

By: Madden

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. Sections 3(b) and (d), Article 42.12, Code of Criminal Procedure, are amended to read as follows:

(b) Except as provided by Subsection (f), in a felony case the minimum period of community supervision is one half of [~~the same as~~] the minimum term of imprisonment applicable to the offense and the maximum period of community supervision is five [~~10~~] years.

(d) A judge may increase the maximum period of community supervision in the manner provided by Section 22(c) or 22A of this article, but, except as provided by Section 22A, the maximum period of community supervision may not exceed 10 years.

SECTION 2. Section 5(a), Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(a) Except as provided by Subsection (d) of this section, when in the judge's opinion the best interest of society and the defendant will be served, the judge may, after receiving a plea of guilty or plea of nolo contendere, hearing the evidence, and finding that it substantiates the defendant's guilt, defer further proceedings without entering an adjudication of guilt, and place the defendant on community supervision. A judge may place on community supervision under this section a defendant charged with an offense under Section 21.11, 22.011, or 22.021, Penal Code,

1 regardless of the age of the victim, or a defendant charged with a  
2 felony described by Section 13B(b) of this article, only if the  
3 judge makes a finding in open court that placing the defendant on  
4 community supervision is in the best interest of the victim. The  
5 failure of the judge to find that deferred adjudication is in the  
6 best interest of the victim is not grounds for the defendant to set  
7 aside the plea, deferred adjudication, or any subsequent conviction  
8 or sentence. After placing the defendant on community supervision  
9 under this section, the judge shall inform the defendant orally or  
10 in writing of the possible consequences under Subsection (b) of  
11 this section of a violation of community supervision. If the  
12 information is provided orally, the judge must record and maintain  
13 the judge's statement to the defendant. The failure of a judge to  
14 inform a defendant of possible consequences under Subsection (b) of  
15 this section is not a ground for reversal unless the defendant shows  
16 that he was harmed by the failure of the judge to provide the  
17 information. Except as otherwise provided in this subsection, in  
18 ~~[In]~~ a felony case, the period of community supervision may not  
19 exceed five ~~[10]~~ years. For a defendant charged with a felony under  
20 Section 21.11, 22.011, or 22.021, Penal Code, regardless of the age  
21 of the victim, and for a defendant charged with a felony described  
22 by Section 13B(b) of this article, the period of community  
23 supervision may not be less than five years or more than 10 years,  
24 except as provided by Section 22A. In a misdemeanor case, the  
25 period of community supervision may not exceed two years. A judge  
26 may increase the maximum period of community supervision in the  
27 manner provided by Section 22(c) or 22A of this article. The judge

1 may impose a fine applicable to the offense and require any  
2 reasonable conditions of community supervision, including mental  
3 health treatment under Section 11(d) of this article, that a judge  
4 could impose on a defendant placed on community supervision for a  
5 conviction that was probated and suspended, including confinement.  
6 The provisions of Section 15 of this article specifying whether a  
7 defendant convicted of a state jail felony is to be confined in a  
8 county jail or state jail felony facility and establishing the  
9 minimum and maximum terms of confinement as a condition of  
10 community supervision apply in the same manner to a defendant  
11 placed on community supervision after pleading guilty or nolo  
12 contendere to a state jail felony. However, upon written motion of  
13 the defendant requesting final adjudication filed within 30 days  
14 after entering such plea and the deferment of adjudication, the  
15 judge shall proceed to final adjudication as in all other cases.

16 SECTION 3. Section 6(a), Article 42.12, Code of Criminal  
17 Procedure, is amended to read as follows:

18 (a) For the purposes of this section, the jurisdiction of a  
19 court in which a sentence requiring imprisonment in the  
20 institutional division of the Texas Department of Criminal Justice  
21 is imposed by the judge of the court shall continue for two years  
22 [~~180 days~~] from the date the execution of the sentence actually  
23 begins. Before the expiration of two years [~~180 days~~] from the date  
24 the execution of the sentence actually begins, the judge of the  
25 court that imposed such sentence may on his own motion, on the  
26 motion of the attorney representing the state, or on the written  
27 motion of the defendant, suspend further execution of the sentence

1 and place the defendant on community supervision under the terms  
2 and conditions of this article, if in the opinion of the judge the  
3 defendant would not benefit from further imprisonment and:

4 (1) the defendant is otherwise eligible for community  
5 supervision under this article; and

6 (2) the defendant had never before been incarcerated  
7 in a penitentiary serving a sentence for a felony.

8 SECTION 4. Section 20(a), Article 42.12, Code of Criminal  
9 Procedure, is amended to read as follows:

10 (a) At any time before the expiration of the term of  
11 community supervision, if in the judge's opinion the best interest  
12 of society and the defendant will be served, [~~after the defendant~~  
13 ~~has satisfactorily completed one-third of the original community~~  
14 ~~supervision period or two years of community supervision, whichever~~  
15 ~~is less,~~] the period of community supervision may be reduced or  
16 terminated by the judge. Upon the satisfactory fulfillment of the  
17 conditions of community supervision, and the expiration of the  
18 period of community supervision, the judge, by order duly entered,  
19 shall amend or modify the original sentence imposed, if necessary,  
20 to conform to the community supervision period and shall discharge  
21 the defendant. If the judge discharges the defendant under this  
22 section, the judge may set aside the verdict or permit the defendant  
23 to withdraw his plea, and shall dismiss the accusation, complaint,  
24 information or indictment against the defendant, who shall  
25 thereafter be released from all penalties and disabilities  
26 resulting from the offense or crime of which he has been convicted  
27 or to which he has pleaded guilty, except that:

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

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

10           SECTION 5. Section 23(b), Article 42.12, Code of Criminal  
11 Procedure, is amended to read as follows:

12           (b) A judge may credit against any term of confinement a  
13 defendant is sentenced to serve under this section all or [No] part  
14 of the time that the defendant served [is] on community supervision  
15 [shall be considered as any part of the time that he shall be  
16 sentenced to serve]. The right of the defendant to appeal for a  
17 review of the conviction and punishment, as provided by law, shall  
18 be accorded the defendant at the time he is placed on community  
19 supervision. When he is notified that his community supervision is  
20 revoked for violation of the conditions of community supervision  
21 and he is called on to serve a sentence in a jail or in the  
22 institutional division of the Texas Department of Criminal Justice,  
23 he may appeal the revocation.

24           SECTION 6. Section 76.002(a), Government Code, is amended  
25 to read as follows:

26           (a) The district judge or district judges trying criminal  
27 cases in each judicial district and the statutory county court

1 judge or judges trying criminal cases in the county or counties  
2 served by the judicial district shall:

3 (1) establish a community supervision and corrections  
4 department; and

5 (2) approve the department's budget and community  
6 justice plan [~~employ district personnel as necessary to conduct~~  
7 ~~presentence investigations, supervise and rehabilitate defendants~~  
8 ~~placed on community supervision, enforce the conditions of~~  
9 ~~community supervision, and staff community corrections~~  
10 ~~facilities~~].

11 SECTION 7. Chapter 509, Government Code, is amended by  
12 adding Section 509.016 to read as follows:

13 Sec. 509.016. PRISON DIVERSION PILOT PROGRAM. The division  
14 shall establish a pilot program that provides grants to selected  
15 departments for the implementation of a system of progressive  
16 sanctions designed to reduce the revocation rate of defendants  
17 placed on community supervision. The division shall give priority  
18 in providing grants to departments serving counties in which the  
19 revocation rate for defendants on community supervision  
20 significantly exceeds the statewide average.

21 SECTION 8. This Act takes effect September 1, 2005.