

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

# 1 AN ACT

2 relating to the operation of a system of community supervision.

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

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

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

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

24 (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 [is not]

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[~~τ~~] 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        fines, 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       pledged 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

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

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;

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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        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 [~~which may be paid on a periodic basis or on a deferred payment schedule at the discretion of the judge, magistrate, or program 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:

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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;

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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

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 199.124~~] 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.