

By: Madden

H.B. No. 2193

Substitute the following for H.B. No. 2193:

By: Haggerty

C.S.H.B. No. 2193

A BILL TO BE ENTITLED

AN ACT

relating to the operation of a system of community supervision.

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

SECTION 1. Section 2(a), Article 42.03, Code of Criminal Procedure, is amended to read as follows:

(a) In all criminal cases the judge of the court in which the defendant was convicted shall give the defendant credit on the defendant's ~~[his]~~ sentence for the time that the defendant has spent in jail or in a court-ordered residential program or facility in said cause~~[, other than confinement served as a condition of community supervision,]~~ from the time of the defendant's ~~[his]~~ arrest and confinement until the defendant's ~~[his]~~ sentence by the trial court, including confinement in jail or in a court-ordered residential program or facility ordered as a condition of deferred adjudication community supervision.

SECTION 2. Section 3, Article 42.12, Code of Criminal Procedure, is amended to read as follows:

Sec. 3. JUDGE ORDERED COMMUNITY SUPERVISION. (a) A judge, in the best interest of justice, the public, and the defendant, after conviction or a plea of guilty or nolo contendere, may suspend the imposition of the sentence and place the defendant on community supervision or impose a fine applicable to the offense and place the defendant on community supervision.

(b) The maximum period of community supervision for a felony

1 described by Section 3g or for which on conviction registration as a
2 sex offender is required by Chapter 62 is 10 years. The [~~Except as~~
3 ~~provided by Subsection (f), in a felony case the minimum period of~~
4 ~~community supervision is the same as the minimum term of~~
5 ~~imprisonment applicable to the offense and the]~~ maximum period of
6 community supervision for any other felony of the first, second, or
7 third degree is five [10] years, subject to the extensions provided
8 by Section 22.

9 (c) The maximum period of community supervision in a
10 misdemeanor case is two years, subject to extensions provided by
11 Section 22.

12 (d) [~~A judge may increase the maximum period of community~~
13 ~~supervision in the manner provided by Section 22(c) or 22A of this~~
14 ~~article.~~

15 [~~(e)~~] A defendant is not eligible for community supervision
16 under this section if the defendant[~~+~~

17 [~~(1)~~] is sentenced to a term of imprisonment that
18 exceeds 10 years[~~, or~~

19 [~~(2)~~ ~~is sentenced to serve a term of confinement under~~
20 ~~Section 12.35, Penal Code].~~

21 (e) [~~(f)~~ ~~The minimum period of community supervision for a~~
22 ~~felony described by Section 13B(b) is five years and the maximum~~
23 ~~period of supervision is 10 years.~~

24 [~~(g)~~] A judge shall not deny community supervision to a
25 defendant based solely on the defendant's inability to speak, read,
26 write, hear, or understand English.

27 SECTION 3. Sections 4(b) and (d), Article 42.12, Code of

1 Criminal Procedure, are amended to read as follows:

2 (b) If the jury recommends to the judge that the judge place
3 the defendant on community supervision, the judge shall place the
4 defendant on community supervision for any period permitted under
5 Section 3(b) or 3(c) [~~of this article~~], as appropriate, subject to
6 the extensions provided by Section 22.

7 (d) A defendant is not eligible for community supervision
8 under this section if the defendant:

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

11 (2) is convicted of a state jail felony for which
12 suspension of the sentence occurs automatically under Section 15(a)
13 [~~is sentenced to serve a term of confinement under Section 12.35,~~
14 ~~Penal Code~~];

15 (3) does not file a sworn motion under Subsection (e)
16 of this section or for whom the jury does not enter in the verdict a
17 finding that the information contained in the motion is true; [~~or~~]

18 (4) is adjudged guilty of an offense for which
19 punishment is increased under Section 481.134(c), (d), (e), or (f),
20 Health and Safety Code, if it is shown that the defendant has been
21 previously convicted of an offense for which punishment was
22 increased under any one of those subsections; or

23 (5) is adjudged guilty of an offense under Section
24 19.02, Penal Code.

25 SECTION 4. Section 5(a), Article 42.12, Code of Criminal
26 Procedure, is amended to read as follows:

27 (a) Except as provided by Subsection (d) of this section,

1 when in the judge's opinion the best interest of society and the
2 defendant will be served, the judge may, after receiving a plea of
3 guilty or plea of nolo contendere, hearing the evidence, and
4 finding that it substantiates the defendant's guilt, defer further
5 proceedings without entering an adjudication of guilt, and place
6 the defendant on community supervision. A judge may place on
7 community supervision under this section a defendant charged with
8 an offense under Section 21.11, 22.011, or 22.021, Penal Code,
9 regardless of the age of the victim, or a defendant charged with a
10 felony described by Section 13B(b) of this article, only if the
11 judge makes a finding in open court that placing the defendant on
12 community supervision is in the best interest of the victim. The
13 failure of the judge to find that deferred adjudication is in the
14 best interest of the victim is not grounds for the defendant to set
15 aside the plea, deferred adjudication, or any subsequent conviction
16 or sentence. After placing the defendant on community supervision
17 under this section, the judge shall inform the defendant orally or
18 in writing of the possible consequences under Subsection (b) of
19 this section of a violation of community supervision. If the
20 information is provided orally, the judge must record and maintain
21 the judge's statement to the defendant. The failure of a judge to
22 inform a defendant of possible consequences under Subsection (b) of
23 this section is not a ground for reversal unless the defendant shows
24 that he was harmed by the failure of the judge to provide the
25 information. The maximum period of community supervision for a
26 felony described by Section 3g or an offense for which on conviction
27 registration as a sex offender is required under Chapter 62 is 10

