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H.B. No. 3512

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to conditions of community supervision and procedures  
3 applicable to the reduction or termination of a defendant's period  
4 of community supervision.

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

6 SECTION 1. Article 42A.052(a), Code of Criminal Procedure,  
7 is amended to read as follows:

8 (a) A judge who places a defendant on community supervision  
9 may authorize the supervision officer supervising the defendant or  
10 a magistrate appointed by the district courts in the county that  
11 give preference to criminal cases to modify the conditions of  
12 community supervision for the limited purposes [~~purpose~~] of:

13 (1) transferring the defendant to different programs  
14 within the community supervision continuum of programs and  
15 sanctions;

16 (2) prioritizing the conditions ordered by the court  
17 according to:

18 (A) the defendant's needs as determined by a risk  
19 and needs assessment; and

20 (B) the defendant's progress under supervision;

21 or

22 (3) requiring a defendant who is not otherwise  
23 required to submit to testing for a controlled substance as a  
24 condition of community supervision under Article 42A.301(b)(13) to

1 submit to testing for a controlled substance on each occasion on  
2 which the supervision officer has a reasonable suspicion that the  
3 defendant has used a controlled substance.

4 SECTION 2. Article 42A.301(b), Code of Criminal Procedure,  
5 is amended to read as follows:

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

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

10 (2) avoid injurious or vicious habits;

11 (3) avoid persons or places of disreputable or harmful  
12 character to the extent indicated by the results of the assessment  
13 conducted under Subsection (a) [~~, including any person, other than~~  
14 a family member of the defendant, who is an active member of a  
15 criminal street gang];

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

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

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

23 (7) remain within a specified place;

24 (8) pay in one or more amounts:

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

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

1           (9) support the defendant's dependents;

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

5           (11) if the judge determines that the defendant has  
6 financial resources that enable the defendant to offset in part or  
7 in whole the costs of the legal services provided to the defendant  
8 in accordance with Article [1.051](#)(c) or (d), including any expenses  
9 and costs, reimburse the county in which the prosecution was  
10 instituted for the costs of the legal services in an amount that the  
11 judge finds the defendant is able to pay, except that the defendant  
12 may not be ordered to pay an amount that exceeds:

13                   (A) the actual costs, including any expenses and  
14 costs, paid by the county for the legal services provided by an  
15 appointed attorney; or

16                   (B) if the defendant was represented by a public  
17 defender's office, the actual amount, including any expenses and  
18 costs, that would have otherwise been paid to an appointed attorney  
19 had the county not had a public defender's office;

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

22                   (A) remain under that supervision;

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

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

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

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

3 (13) submit to testing for alcohol or controlled  
4 substances:

5 (A) during the 45-day period after the date of  
6 the defendant's placement on community supervision; or

7 (B) at any time during the period of supervision  
8 if:

9 (i) the defendant tested positive for a  
10 controlled substance in a test conducted during the period  
11 described by Paragraph (A) or conducted under Article  
12 42A.052(a)(3);

13 (ii) the judge determines, based on the  
14 results of the assessment conducted under Subsection (a) or the  
15 evaluation conducted under Subsection (c), if applicable, that  
16 testing is necessary to protect or restore the community or the  
17 victim or to rehabilitate or reform the defendant; or

18 (iii) the defendant's offense involved a  
19 controlled substance or alcohol;

20 (14) attend counseling sessions for substance abusers  
21 or participate in substance abuse treatment services in a program  
22 or facility approved or licensed by the Department of State Health  
23 Services but only if:

24 (A) the judge determines, based on the results of  
25 the assessment conducted under Subsection (a) or the evaluation  
26 conducted under Subsection (c), if applicable, that counseling or  
27 treatment is necessary to protect or restore the community or the

1 victim or to rehabilitate or reform the defendant; or

2 (B) the defendant's offense was related to  
3 controlled substance or alcohol abuse;

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

7 (16) submit to electronic monitoring;

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

14 (18) reimburse a law enforcement agency for the  
15 analysis, storage, or disposal of raw materials, controlled  
16 substances, chemical precursors, drug paraphernalia, or other  
17 materials seized in connection with the offense;

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

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

27 (21) submit a DNA sample to the Department of Public

1 Safety under Subchapter G, Chapter 411, Government Code, for the  
2 purpose of creating a DNA record of the defendant;

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

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

9 SECTION 3. Article 42A.303(e), Code of Criminal Procedure,  
10 is amended to read as follows:

11 (e) The Department of State Health Services or the community  
12 supervision and corrections department supervising the defendant  
13 shall develop the continuum of care treatment plan described by  
14 Subsection (d)(1).

