

## **BILL ANALYSIS**

C.S.H.B. 2883  
By: Allen  
Corrections  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties contend that probation is most effective as an alternative to incarceration when conditions of community supervision are based on individualized assessments of risk and needs and when probation departments are properly resourced to provide tools that address the root causes of criminal behavior. C.S.H.B. 2883 seeks to ensure probation is as effective as possible by requiring conditions of community supervision to reflect these personalized assessments and to address the factors that lead to criminal involvement.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 2883 amends the Code of Criminal Procedure to condition a judge's authority to determine basic conditions of community supervision for a defendant on the judge basing the determination on the results of a risk and needs assessment conducted with respect to the defendant. The bill requires the assessment to be conducted using an instrument that is validated for the purpose of assessing the risks and needs of a defendant placed on community supervision. The bill prohibits a community supervision condition imposed by the judge from being duplicative of another condition. The bill requires the judge, in determining the conditions, to consider the extent to which the conditions impact the defendant's work, education, and community service schedule or obligations and the defendant's ability to meet financial obligations. The bill requires the judge, before the judge may require as a condition of community supervision that the defendant receive treatment in a state-funded substance abuse treatment program, to consider the results of an evaluation conducted to determine the appropriate type and level of treatment necessary to address the defendant's alcohol or drug dependency. The bill applies to a defendant placed on community supervision on or after the bill's effective date, regardless of whether the offense for which the defendant was placed on community supervision was committed before, on, or after the bill's effective date.

### **EFFECTIVE DATE**

September 1, 2017.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 2883 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial

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differences between the introduced and committee substitute versions of the bill.

#### INTRODUCED

SECTION 1. Article 42A.301, Code of Criminal Procedure, is amended to read as follows:

Art. 42A.301. BASIC DISCRETIONARY CONDITIONS. (a) The judge of the court having jurisdiction of the case shall determine the conditions of community supervision based on the results of a risk and needs assessment conducted with respect to the defendant. The assessment must be conducted using an instrument that is validated for the purpose of assessing the risks and needs of a defendant placed on community supervision. The judge may impose any reasonable condition that is not duplicative of another condition and that is designed to protect or restore the community, protect or restore the victim, or punish, rehabilitate, or reform the defendant. In determining the conditions, the judge:

(1) may only impose the least restrictive condition necessary to achieve the purpose for which the condition is imposed; and

(2) shall consider the extent to which the conditions impact the defendant's:

(A) work, education, and community service schedule or obligations; and

(B) ability to meet financial obligations.

(b) Conditions of community supervision may include conditions requiring the defendant to:

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

(2) avoid injurious or vicious habits;

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

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

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

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

(7) remain within a specified place;

(8) pay in one or more amounts:

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

#### HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Article 42A.301, Code of Criminal Procedure, is amended to read as follows:

Art. 42A.301. BASIC DISCRETIONARY CONDITIONS. (a) The judge of the court having jurisdiction of the case shall determine the conditions of community supervision based on the results of a risk and needs assessment conducted with respect to the defendant. The assessment must be conducted using an instrument that is validated for the purpose of assessing the risks and needs of a defendant placed on community supervision. The judge may impose any reasonable condition that is not duplicative of another condition and that is designed to protect or restore the community, protect or restore the victim, or punish, rehabilitate, or reform the defendant. In determining the conditions, the judge

shall consider the extent to which the conditions impact the defendant's:

(1) work, education, and community service schedule or obligations; and

(2) ability to meet financial obligations.

(b) Conditions of community supervision may include conditions requiring the defendant to:

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

(2) avoid injurious or vicious habits;

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

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

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

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

(7) remain within a specified place;

(8) pay in one or more amounts:

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

and

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

(9) support the defendant's dependents;

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

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

(A) if counsel was appointed, an amount for compensation paid to appointed counsel for defending the defendant in the case; or

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

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

(A) remain under that supervision;

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

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

(i) the facility for room and board; and

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

(13) submit to testing for alcohol or controlled substances if the defendant's risk and needs assessment indicated that the use of alcohol or a controlled substance:

(A) contributed to the commission of the offense; or

(B) would increase the likelihood that the defendant will commit another offense;

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

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

(16) submit to electronic monitoring;

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

(18) reimburse a law enforcement agency

and

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

(9) support the defendant's dependents;

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

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

(A) if counsel was appointed, an amount for compensation paid to appointed counsel for defending the defendant in the case; or

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

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

(A) remain under that supervision;

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

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

(i) the facility for room and board; and

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

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

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

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

(16) submit to electronic monitoring;

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

(18) reimburse a law enforcement agency

for the analysis, storage, or disposal of raw materials, controlled substances, chemical precursors, drug paraphernalia, or other materials seized in connection with the offense;

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

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

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

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

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

(c) In imposing the conditions of community supervision, the judge may not order the defendant to pay any amount, including an amount to reimburse any cost, unless the judge determines that the defendant is financially able to pay the amount.

SECTION 2. The change in law made by this Act applies to a defendant placed on community supervision on or after the effective date of this Act, regardless of

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for the analysis, storage, or disposal of raw materials, controlled substances, chemical precursors, drug paraphernalia, or other materials seized in connection with the offense;

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

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

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

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

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

(c) Before the judge may require as a condition of community supervision that the defendant receive treatment in a state-funded substance abuse treatment program, including an inpatient or outpatient program, a substance abuse felony program under Article 42A.303, or a program provided to the defendant while confined in a community corrections facility as defined by Article 42A.601, the judge must consider the results of an evaluation conducted to determine the appropriate type and level of treatment necessary to address the defendant's alcohol or drug dependency.

SECTION 2. Same as introduced version.

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whether the offense for which the defendant was placed on community supervision was committed before, on, or after the effective date of this Act.

SECTION 3. This Act takes effect September 1, 2017.

SECTION 3. Same as introduced version.