1 years. In any other [a] felony of the first, second, or third
2 degree [case], the period of community supervision may not exceed
3 five [10] years, subject to the extensions provided by Section 22.
4 The maximum period of community supervision for a state jail
5 felony, with extensions, is as provided by Section 15 [For a
6 defendant charged with a felony under Section 21.11, 22.011, or
7 22.021, Penal Code, regardless of the age of the victim, and for a
8 defendant charged with a felony described by Section 13B(b) of this
9 article, the period of community supervision may not be less than
10 five years]. In a misdemeanor case, the period of community
11 supervision may not exceed two years, subject to the extensions
12 provided by Section 22. [~~A judge may increase the maximum period of~~
13 ~~community supervision in the manner provided by Section 22(c) or~~
14 ~~22A of this article.~~] The judge may impose a fine applicable to the
15 offense and require any reasonable conditions of community
16 supervision, including mental health treatment under Section 11(d)
17 of this article, that a judge could impose on a defendant placed on
18 community supervision for a conviction that was probated and
19 suspended, including confinement. The provisions of Section 15 of
20 this article specifying whether a defendant convicted of a state
21 jail felony is to be confined in a county jail or state jail felony
22 facility and establishing the minimum and maximum terms of
23 confinement as a condition of community supervision apply in the
24 same manner to a defendant placed on community supervision after
25 pleading guilty or nolo contendere to a state jail felony. However,
26 upon written motion of the defendant requesting final adjudication
27 filed within 30 days after entering such plea and the deferment of

1 adjudication, the judge shall proceed to final adjudication as in
2 all other cases.

3 SECTION 5. Section 15(a)(1), Article 42.12, Code of
4 Criminal Procedure, is amended to read as follows:

5 (1) On conviction of a state jail felony under Section
6 481.115(b), 481.1151(b)(1), 481.116(b), 481.121(b)(3), or
7 481.129(g)(1), Health and Safety Code, that is punished under
8 Section 12.35(a), Penal Code, the judge shall suspend the
9 imposition of the sentence and place the defendant on community
10 supervision, unless the defendant has previously been convicted of
11 a felony, other than a felony punished under Section 12.44(a),
12 Penal Code, in which event the judge may suspend the imposition of
13 the sentence and place the defendant on community supervision or
14 may order the sentence to be executed. The provisions of this
15 subdivision requiring the judge to suspend the imposition of the
16 sentence and place the defendant on community supervision do not
17 apply to a defendant who under Section 481.1151(b)(1), Health and
18 Safety Code, possessed more than five abuse units of the controlled
19 substance or under Section 481.121(b)(3), Health and Safety Code,
20 possessed more than one pound of marihuana.

21 SECTION 6. Section 15(b), Article 42.12, Code of Criminal
22 Procedure, is amended to read as follows:

23 (b) The minimum period of community supervision a judge may
24 impose under this section is two years. The maximum period of
25 community supervision a judge may impose under this section is
26 three [~~five~~] years, except that the judge may extend the maximum
27 period of community supervision under this section to not more than

1 five [~~10~~] years. A judge may extend a period of community
2 supervision under this section at any time during the period of
3 community supervision, or if a motion for revocation of community
4 supervision is filed before the period of community supervision
5 ends, before the first anniversary of the expiration of the period
6 of community supervision.

7 SECTION 7. Sections 15(h)(2) and (3), Article 42.12, Code
8 of Criminal Procedure, are amended to read as follows:

9 (2) A judge shall [~~may~~] credit against any time a
10 defendant is required to serve in a state jail felony facility time
11 served by the defendant in a county jail or a court-ordered
12 residential program or facility from the time of the defendant's
13 arrest and confinement until sentencing by the trial court,
14 including any time spent in custody waiting to enter a
15 court-ordered residential program or facility.

16 (3) A judge shall credit against any time a defendant
17 is subsequently required to serve in a state jail felony facility
18 after revocation of community supervision any time served by the
19 defendant in a state jail felony facility or court-ordered
20 residential program or facility after sentencing.

21 SECTION 8. Section 16(a), Article 42.12, Code of Criminal
22 Procedure, is amended to read as follows:

23 (a) A judge may [~~shall~~] require as a condition of community
24 supervision[~~7~~] that the defendant work a specified number of hours
25 at a community service project or projects for an organization or
26 organizations approved by the judge and designated by the
27 department. The judge may not require that a defendant work at a

1 community service project if~~[, unless]~~ the judge determines [~~and~~
2 ~~notes on the order placing the defendant on community supervision]~~
3 that:

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

6 (2) participating in the project will work a hardship
7 on the defendant or the defendant's dependents;

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

11 (4) there is other good cause shown.

12 SECTION 9. Sections 20(a) and (b), Article 42.12, Code of
13 Criminal Procedure, are amended to read as follows:

14 (a) At any time~~[,]~~ after the defendant has satisfactorily
15 completed one-third of the original community supervision period or
16 two years of community supervision, whichever is less, the period
17 of community supervision may be reduced or terminated by the judge.
18 On completion of one-half of the original community supervision
19 period, the judge shall review the defendant's record and consider
20 whether to reduce or terminate the period of community supervision,
21 unless the defendant is delinquent in paying required restitution,
22 finances, costs, or fees that the defendant has the ability to pay or
23 the defendant has not completed court-ordered counseling or
24 treatment. If a defendant's community supervision record is not
25 reviewed on completion of one-half of the original community
26 supervision period because the defendant is delinquent in paying
27 restitution, fines, costs, or fees or has not completed

