

BILL ANALYSIS

Senate Research Center
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H.B. 1678
By: Madden et al. (Whitmire)
Criminal Justice
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Projected adult incarceration populations provided by the Legislative Budget Board in January of 2007, indicate that, by 2010, Texas prisons will exceed their operating capacity by 11,464. While the continued increase in direct court sentences to prison is the primary driving force behind the projected growth, probation term lengths are also contributing to the problem. They can last up to 10 years. Such long terms increase the chance that probationers will fail to comply with the rules of their supervision or commit technical violations, despite having made serious long-term improvements in their lives.

H.B. 1678 reduces the number of years certain defendants are authorized to be placed on community supervision, and requires judges to review certain defendants' records after a certain amount of time to consider the reduction or early termination of the defendant's period of community supervision. The bill also requires a judge to give a defendant credit for time served in a treatment program in a substance abuse felony punishment facility or other court-ordered residential program or facility if the defendant successfully completes the program.

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 2(a), Article 42.03, Code of Criminal Procedure, to require, in all criminal cases, the judge of the court in which the defendant is convicted to give the defendant credit on the defendant's sentence for the time that the defendant has spent in jail for the case or in a substance abuse treatment facility operated by the Texas Department of Criminal Justice (TDCJ) under Section 493.009 (Substance Abuse Felony Punishment Facilities), Government Code, or another court-ordered residential program or facility as a condition of deferred adjudication community supervision granted in the case if the defendant successfully completes the treatment program at that facility. Makes nonsubstantive changes.

SECTION 2. Amends Section 3(b), Article 42.12, Code of Criminal Procedure, to provide that in a felony case, the minimum period of community supervision is the same as the minimum term of imprisonment applicable to the offense and the maximum period of community supervision is, subject to the extensions provided by Section 22, a certain time period set forth in this subsection. Deletes existing text referring to an exception under Subsection (f).

SECTION 3. Amends Section 4(d), Article 42.12, Code of Criminal Procedure, to provide that a defendant is not eligible for community supervision under this section if the defendant is adjudged guilty of an offense under Section 19.02 (Murder), Penal Code.

SECTION 4. Amends Sections 15(h)(2) and (3), Article 42.12, Code of Criminal Procedure, as follows:

- (2) Requires a judge to credit against any time a defendant is required to serve in a state jail felony facility time served by the defendant in a substance abuse treatment facility operated by TDCJ under Section 493.009, Government Code, or other court-ordered residential program or facility as a condition of deferred adjudication community

supervision before sentencing, but only if the defendant successfully completes the treatment program in that facility. Makes conforming changes.

(3) Requires a judge to credit against any time a defendant is subsequently required to serve in a state jail felony facility after revocation of community supervision any time served after sentencing by the defendant in a substance abuse treatment facility operated by TDCJ under Section 493.009, Government Code, or another court-ordered residential program or facility if the defendant successfully completes the treatment program in that facility. Makes conforming changes.

SECTION 5. Amends Sections 16(a) and (b), Article 42.12, Code of Criminal Procedure, as follows:

(a) Authorizes, rather than requires, a judge to require as a condition of community supervision that the defendant work a specified number of hours at a community service project or projects for an organization or organizations approved by the judge and designated by TDCJ. Prohibits the judge from requiring a defendant to work at a community service project if the judge determines and notes on the order placing the defendant on community supervision certain determinations previously set forth in this subsection.

(b) Deletes existing text throughout this subsection prohibiting the amount of community service work ordered by a judge from being below certain minimum amounts for certain offenses.

SECTION 6. Amends Section 20, Article 42.12, Code of Criminal Procedure, as follows:

Sec. 20. REDUCTION OR TERMINATION OF COMMUNITY SUPERVISION. (a) Requires the judge, on a defendant's completion of one-half of the original community supervision period or two years of community supervision, whichever is more, to review the defendant's record and consider whether to reduce or terminate the period of community supervision, unless the defendant is delinquent in paying required restitution, fines, costs, or fees that the defendant has the ability to pay or the defendant has not completed court-ordered counseling or treatment. Requires the judge, before conducting the review, to notify the attorney representing the state and the defendant. Requires the judge, if the judge determines that the defendant has failed to satisfactorily fulfill the conditions of community supervision, to advise the defendant in writing of the requirements for satisfactorily fulfilling those conditions. Makes conforming and nonsubstantive changes.

(b) Provides that this section does not apply to a defendant convicted of a felony described by Section 3g (Limitation on Judge Ordered Community Supervision). Deletes existing text providing that this section does not apply to a defendant convicted of an offense punishable as a state jail felony. Makes a conforming deletion.

SECTION 7. Amends Section 22(c), Article 42.12, Code of Criminal Procedure, to authorize the judge to extend a period of community supervision on a showing of good cause under this section (Continuation or Modification) subject to the provisions of this section.

SECTION 8. Amends Section 23(b), Article 42.12, Code of Criminal Procedure, to provide that no part of the time that a defendant is on community supervision shall be considered as any part of the time that the defendant is required to be sentenced to serve, except that on revocation, the judge is required to credit to the defendant time served by the defendant as a condition of community supervision in a substance abuse treatment facility operated by TDCJ under Section 493.009, Government Code, or another court-ordered residential program or facility, if the defendant successfully completes the treatment program in that facility.

SECTION 9. Amends Section 132.002, Local Government Code, by adding Subsection (f) to authorize the director of a community supervision and corrections department, with the approval of the judges described by Section 76.002 (Establishment of Departments), Government Code, to

authorize a community supervision official who collects fees, fines, court costs, and other charges to accept payment by debit card or credit card of a fee, fine, court cost, or other charge and collect a fee for processing such a payment.

SECTION 10. (a) Makes application of the change in law made by this Act prospective, except as provided by Subsection (b).

(b) Provides that Section 132.002(f), Local Government Code, as added by this Act, applies to the payment of a fee, fine, court cost, or other charge made on or after its effective date, regardless of when the fee, fine, court cost, or other charge was imposed or became due.

SECTION 11. Effective date: September 1, 2007.