

BILL ANALYSIS

Senate Research Center
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H.B. 2624
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Criminal Justice
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Engrossed

DIGEST AND PURPOSE

Probation, or "community supervision," terms in Texas can be long. The maximum term of probation for a misdemeanor offender is five (5) years and the maximum term of probation for a felony offender is ten (10) years. Increased lengths of probation mean increased potential for probation revocation to incarceration in Texas prison. Many probation revocations in Texas are for technical violations, where the offender has not committed a new offense. The average length of incarceration for probation revocation is over four (4) years. Adult probationers in Texas currently have an "early release date" which is two years or one-third of the full probation term, whichever is less. Currently, few probationers are released on this date. H.B. 2624 releases offenders from state supervision after they have successfully completed one-third of their probation term. This bill allows a judge to deny early release and prohibits the amount of per capita funding received from the comptroller of public accounts (comptroller) based on vouchers prepared and submitted to the comptroller by the division under Subsection (a)(1) from being less than the amount received from the comptroller under that subsection during fiscal years 2004 and 2005.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 5(c), Article 42.12, Code of Criminal Procedure, as follows:

(c) Requires the judge, unless in the judge's opinion the best interest of society and the defendant will be served if the defendant remains under supervision, to dismiss the proceedings and discharge a defendant, other than a defendant charged with a misdemeanor or an offense requiring the defendant to register as a sex offender under Chapter 62, on the defendant's successful completion of one-third of the original period of community supervision imposed under Subsection (a) and payment to the court of a one-time supervision termination fee in the amount of \$500. Provides that for the purposes of this subsection, the original period of community supervision imposed begins on the date the judgment is entered in the case placing the defendant on community supervision. Requires the judge, with respect to a defendant who is charged with a misdemeanor or is required to remain under supervision, rather than on expiration of a community supervision period imposed under Subsection (a) of this section, if the judge has not proceeded to an adjudication of guilt, to dismiss the proceedings against the defendant and discharge the defendant on expiration of the period of community supervision imposed under Subsection (a), rather than discharge him. Authorizes the judge to dismiss the proceedings and discharge a defendant charged with a misdemeanor, other than an offense requiring the defendant to register as a sex offender under Chapter 62, rather than a defendant charged with an offense requiring the defendant to register as a sex offender under Chapter 62, as added by Chapter 668, Acts of the 75th Legislature, Regular Session, 1997, prior to the expiration of the term of community supervision if in the judge's opinion the best interest of society and the defendant will be served. Prohibits the judge from dismissing the proceedings and discharging a defendant charged with an offense requiring the defendant to register under Chapter 62 before the expiration of the

period of community supervision imposed under Subsection (a). Requires the judge, if the judge requires a defendant, other than a defendant charged with a misdemeanor or an offense requiring the defendant to register as a sex offender under Chapter 62, to remain under supervision, to enter a written statement in the records of the case specifying the grounds for the judge's opinion that the best interest of society and the defendant will be served if the defendant remains under supervision. Makes a conforming change.

SECTION 2. Amends Section 19(b), Article 42.12, Code of Criminal Procedure, to require the judge to deposit certain fees in the special fund of the county treasury, to be used for the same purposes for which state aid may be used under Chapter 76 (Community Supervision and Corrections Departments), Government Code.

SECTION 3. Amends Section 20, Article 42.12, Code of Criminal Procedure, as follows:

Sec. 20. REDUCTION OR TERMINATION OF COMMUNITY SUPERVISION. (a) Requires the judge, unless in the judge's opinion the best interest of society and the defendant will be served if the defendant remains under supervision, to terminate a period of community supervision for a defendant other than a defendant who enters a plea of guilty to or is convicted of a misdemeanor or an offense described by Subsection (b) on the defendant's successful completion of one-third of the original period of community supervision imposed and payment to the court of a one-time supervision termination fee in the amount of \$500. Provides that for the purposes of this subsection, the original period of community supervision imposed begins on the date the judgment is entered in the case placing the defendant on community supervision. Provides that with respect to a defendant who enters a plea of guilty to or is convicted of a misdemeanor or is required to remain under supervision, the period of community supervision is terminated on the defendant's satisfactory fulfillment of the conditions of community supervision, and the expiration of the original period of community supervision imposed. Authorizes the judge to terminate a period of community supervision for a defendant who enters a plea of guilty to or is convicted of a misdemeanor, other than an offense described by Subsection (b), prior to the expiration of the original period of community supervision imposed if the defendant has satisfactorily completed one-third of that period and, in the judge's opinion, the best interest of society and the defendant will be served. Requires the judge, by order duly entered, on termination of a period of community supervision under this subsection, to amend or modify the original sentence imposed, if necessary, to conform to the community supervision period and to discharge the defendant. Authorizes the judge, if the judge discharges the defendant under this subsection, rather than this section, to set aside the verdict or permit the defendant to withdraw the defendant's, rather than his, plea, and requires the judge to dismiss the accusation, complaint, information or indictment against the defendant, who shall thereafter be released from all penalties and disabilities resulting from the offense or crime of which the defendant has been convicted or to which the defendant has pleaded guilty, except that proof of the conviction or plea of guilty shall be made known to the judge should the defendant again be convicted of any criminal offense and if the defendant is an applicant for a license or is a licensee under Chapter 42 (Regulation of Certain Facilities, Homes, and Agencies that Provide Child-Care Services), Human Resources Code, the Texas Department of Human Services may consider the fact that the defendant previously has received community supervision under this article in issuing, renewing, denying, or revoking a license under that chapter. Deletes existing text relating to authorizing, at any time, after the defendant has satisfactorily completed one-third of the original community supervision period or two years of community supervision, whichever is less, the period of community supervision to be reduced or terminated by the judge. Makes conforming changes.

(b) Prohibits the judge from terminating a period of community supervision prior to the expiration of the original period of community supervision imposed if the defendant enters a plea of guilty to or is convicted of certain offenses. Makes a nonsubstantive change.

(c) Requires the judge, if the judge requires a defendant, other than a defendant

who enters a plea of guilty to or is convicted of a misdemeanor or an offense described by Subsection (b), to remain under supervision, to enter a written statement in the records of the case specifying the grounds for the judge's opinion that the best interest of society and the defendant will be served if the defendant remains under supervision.

SECTION 4. Amends Section 509.011, Government Code, by adding Subsection (i) to prohibit the amount of per capita funding received from the comptroller of public accounts (comptroller) based on vouchers prepared and submitted to the comptroller by the division under Subsection (a)(1) from being less than the amount received from the comptroller under that subsection during fiscal years 2004 and 2005.

SECTION 5. Effective date: September 1, 2003.
Makes application of this Act prospective.