a condition of community supervision to not operate a motor vehicle unless the vehicle is equipped with the device described by Article 42A.408 [~~Section 13(i)~~] of that chapter [~~article~~], unless the person was punished under Section 49.09(a) or (b), Penal Code, and was subject to Section 49.09(g) of that code.

(f) After the date has passed, according to department records, for successful completion of an educational program for repeat offenders as required by Article 42A.404 [~~Section 13, Article 42.12~~], Code of Criminal Procedure, the director shall suspend the license of a person who does not successfully complete the program or, if the person is a resident without a license, shall issue an order prohibiting the person from obtaining a license.

(i) On the date that a suspension order under Section 521.343(c) is to expire, the period of suspension or the corresponding period in which the department is prohibited from issuing a license is automatically increased to two years unless the department receives notice of successful completion of the educational program as required by Article 42A.406 [~~Section 13, Article 42.12~~], Code of Criminal Procedure. At the time a person is convicted of an offense under Section 49.04 or 49.045, Penal Code, the court shall warn the person of the effect of this subsection. On the person's successful completion of the program, the person's instructor shall give notice to the department and to the community supervision and corrections department in the manner required by Article 42A.406(b) [~~Section 13, Article 42.12~~], Code of Criminal Procedure. If the department receives proof of completion after a period has been extended under this subsection, the department shall immediately end the suspension or prohibition.

SECTION 2.90. Section 521.350(d), Transportation Code, is amended to read as follows:

(d) A person whose license is suspended under Subsection (a) shall be required by the court in which the person was convicted to

1 perform at least 10 hours of community service as ordered by the
2 court. If the person is a resident of this state without a driver's
3 license to operate a motor vehicle, the court shall issue an order
4 prohibiting the department from issuing the person a driver's
5 license before the person completes the community service.
6 Community service required under this subsection is in addition to
7 any community service required of the person as a condition of
8 community supervision under Article 42A.304 [~~Section 16, Article~~
9 ~~42.12~~], Code of Criminal Procedure.

10 SECTION 2.91. Section 522.088, Transportation Code, is
11 amended to read as follows:

12 Sec. 522.088. APPLICABILITY OF OTHER LAW. Section 521.344
13 of this code and Subchapter I, Chapter 42A [~~Section 13, Article~~
14 ~~42.12~~], Code of Criminal Procedure, except Article 42A.409 of that
15 subchapter, do not apply to a person disqualified under this
16 chapter.

17 ARTICLE 3. REPEALER

18 SECTION 3.01. Article 42.12, Code of Criminal Procedure, is
19 repealed.

20 ARTICLE 4. GENERAL MATTERS

21 SECTION 4.01. This Act is enacted under Section 43, Article
22 III, Texas Constitution. This Act is intended as a codification
23 only, and no substantive change in the law is intended by this Act.

24 SECTION 4.02. This Act takes effect April 1, 2017.