1 court-ordered counseling or treatment, not later than 12 months
2 after the defendant has paid the restitution, fines, costs, or fees
3 or completed the counseling or treatment the judge shall review the
4 defendant's community supervision record and consider whether to
5 terminate or reduce the period of community supervision. A judge
6 may not refuse to terminate a period of community supervision
7 solely on the ground that the defendant is indigent and unable to
8 pay restitution, fines, costs, or fees. If the judge determines
9 that the defendant has failed to satisfactorily fulfill the
10 conditions of community supervision, the judge shall advise the
11 defendant in writing of the requirements for satisfactorily
12 fulfilling those conditions. Upon the satisfactory fulfillment of
13 the conditions of community supervision, and the expiration of the
14 period of community supervision, the judge, by order duly entered,
15 shall amend or modify the original sentence imposed, if necessary,
16 to conform to the community supervision period and shall discharge
17 the defendant. If the judge discharges the defendant under this
18 section, the judge may set aside the verdict or permit the defendant
19 to withdraw the defendant's ~~his~~ plea, and shall dismiss the
20 accusation, complaint, information or indictment against the
21 defendant, who shall thereafter be released from all penalties and
22 disabilities resulting from the offense or crime of which the
23 defendant ~~he~~ has been convicted or to which the defendant ~~he~~ has
24 pleaded guilty, except that:

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

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

7 (b) This section does not apply to a defendant convicted of
8 an offense under Sections 49.04-49.08, Penal Code, a defendant
9 convicted of an offense for which on conviction registration as a
10 sex offender is required under Chapter 62, or a defendant convicted
11 of a felony described by Section 3g~~[, as added by Chapter 668, Acts~~
12 ~~of the 75th Legislature, Regular Session, 1997, or a defendant~~
13 ~~convicted of an offense punishable as a state jail felony]~~.

14 SECTION 10. Section 22(c), Article 42.12, Code of Criminal
15 Procedure, is amended to read as follows:

16 (c) The judge in a felony case may extend a period of
17 community supervision under this section by imposing a maximum of
18 five one-year extensions for good cause. The judge may not impose
19 more than one extension per hearing under Section 21, regardless of
20 the number of violations alleged at the hearing. The ~~[as often as~~
21 ~~the judge determines is necessary, but the]~~ period of community
22 supervision in a ~~[first, second, or third degree]~~ felony case, with
23 extensions, may not exceed 10 years. Except ~~[and, except]~~ as
24 otherwise provided by this subsection, the period of community
25 supervision in a misdemeanor case may not exceed three years. The
26 judge may extend the period of community supervision in a
27 misdemeanor case for any period the judge determines is necessary,

1 not to exceed an additional two years beyond the three-year limit,
2 if the defendant fails to pay a previously assessed fine, costs, or
3 restitution and the judge determines that extending the period of
4 supervision increases the likelihood that the defendant will fully
5 pay the fine, costs, or restitution. A court may extend a period of
6 community supervision under this section at any time during the
7 period of supervision or, if a motion for revocation of community
8 supervision is filed before the period of supervision ends, before
9 the first anniversary of the date on which the period of supervision
10 expires.

11 SECTION 11. Section 23(b), Article 42.12, Code of Criminal
12 Procedure, is amended to read as follows:

13 (b) No part of the time that the defendant is on community
14 supervision shall be considered as any part of the time that he
15 shall be sentenced to serve, except that on revocation, the judge
16 shall credit to the defendant time served by the defendant as a
17 condition of community supervision in a county jail, community
18 corrections facility, or court-ordered residential program or
19 facility. The right of the defendant to appeal for a review of the
20 conviction and punishment, as provided by law, shall be accorded
21 the defendant at the time he is placed on community supervision.
22 When he is notified that his community supervision is revoked for
23 violation of the conditions of community supervision and he is
24 called on to serve a sentence in a jail or in the institutional
25 division of the Texas Department of Criminal Justice, he may appeal
26 the revocation.

27 SECTION 12. Subchapter A, Chapter 102, Code of Criminal

1 Procedure, is amended by adding Article 102.0178 to read as
2 follows:

3 Art. 102.0178. COSTS ATTENDANT TO CERTAIN INTOXICATION AND
4 DRUG CONVICTIONS. (a) In addition to other costs on conviction
5 imposed by this chapter, a person shall pay \$50 as a court cost on
6 conviction of an offense under:

7 (1) Chapter 49, Penal Code; or

8 (2) Chapter 481, Health and Safety Code.

9 (b) The court shall assess and make a reasonable effort to
10 collect the cost due under this article whether or not any other
11 court cost is assessed or collected.

12 (c) For purposes of this article, a person is considered to
13 have been convicted if:

14 (1) a sentence is imposed;

15 (2) the defendant receives community supervision or
16 deferred adjudication; or

17 (3) the court defers final disposition of the case.

18 (d) Court costs under this article are collected in the same
19 manner as other fines or costs. An officer collecting the costs
20 shall keep separate records of the funds collected as costs under
21 this article and shall deposit the funds in the county or municipal
22 treasury, as appropriate.

23 (e) The custodian of a county or municipal treasury shall:

24 (1) keep records of the amount of funds on deposit
25 collected under this article; and

26 (2) send to the comptroller before the last day of the
27 first month following each calendar quarter the funds collected

1 under this article during the preceding quarter.

2 (f) A county or municipality may retain 10 percent of the
3 funds collected under this article by an officer of the county or
4 municipality as a collection fee if the custodian of the county or
5 municipal treasury complies with Subsection (e).

6 (g) If no funds due as costs under this article are
7 deposited in a county or municipal treasury in a calendar quarter,
8 the custodian of the treasury shall file the report required for the
9 quarter in the regular manner and must state that no funds were
10 collected.

