

By: Pacheco

H.B. No. 385

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

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

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

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

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

(3) requiring a defendant who is not otherwise required to submit to testing for a controlled substance as a 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 is under the influence of 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;

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

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

(B) if the defendant was represented by a public defender's office, the actual amount, including any expenses and costs, that would have otherwise 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 the facility for room and board;

(13) submit to testing for alcohol or controlled

substances:

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

(B) on each occasion on which the defendant appears in court and the judge has a reasonable suspicion that the defendant is under the influence of a controlled substance; or

(C) at any time during the period of supervision if:

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

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

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

(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 but only if:

(A) the judge determines, based on the results of the assessment conducted under Subsection (a) or the evaluation conducted under Subsection (c), if applicable, that counseling or 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 56B.003, 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) reimburse all or part of the reasonable and
19 necessary costs incurred by the victim for psychological counseling
20 made necessary by the offense or for counseling and education
21 relating to acquired immune deficiency syndrome or human
22 immunodeficiency virus made necessary by the offense;

23 (20) pay a fine in an amount not to exceed \$50 to a
24 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; and

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.

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

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

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

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

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

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

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

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

25 (b-1) The judge shall waive the educational program
26 requirement if the defendant successfully completes ~~[equivalent]~~
27 education at a residential treatment facility under Article

1 42A.4045.

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

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

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

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

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

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

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

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

1 educational program under Article 42A.403, the court clerk shall
2 immediately report that fact to the Department of Public Safety on a
3 form prescribed by the department. The clerk's report under this
4 subsection must include the beginning date of the defendant's
5 community supervision.

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

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

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

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

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

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

27 (c) If the court determines that the defendant does not have

1 sufficient resources or income to make any payment ordered by the
2 court, including a payment required under Article 42A.652, the
3 judge shall determine whether all or a portion of the payment should
4 be:

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

7 (2) waived completely or partially under Article
8 43.091 or 45.0491;

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

11 (4) satisfied through any combination of methods under
12 Subdivisions (1)-(3).

13 (d) If the court takes an action described by Subsection
14 (c), the court may, at any time during the defendant's period of
15 community supervision, reconsider that action.

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

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

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

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

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

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

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

21 (a) This article applies only to a defendant who:

22 (1) is granted community supervision, including
23 deferred adjudication community supervision, for an offense
24 punishable as a state jail felony or a felony of the third degree,
25 other than an offense:

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

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

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

(D) under Chapter 49, Penal Code; and

~~(2) [is not delinquent in paying required costs, fines, or fees, and~~

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

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

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

(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; and

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

SECTION 11. (a) Except as provided by Subsection (b) of this section, the change in law made by this Act to Chapter 42A, Code of Criminal Procedure, applies to a person on community supervision on or after the effective date of this Act, regardless 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, 2021.