15 SECTION 4. Articles 42A.403(d-1) and (e), Code of Criminal  
16 Procedure, are amended to read as follows:

17 (d-1) The judge shall waive the educational program  
18 requirement if the defendant successfully completes ~~[equivalent]~~  
19 education at a residential treatment facility under Article  
20 42A.4045.

21 (e) The judge shall set out in the judgment, as applicable:

22 (1) the finding of good cause for waiver; or

23 (2) the finding that the defendant has successfully  
24 completed ~~[equivalent]~~ education as provided by Article 42A.4045.

25 SECTION 5. Articles 42A.404(b-1) and (c), Code of Criminal  
26 Procedure, are amended to read as follows:

27 (b-1) The judge shall waive the educational program

1 requirement if the defendant successfully completes [~~equivalent~~]  
2 education at a residential treatment facility under Article  
3 42A.4045.

4 (c) The judge shall set out in the judgment, as applicable:

5 (1) the finding of good cause for waiver; or

6 (2) the finding that the defendant has successfully  
7 completed [~~equivalent~~] education as provided by Article 42A.4045.

8 SECTION 6. Articles 42A.4045(a) and (b), Code of Criminal  
9 Procedure, are amended to read as follows:

10 (a) A judge shall waive the educational requirement under  
11 Article 42A.403 or 42A.404 for a defendant who is required to  
12 receive treatment as a resident of a substance abuse treatment  
13 facility as a condition of community supervision if the defendant  
14 successfully completes [~~equivalent~~] education while the defendant  
15 is confined to the residential treatment facility.

16 (b) The Department of State Health Services shall approve  
17 [~~equivalent~~] education provided at substance abuse treatment  
18 facilities.

19 SECTION 7. Articles 42A.406(a) and (b-1), Code of Criminal  
20 Procedure, are amended to read as follows:

21 (a) If a defendant is required as a condition of community  
22 supervision to attend an educational program under Article 42A.403  
23 or 42A.404, or if the court waives the educational program  
24 requirement under Article 42A.403 or the defendant successfully  
25 completes [~~equivalent~~] education under Article 42A.4045, the court  
26 clerk shall immediately report that fact to the Department of  
27 Public Safety, on a form prescribed by the department, for

1 inclusion in the defendant's driving record. If the court grants an  
2 extension of time in which the defendant may complete the  
3 educational program under Article 42A.403, the court clerk shall  
4 immediately report that fact to the Department of Public Safety on a  
5 form prescribed by the department. The clerk's report under this  
6 subsection must include the beginning date of the defendant's  
7 community supervision.

8 (b-1) Upon release from a residential treatment facility at  
9 which the person successfully completed [~~equivalent~~] education  
10 under Article 42A.4045, at the request of the court clerk, the  
11 director of the residential treatment facility shall give notice to  
12 the Department of Public Safety for inclusion in the person's  
13 driving record.

14 SECTION 8. Article 42A.655, Code of Criminal Procedure, is  
15 amended to read as follows:

16 Art. 42A.655. ABILITY TO PAY. (a) Notwithstanding any  
17 other provision of this chapter, the [~~The~~] court shall inquire as to  
18 whether the defendant has sufficient resources or income [~~consider~~  
19 ~~the defendant's ability~~] to pay before ordering the defendant to  
20 make any payments under this chapter.

21 (b) For a defendant who is ordered to make payments under  
22 this chapter, the court shall reconsider whether the defendant has  
23 sufficient resources or income to pay:

24 (1) at any time the defendant's financial status or  
25 required payments change in such a way that the defendant's ability  
26 to make a payment previously ordered by the court is substantially  
27 hindered; and



1           (2) at any hearing held under Article 42A.751(d).