11 (h) The comptroller shall deposit the funds received under
12 this article to the credit of the drug court account in the general
13 revenue fund to help fund drug court programs established under
14 Chapter 469, Health and Safety Code. The legislature shall
15 appropriate money from the account solely to the criminal justice
16 division of the governor's office for distribution to drug court
17 programs that apply for the money.

18 (i) Funds collected under this article are subject to audit
19 by the comptroller.

20 SECTION 13. Section 469.001, Health and Safety Code, is
21 amended to read as follows:

22 Sec. 469.001. DRUG COURT PROGRAM DEFINED; PROCEDURES FOR
23 CERTAIN DEFENDANTS. (a) In this chapter, "drug court program"
24 means a program that has the following essential characteristics:

25 (1) the integration of alcohol and other drug
26 treatment services in the processing of cases in the judicial
27 system;

1 (2) the use of a nonadversarial approach involving
2 prosecutors and defense attorneys to promote public safety and to
3 protect the due process rights of program participants;

4 (3) early identification and prompt placement of
5 eligible participants in the program;

6 (4) access to a continuum of alcohol, drug, and other
7 related treatment and rehabilitative services;

8 (5) monitoring of abstinence through weekly alcohol
9 and other drug testing;

10 (6) a coordinated strategy to govern program responses
11 to participants' compliance;

12 (7) ongoing judicial interaction with program
13 participants;

14 (8) monitoring and evaluation of program goals and
15 effectiveness;

16 (9) continuing interdisciplinary education to promote
17 effective program planning, implementation, and operations; and

18 (10) development of partnerships with public agencies
19 and community organizations.

20 (b) If a defendant enters a drug court program following an
21 arrest for an offense punishable as a state jail felony, the court
22 may defer the proceedings without accepting a plea of guilty or nolo
23 contendere or entering an adjudication of guilt. If the defendant
24 successfully completes the program, on motion of the attorney
25 representing the state, the court may dismiss the indictment or
26 information charging the defendant with the commission of the
27 offense. If the defendant fails to successfully complete the

1 program, the court may proceed as if the case had never been stayed.

2 (c) On ex parte petition or other request of a defendant,
3 the court shall enter an order of expunction under Chapter 55, Code
4 of Criminal Procedure, with respect to all records and files
5 related to the defendant's arrest for the offense for which the
6 defendant entered the drug court program if the defendant:

7 (1) has not been previously convicted of a felony
8 offense; and

9 (2) is not arrested or convicted for any other felony
10 offense before the second anniversary of the defendant's successful
11 completion of the drug court program.

12 SECTION 14. Section 469.002, Health and Safety Code, is
13 amended to read as follows:

14 Sec. 469.002. AUTHORITY TO ESTABLISH PROGRAM. The [~~Except~~
15 ~~as provided by Section 469.006, the~~] commissioners court of a
16 county may establish the following types of [a] drug court
17 programs:

18 (1) drug courts for [~~program for~~] persons arrested
19 for, charged with, or convicted of:

20 (A) [~~(1)~~] an offense in which an element of the
21 offense is the use or possession of alcohol or the use, possession,
22 or sale of a controlled substance, a controlled substance analogue,
23 or marihuana; or

24 (B) [~~(2)~~] an offense in which the use of alcohol
25 or a controlled substance is suspected to have significantly
26 contributed to the commission of the offense and the offense did not
27 involve:

1 (i) [~~(A)~~] carrying, possessing, or using a
2 firearm or other dangerous weapon;

3 (ii) [~~(B)~~] the use of force against the
4 person of another; or

5 (iii) [~~(C)~~] the death of or serious bodily
6 injury to another;

7 (2) drug courts for juveniles detained for, taken into
8 custody for, or adjudicated as having engaged in:

9 (A) delinquent conduct, including habitual
10 felony conduct, or conduct indicating a need for supervision in
11 which an element of the conduct is the use or possession of alcohol
12 or the use, possession, or sale of a controlled substance, a
13 controlled substance analogue, or marihuana; or

14 (B) delinquent conduct, including habitual
15 felony conduct, or conduct indicating a need for supervision in
16 which the use of alcohol or a controlled substance is suspected to
17 have significantly contributed to the commission of the conduct and
18 the conduct did not involve:

19 (i) carrying, possessing, or using a
20 firearm or other dangerous weapon;

21 (ii) the use of force against the person of
22 another; or

23 (iii) the death of or serious bodily injury
24 to another;

25 (3) reentry drug courts for persons with a
26 demonstrated history of using alcohol or a controlled substance who
27 may benefit from a program designed to facilitate the person's

1 transition and reintegration into the community on release from a
2 state or local correctional facility;

3 (4) family dependency drug treatment courts for family
4 members involved in a suit affecting the parent-child relationship
5 in which a parent's use of alcohol or a controlled substance is a
6 primary consideration in the outcome of the suit; or

7 (5) programs for other persons not precisely described
8 by Subdivisions (1)-(4) who may benefit from a program that has the
9 essential characteristics described by Section 469.001.

10 SECTION 15. Section 469.003, Health and Safety Code, is
11 amended by adding Subsection (c) to read as follows:

12 (c) A drug court program established under Section 469.002
13 may:

14 (1) notify the criminal justice division of the
15 governor's office before or on implementation of the program; and

16 (2) provide information regarding the performance of
17 the program to the division on request.

18 SECTION 16. Section 469.004, Health and Safety Code, is
19 amended to read as follows:

20 Sec. 469.004. FEES. (a) A drug court program established
21 under Section 469.002 may collect from a participant in the
22 program:

23 (1) a reasonable program fee not to exceed \$1,000[
24 ~~which may be paid on a periodic basis or on a deferred payment~~
25 ~~schedule at the discretion of the judge, magistrate, or program~~
26 ~~director administering the program]; and~~

27 (2) an alcohol or controlled substance [~~a urinalysis]~~

1 testing, ~~and~~ counseling, and treatment fee[+]

2 ~~[(A) based on the participant's ability to pay,~~
3 ~~and~~

4 ~~[(B)]~~ in an amount necessary to cover the costs
5 of the testing, ~~and~~ counseling, and treatment.

6 (b) Fees collected under this section may be paid on a
7 periodic basis or on a deferred payment schedule at the discretion
8 of the judge, magistrate, or program director administering the
9 program. The fees must be:

10 (1) [A drug court program may require a participant to
11 pay all treatment costs incurred while participating in the
12 program,] based on the participant's ability to pay; and

13 (2) used only for purposes specific to the program.

14 SECTION 17. Section 469.006, Health and Safety Code, is
15 amended to read as follows:

16 Sec. 469.006. PROGRAM IN CERTAIN COUNTIES MANDATORY. (a)
17 The commissioners court of a county with a population of more than
18 200,000 ~~[550,000]~~ shall establish a drug court program under
19 Subdivision (1) of Section 469.002.

20 (b) ~~[A drug court program required under this section to be~~
21 ~~established must have at least 100 participants during the first~~
22 ~~four months in which the program is operating.~~

23 ~~[(c)]~~ A county required under this section to establish a
24 drug court program shall apply for ~~[to the]~~ federal and state
25 ~~[government for any]~~ funds available to pay the costs of the
26 program. The criminal justice division of the governor's office
27 may assist a county in applying for federal funds as required by

1 this subsection[, ~~including providing financial assistance to the~~
2 ~~county~~].

3 (c) Notwithstanding Subsection (a), a county is required to
4 establish a drug program under this section only if the county
5 receives federal or state funding specifically for that purpose.

6 (d) A county that does not establish a drug court program as
7 required by this section and maintain the program is ineligible to
8 receive from the state:

9 (1) funds for a community supervision and corrections
10 department; and

11 (2) grants for substance abuse treatment programs
12 administered by the criminal justice division of the governor's
13 office.

14 SECTION 18. Section 76.002(a), Government Code, is amended
15 to read as follows:

16 (a) The district judge or district judges trying criminal
17 cases in each judicial district and the statutory county court
18 judges trying criminal cases in the county or counties served by the
19 judicial district shall:

20 (1) establish a community supervision and corrections
21 department; and

22 (2) approve the department's budget and community
23 justice plan [~~employ district personnel as necessary to conduct~~
24 ~~presentence investigations, supervise and rehabilitate defendants~~
25 ~~placed on community supervision, enforce the conditions of~~
26 ~~community supervision, and staff community corrections~~
27 ~~facilities~~].

1 SECTION 19. Section 76.003(a), Government Code, is amended
2 to read as follows:

3 (a) A community justice council must be established by the
4 [~~district judge or district~~] judges described by Section 76.002 in
5 each jurisdiction served by a department, unless a board or council
6 that was in existence on September 1, 1991, is performing duties
7 substantially similar to those imposed on a community justice
8 council under this section. The council shall provide continuing
9 policy guidance and direction for the development of community
10 justice plans and community corrections facilities and programs.

11 SECTION 20. Section 76.004, Government Code, is amended to
12 read as follows:

13 Sec. 76.004. DEPARTMENT DIRECTOR; FISCAL OFFICER. (a) The
14 [~~district judge or~~] judges described by Section 76.002 shall
15 appoint a department director who must meet, at a minimum, the
16 eligibility requirements for officers established under Section
17 76.005.

18 (a-1) The department director shall perform or delegate the
19 responsibility for performing the following duties:

20 (1) overseeing the daily operations of the department;

21 (2) preparing annually or biennially a budget for the
22 department;

23 (3) negotiating and entering into contracts on behalf
24 of the department;

25 (4) establishing policies and procedures for all
26 functions of the department;

27 (5) developing personnel policies and procedures,

1 including disciplinary proceedings; and

2 (6) establishing procedures and practices through
3 which the department will address an employment-related grievance.

4 (b) The department director shall employ a sufficient
5 number of officers and other employees to conduct presentence
6 investigations, supervise and rehabilitate defendants placed on
7 community supervision, enforce the conditions of community
8 supervision, and staff community corrections facilities. A person
9 employed under this subsection is an employee of the department and
10 not of the judges or judicial districts [~~perform the professional~~
11 ~~and clerical work of the department~~].

12 (c) The [~~district judge or~~] judges described by Section
13 76.002 may appoint for the department a fiscal officer, other than
14 the county auditor. The fiscal officer is responsible for:

15 (1) managing and protecting funds, fees, state aid,
16 and receipts to the same extent that a county auditor manages county
17 funds and funds of other local entities;

18 (2) ensuring that financial transactions of the
19 department are lawful and allowable; and

20 (3) prescribing accounting procedures for the
21 department.

22 (d) The [~~district judge or~~] judges described by Section
23 76.002 may appoint a person as fiscal officer only after
24 investigating the person and determining that the person is:

25 (1) a person of unquestionably good moral character
26 and intelligence; and

27 (2) a financial officer with at least two years'

1 experience in auditing and accounting.