2           (c) If the court determines that the defendant does not have  
3 sufficient resources or income to make any payment ordered by the  
4 court, including a payment required under Article 42A.652, the  
5 judge shall determine whether all or a portion of the payment should  
6 be:

7           (1) required to be paid at a later date or in a  
8 specified portion at designated intervals;

9           (2) waived completely or partially under Article  
10 43.091 or 45.0491;

11           (3) discharged by performing community service under  
12 Article 42A.304 or 45.049, as applicable; or

13           (4) satisfied through any combination of methods under  
14 Subdivisions (1)-(3).

15           SECTION 9. Article 42A.701, Code of Criminal Procedure, is  
16 amended by amending Subsection (b) and adding Subsections (b-1) and  
17 (d-1) to read as follows:

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

23           (1) is delinquent in paying required [~~costs, fines,~~  
24 ~~fees, or~~] restitution that the defendant has the ability to pay; or

25           (2) has not completed court-ordered counseling or  
26 treatment.

27           (b-1) The supervision officer shall notify the court as soon

1 as practicable after the date a defendant who, at the time of the  
2 review required by Subsection (b) was delinquent in paying  
3 restitution or had not completed court-ordered counseling or  
4 treatment, completes the remaining court-ordered counseling or  
5 treatment and makes the delinquent restitution payments, as  
6 applicable. On receipt of the notice the court shall review the  
7 defendant's record and consider whether to reduce or terminate the  
8 period of community supervision.

9 (d-1) If the judge does not reduce or terminate the  
10 defendant's period of community supervision after a review  
11 conducted under Subsection (b) or (b-1), the judge shall, as soon as  
12 practicable after the 180th day after the date of the review but not  
13 later than the 270th day after the date of the review and unless the  
14 judge has already terminated the period of community supervision,  
15 review the defendant's record and again consider whether to reduce  
16 or terminate the period of community supervision in accordance with  
17 Subsection (b).

18 SECTION 10. Articles [42A.702](#)(a) and (d), Code of Criminal  
19 Procedure, are amended to read as follows:

20 (a) This article applies only to a defendant who~~+~~  
21 ~~[(1)]~~ is granted community supervision, including  
22 deferred adjudication community supervision, for an offense  
23 punishable as a state jail felony or a felony of the third degree,  
24 other than an offense:

25 (1) ~~[(A)]~~ included as a "reportable conviction or  
26 adjudication" under Article [62.001](#)(5);

27 (2) ~~[(B) involving family violence as defined by~~

1 ~~Section 71.004, Family Code,~~

2 [~~C~~] under Section 20.03 or 28.02, Penal Code;

3 or

4 (3) [~~D~~] under Chapter 49, Penal Code[~~+~~

5 ~~(2) is not delinquent in paying required costs,~~  
6 ~~finances, or fees; and~~

7 ~~(3) has fully satisfied any order to pay restitution~~  
8 ~~to a victim].~~

9 (d) A defendant is entitled to time credits toward the  
10 completion of the defendant's period of community supervision for  
11 the successful completion of treatment or rehabilitation programs  
12 as follows:

13 (1) parenting class or parental responsibility  
14 program: 30 days;

15 (2) anger management program: 30 days;

16 (3) life skills training program: 30 days;

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

19 (5) alcohol or substance abuse counseling or  
20 treatment: 90 days; and

21 (6) any other faith-based, volunteer, or  
22 community-based program ordered or approved by the court: 30 days.

23 SECTION 11. (a) Except as provided by Subsection (b) of  
24 this section, the change in law made by this Act to Chapter 42A,  
25 Code of Criminal Procedure, applies to a person on community  
26 supervision on or after the effective date of this Act, regardless  
27 of whether the person was placed on community supervision before,

1 on, or after the effective date of this Act.

2 (b) Article [42A.702\(d\)\(6\)](#), Code of Criminal Procedure, as  
3 added by this Act, applies only to a person placed on community  
4 supervision on or after the effective date of this Act.

5 SECTION 12. This Act takes effect September 1, 2019.