2 (e) A fiscal officer appointed under this section, before
3 beginning employment and not later than the 20th day after the date
4 of appointment, shall:

5 (1) take an oath stating that the person meets the
6 qualifications required by this section and will not have a
7 personal interest in any contract entered into by the department;
8 and

9 (2) execute a good and sufficient surety bond that:

10 (A) is in the amount of \$5,000 or more;

11 (B) is approved by and payable to the [~~district~~
12 ~~judge or~~] judges described by Section 76.002; and

13 (C) is conditioned on the faithful performance by
14 the fiscal officer of the officer's duties.

15 (f) The [~~district judge or~~] judges described by Section
16 76.002 shall set the annual compensation of a fiscal officer
17 appointed under this section, and the department shall pay all
18 costs related to the functions of the fiscal officer.

19 (g) Subsections (c)-(f) do not diminish the rights of the
20 following officers or entities to examine and audit accounts,
21 records, receipts, and expenditures of a department:

22 (1) the county auditor of a county served by the
23 department;

24 (2) the comptroller; [~~and~~]

25 (3) the state auditor; and

26 (4) the division.

27 SECTION 21. Chapter 76, Government Code, is amended by

1 adding Section 76.0045 to read as follows:

2 Sec. 76.0045. JUDICIAL RESPONSIBILITIES; IMMUNITY. (a)
3 The responsibility of a judge described by Section 76.002 for
4 personnel decisions is limited to the appointment of a department
5 director and a fiscal officer.

6 (b) The responsibility of a judge described by Section
7 76.002 for budgetary decisions is limited to:

8 (1) appointment of a fiscal officer; and

9 (2) approval of the department's budget.

10 (c) A judge described by Section 76.002 has judicial
11 immunity in a suit arising from:

12 (1) the performance of a duty described by Section
13 76.002(a); or

14 (2) the appointment of a department director or a
15 fiscal officer or an act or failure to act by a department employee
16 or by a department director or fiscal officer.

17 SECTION 22. Section 76.0051, Government Code, is amended to
18 read as follows:

19 Sec. 76.0051. AUTHORIZATION TO CARRY WEAPON. An officer is
20 authorized to carry a weapon while engaged in the actual discharge
21 of the officer's duties only if:

22 (1) the officer possesses a certificate of firearms
23 proficiency issued by the Commission on Law Enforcement Officer
24 Standards and Education under Section 1701.257, Occupations Code
25 [415.038]; and

26 (2) the director of the department agrees [~~and the~~
27 ~~judges participating in the management of the department agree~~] to

1 the authorization.

2 SECTION 23. Section 76.006, Government Code, is amended by
3 amending Subsections (a) and (h) and adding Subsection (j) to read
4 as follows:

5 (a) Except as provided by Subsection (c), department
6 employees are not state employees. The department shall contract
7 for all employee benefits with one county served by the department
8 and designated for that purpose by the [~~district judge or~~] judges
9 described by Section 76.002. To the extent that employee benefits
10 are provided by a county under this subsection, the employees are
11 governed by personnel policies and benefits equal to personnel
12 policies for and benefits of other employees of that county. This
13 subsection does not apply to employee benefits for group insurance
14 and related coverages provided to employees of a department through
15 the group benefits program for state employees under Chapter 1551,
16 Insurance Code.

17 (h) If under Subsection (a) the [~~district judge or~~] judges
18 described by Section 76.002 change the designation of the county
19 providing employee benefits, the [~~district judge or~~] judges may not
20 subsequently change that designation before the 10th anniversary of
21 the date on which the previous designation was made.

22 (j) The attorney general shall defend a statutory county
23 court judge in an action in state or federal court if:

24 (1) the cause of action is the result of the judge
25 performing a duty described by Section 76.002, 76.003, or 76.004;
26 and

27 (2) the judge requests the attorney general's

1 assistance in the defense.

2 SECTION 24. Section 76.009(a), Government Code, is amended
3 to read as follows:

4 (a) The [~~district judge or~~] judges described by Section
5 76.002 may expend district funds in order to provide expanded
6 facilities, equipment, and utilities if:

7 (1) the department needs to increase its personnel in
8 order to provide more effective services or to meet workload
9 requirements established under Chapter 509;

10 (2) the county or counties certify to the [~~judge or~~]
11 judges described by Section 76.002 that they have neither adequate
12 space in county-owned buildings nor adequate funds to lease
13 additional physical facilities, purchase additional equipment, or
14 pay for additional utilities required by the department; and

15 (3) the county or counties provide facilities,
16 equipment, and utilities at or above the levels required by the
17 division.

18 SECTION 25. Section 76.010(c), Government Code, is amended
19 to read as follows:

20 (c) The department [~~district judge or judges~~] may authorize
21 expenditures of funds provided by the division to the department
22 for the purposes of providing facilities, equipment, and utilities
23 for community corrections facilities or state jail felony
24 facilities if:

25 (1) the community justice council recommends the
26 expenditures; and

27 (2) the division, or the state jail division in the

1 case of a state jail felony facility, provides funds for the purpose
2 of assisting in the establishment or improvement of the facilities.

3 SECTION 26. Section 102.021, Government Code, is amended to
4 read as follows:

5 Sec. 102.021. COURT COSTS ON CONVICTION. A person
6 convicted of an offense shall pay, in addition to all other costs:

7 (1) court costs on conviction of a felony (Sec.
8 133.102, Local Government Code) . . . \$133;

9 (2) court costs on conviction of a Class A or Class B
10 misdemeanor (Sec. 133.102, Local Government Code) . . . \$83;

11 (3) court costs on conviction of a nonjailable
12 misdemeanor offense, including a criminal violation of a municipal
13 ordinance, other than a conviction of an offense relating to a
14 pedestrian or the parking of a motor vehicle (Sec. 133.102, Local
15 Government Code) . . . \$40;

16 (4) court costs on certain convictions in statutory
17 county courts (Sec. 51.702, Government Code) . . . \$15;

18 (5) court costs on certain convictions in certain
19 county courts (Sec. 51.703, Government Code) . . . \$15;

20 (6) a time payment fee if convicted of a felony or
21 misdemeanor for paying any part of a fine, court costs, or
22 restitution on or after the 31st day after the date on which a
23 judgment is entered assessing the fine, court costs, or restitution
24 (Sec. 133.103, Local Government Code) . . . \$25;

25 (7) a fee for services of prosecutor (Art. 102.008,
26 Code of Criminal Procedure) . . . \$25;

27 (8) fees for services of peace officer:

1 (A) issuing a written notice to appear in court
2 for certain violations (Art. 102.011, Code of Criminal Procedure)
3 . . . \$5;

4 (B) executing or processing an issued arrest
5 warrant or capias (Art. 102.011, Code of Criminal Procedure)
6 . . . \$50;

7 (C) summoning a witness (Art. 102.011, Code of
8 Criminal Procedure) . . . \$5;

9 (D) serving a writ not otherwise listed (Art.
10 102.011, Code of Criminal Procedure) . . . \$35;

11 (E) taking and approving a bond and, if
12 necessary, returning the bond to courthouse (Art. 102.011, Code of
13 Criminal Procedure) . . . \$10;

14 (F) commitment or release (Art. 102.011, Code of
15 Criminal Procedure) . . . \$5;

16 (G) summoning a jury (Art. 102.011, Code of
17 Criminal Procedure) . . . \$5;

18 (H) attendance of a prisoner in habeas corpus
19 case if prisoner has been remanded to custody or held to bail (Art.
20 102.011, Code of Criminal Procedure) . . . \$8 each day;

21 (I) mileage for certain services performed (Art.
22 102.011, Code of Criminal Procedure) . . . \$0.29 per mile; and

23 (J) services of a sheriff or constable who serves
24 process and attends examining trial in certain cases (Art. 102.011,
25 Code of Criminal Procedure) . . . not to exceed \$5;

26 (9) services of a peace officer in conveying a witness
27 outside the county (Art. 102.011, Code of Criminal Procedure)

1 . . . \$10 per day or part of a day, plus actual necessary travel
2 expenses;

3 (10) overtime of peace officer for time spent
4 testifying in the trial or traveling to or from testifying in the
5 trial (Art. 102.011, Code of Criminal Procedure) . . . actual cost;

6 (11) court costs on an offense relating to rules of the
7 road, when offense occurs within a school crossing zone (Art.
8 102.014, Code of Criminal Procedure) . . . \$25;

9 (12) court costs on an offense of passing a school bus
10 (Art. 102.014, Code of Criminal Procedure) . . . \$25;

11 (13) court costs on an offense of truancy or
12 contributing to truancy (Art. 102.014, Code of Criminal Procedure)
13 . . . \$20;

14 (14) cost for visual recording of intoxication arrest
15 before conviction (Art. 102.018, Code of Criminal Procedure)
16 . . . \$15;

17 (15) cost of certain evaluations (Art. 102.018, Code
18 of Criminal Procedure) . . . actual cost;

19 (16) additional costs attendant to certain
20 intoxication convictions under Chapter 49, Penal Code, for
21 emergency medical services, trauma facilities, and trauma care
22 systems (Art. 102.0185, Code of Criminal Procedure) . . . \$100;

23 (17) cost for DNA testing for certain felonies (Art.
24 102.020, Code of Criminal Procedure) . . . \$250;

25 (18) court cost on an offense of public lewdness or
26 indecent exposure (Art. 102.020, Code of Criminal Procedure)
27 . . . \$50;

1 (19) court cost on conviction of a misdemeanor under
2 Subtitle C, Title 7, Transportation Code (Sec. 542.403,
3 Transportation Code) . . . \$3;

4 (20) cost for impoundment of vehicle (Sec. 601.263,
5 Transportation Code) . . . \$15 per day; ~~and~~

6 (21) a civil and criminal enforcement cost on
7 conviction of an offense of, or related to, the nonpayment of a toll
8 in certain counties (Sec. 284.2031, Transportation Code) . . . \$1;
9 and

10 (22) additional costs attendant to convictions under
11 Chapter 49, Penal Code, and under Chapter 481, Health and Safety
12 Code, to help fund drug court programs established under Chapter
13 469, Health and Safety Code (Art. 102.0178, Code of Criminal
14 Procedure) . . . \$50.

15 SECTION 27. Section 509.007, Government Code, is amended to
16 read as follows:

17 Sec. 509.007. COMMUNITY JUSTICE PLAN. (a) The division
18 shall require as a condition to payment of state aid to a department
19 or county under Section 509.011 [~~and eligibility for payment of~~
20 ~~costs under Section 499.124]~~ that a community justice plan be
21 submitted for the department. The community justice council shall
22 submit the plan required by this subsection. A community justice
23 council may not submit a plan under this section unless the plan is
24 first approved under Section 76.002 [~~by the district judges who~~
25 ~~manage the department served by the council]~~. The council shall
26 submit a revised plan to the division each odd-numbered year by a
27 date designated by the division. A plan may be amended at any time

1 with the approval of the division.

2 (b) A community justice plan required under this section
3 must include:

4 (1) a statement of goals and priorities and of
5 commitment by the community justice council, the ~~[district]~~ judges
6 who established the department and approve the department's budget
7 and community justice plan ~~[manage the department]~~, and the
8 department to achieve a targeted level of alternative sanctions;

9 (2) a description of methods for measuring the success
10 of programs provided by the department or provided by an entity
11 served by the department; and

12 (3) a proposal for the use of state jail felony
13 facilities and, at the discretion of the community justice council,
14 a regional proposal for the construction, operation, maintenance,
15 or management of a state jail felony facility by a county, a
16 community supervision and corrections department, or a private
17 vendor under a contract with a county or a community supervision and
18 corrections department.

19 SECTION 28. Chapter 509, Government Code, is amended by
20 adding Section 509.016 to read as follows:

21 Sec. 509.016. PRISON DIVERSION PILOT PROGRAM. (a) The
22 division shall establish a pilot program that provides grants to
23 selected departments for the implementation of a system of
24 progressive sanctions designed to reduce the revocation rate of
25 defendants placed on community supervision. The division shall
26 give priority in providing grants to departments serving counties
27 in which the revocation rate for defendants on community

1 supervision significantly exceeds the statewide average.

2 (b) In determining which departments are proper candidates
3 for grants under this section, the division shall give preference
4 to departments that present to the division a plan that will target
5 medium-risk and high-risk defendants and use progressive sanction
6 models that adhere to the components set forth in Section 469.001,
7 Health and Safety Code. As a condition to receiving a grant, a
8 department must offer a plan that contains some if not all of the
9 following components:

10 (1) reduced and specialized caseloads for supervision
11 officers, which may include electronic monitoring or substance
12 abuse testing of defendants;

13 (2) the creation, designation, and fiscal support of
14 courts and associated infrastructure necessary to increase
15 judicial oversight and reduce revocations;

16 (3) increased monitoring and field contact by
17 supervision officers;

18 (4) shortened terms of community supervision, with
19 increased supervision during the earliest part of the term;

20 (5) graduated sanctions and incentives, offered to a
21 defendant by both the departments and courts served by the
22 department;

23 (6) the use of inpatient and outpatient treatment
24 options, including substance abuse treatment, mental health
25 treatment, and cognitive and behavioral programs for defendants;

26 (7) the use of intermediate sanctions facilities;

27 (8) the use of community corrections beds;

- 1 (9) early termination strategies and capabilities;
2 (10) gang intervention strategies; and
3 (11) risk assessment techniques and reassessment
4 techniques.

5 (c) The division shall, not later than December 1, 2006,
6 provide a report to the board. The report must state the number of
7 departments receiving grants under this section, identify those
8 departments by name, and describe for each department receiving a
9 grant the components of the department's program and the success of
10 the department in reducing revocations. The report must also
11 contain an analysis of the scope, effectiveness, and cost benefit
12 of programs funded by grants provided under this section and a
13 comparison of those programs to similar programs in existence in
14 various departments before March 1, 2005. The division may include
15 in the report any other information the division determines will be
16 beneficial to the board or the legislature. The board shall forward
17 the report to the lieutenant governor and the speaker of the house
18 of representatives not later than December 15, 2006.

19 SECTION 29. Section 132.002, Local Government Code, is
20 amended by adding Subsection (f) to read as follows:

21 (f) The director of a community supervision and corrections
22 department, with the approval of the judges described by Section
23 76.002, Government Code, may authorize a community supervision
24 official who collects fees, fines, court costs, and other charges
25 to:

26 (1) accept payment by credit card of a fee, fine, court
27 cost, or other charge; and

1 (2) collect a fee for processing the payment by credit
2 card.

3 SECTION 30. The following provisions are repealed:

4 (1) Sections 4(c), 16(b), 18(c), and 22A, Article
5 42.12, Code of Criminal Procedure; and

6 (2) Section 76.002(b), Government Code.

7 SECTION 31. (a) The change in law made by this Act applies
8 to a person who is on community supervision on or after the
9 effective date of this Act, regardless of when the person was
10 initially placed on community supervision.

11 (b) The change in law made by this Act in adding Article
12 102.0178, Code of Criminal Procedure, and amending Section 102.021,
13 Government Code, applies only to an offense committed on or after
14 the effective date of this Act. An offense committed before the
15 effective date of this Act is governed by the law in effect when the
16 offense was committed, and the former law is continued in effect for
17 that purpose. For purposes of this subsection, an offense was
18 committed before the effective date of this Act if any element of
19 the offense was committed before that date.

20 (c) The change in law made by this Act in amending Section
21 469.001, Health and Safety Code, applies to a defendant who enters a
22 drug court program under Chapter 469, Health and Safety Code,
23 regardless of whether the defendant committed the offense for which
24 the defendant enters the program before, on, or after the effective
25 date of this Act.

26 (d) The commissioners court of a county required under
27 Section 469.006, Health and Safety Code, as amended by this Act, to

1 establish a drug court program shall establish the program not
2 later than the later of:

3 (1) September 1, 2006; or

4 (2) the first anniversary of the initial date on which
5 the federal census indicates that the county's population exceeds
6 200,000.

7 (e) The change in law made by Section 76.0045, Government
8 Code, as added by this Act, applies only to an act or failure to act
9 by a judge, a community supervision or corrections department, or a
10 department director that occurs on or after the effective date of
11 this Act. An act or failure to act by a judge, a community
12 supervision and corrections department, or a department director
13 that occurs before the effective date of this Act is governed by the
14 law in effect on the date the act or failure to act occurred, and the
15 former law is continued in effect for that purpose.

16 (f) The community justice assistance division of the Texas
17 Department of Criminal Justice shall develop criteria and review
18 grant proposals, as required by Section 509.016, Government Code,
19 as added by this Act, as soon as possible after the effective date
20 of this Act, and shall begin making grants under that section not
21 later than September 30, 2005.

22 SECTION 32. This Act takes effect September 1, 2005.