



# **LEGISLATIVE UPDATE**

## House Bill 666

H. B. 666, authored by Rep. Roland Gutierrez, was signed into law by the Governor on June 19, 2009. This bill increases the court cost from \$50.00 to \$60.00 imposed on a defendant convicted of an offense<sup>1</sup> punishable under Chapter 49 of the Penal Code (Intoxication Offenses) or under the Controlled Substances Act. This bill further specifies that this court cost is to be used by the criminal justice division of the Governor's Office to fund drug court programs. Finally this bill becomes effective on September 1, 2009.

<sup>1</sup>As originally filed this bill would have imposed a \$60.00 court cost for an offense punishable as a Class B misdemeanor or higher category of criminal offense for an offense under Chapter 22 (Assaultive Offenses), Chapter 25 (Offenses against the Family), Chapter 28 (Property Offenses), Chapter 29 (Robbery), Chapter 30 (Burglary and Criminal Trespass), Chapter 31 (Theft), Chapter 32 (Fraud), Chapter 46 (Weapons) and Chapter 49 (Intoxication Offenses). These new court costs would have been used to fund drug court programs in the State.

## House Bill 963

H. B. 963, authored by Rep. Ryan Guillen, was signed by the Governor on June 19, 2009. This bill provides that a person can request a licensing authority to issue a criminal history evaluation letter regarding the person's eligibility for a license issued by that authority if the person:

- 1) is enrolled or planning to enroll in an educational program that prepares a person for an initial license or is planning to take an examination for an initial license; and
- 2) has reason to believe that the person is ineligible for the license due to a conviction or deferred adjudication for a felony or misdemeanor offense<sup>1</sup>.

<sup>1</sup>This bill will save a lot of frustrated effort and money for persons with certain criminal records since it makes no sense for a person with a criminal conviction to complete vocational training or an educational program for a particular job requiring a license when all along the person is ineligible for employment in this particular field because of his/her criminal conviction.

## House Bill 963 (continued)

In addition, this bill amends Section 53.021(a) of the Occupations Code to provide that a licensing authority may suspend or revoke a license, disqualify a person from receiving a license, or deny to a person the opportunity to take a licensing examination on the grounds that the person has been convicted of:

- 1) an offense that directly relates to the duties and responsibilities of the licensed occupation:
- 2) an offense that does not directly relate to the duties and responsibilities of the licensed occupation and that was committed less than five years before the date the person applies for the license;
- 3) a 3g offense; or
- 4) a sexually violent offense.

## House Bill 963 (continued)

This bill also adds a Section 53.0211 to the Occupations Code to provide that notwithstanding any law other than subsection (a) of this section and unless the applicant has been convicted of an offense described under this measure, a licensing authority shall issue to an otherwise qualified applicant who has been convicted of an offense:

- 1) the license for which the applicant applied; or
- 2) a provisional license<sup>2</sup>.

<sup>2</sup> This bill authorizes a licensing authority to issue a provisional license for a term of six months to an applicant who has been convicted of an offense.

## House Bill 963 (continued)

This bill further states that a licensing authority shall revoke a provisional license if the provisional license holder:

- 1) commits a new offense;
- 2) commits an act or omission that causes the person's community supervision, mandatory supervision, or parole to be revoked, if applicable; or
- 3) violates the law or rules governing the practice of the occupation for which the provisional license is issued.

## House Bill 963 (continued)

In addition, the bill states that a licensing authority shall issue the license for which the applicant originally applied to a provisional license holder on the expiration of the provisional license term if the provisional license holder does not engage in conduct described under this measure.

Nevertheless this bill does not apply to an applicant for a license that would allow the applicant to provide:

- 1) law enforcement services;
- 2) public health, education, or safety services; or
- 3) financial services in an industry regulated by the securities commissioner, the banking commissioner, the savings and mortgage lending commissioner, or the credit union commissioner.

## House Bill 963 (continued)

Finally, this bill states that an applicant who is on community supervision, mandatory supervision, or parole and who is issued a provisional license under this measure shall provide to the licensing authority the name and contact information of the probation or parole department to which the person reports. The licensing authority must then notify the probation or parole department that a provisional license has been issued. The probationer or parole department in turn must notify the licensing authority if the person's community supervision, mandatory supervision, or parole supervision is revoked during the term of the provisional license. This bill became effective immediately.

## House Bill 987

H. B. 987, authored by Rep. Brandon Creighton, was signed into law by the Governor on June 19, 2009. This bill increases the expenditure amount for an item the purchase of which must be competitively bided under the County Purchasing Act. This bill amends Section 262.023 (a), Local Government Code to provide that before a county may purchase one or more items under a contract that will require an expenditure exceeding \$50,000<sup>1</sup>, the commissioners court of the county must comply with the competitive bidding or competitive proposal procedure prescribed by the County Purchasing Act. Finally, this bill goes into effect immediately.

<sup>1</sup> Under the current law the expenditure amount of an item the purchase of which triggers the requirements for competitive bidding under the County Purchasing Act is a cost the exceeds \$25,000.

## House Bill 1003

H. B. 1003, authored by Rep. Valinda Bolton, was signed into law by the Governor on June 19, 2009. This bill requires community supervision and corrections departments to notify certain victims or witnesses<sup>1</sup> whenever a probationer is no longer being monitored electronically. This bill amends Article 56.11, Code of Criminal Procedure, to provide that a community supervision and corrections department supervising a defendant must notify the victim or witness whenever the defendant, if subject to electronic monitoring as a condition of release, ceases to be electronically monitored<sup>2</sup>.

<sup>1</sup> A witness under this measure would be someone who testified against the defendant at trial for the offense, other than a witness who testified in the course and scope of the witness's official or professional duties.

<sup>2</sup> Under this measure the CSCD has to give notice to the victim or witness not later than the 30<sup>th</sup> day before the date the defendant ceased to be electronically monitored as a condition of release.

## House Bill 1003

Nevertheless this measure only applies if the defendant is convicted of:

- 1) an offense under Title V of the Penal Code (Offenses against the Person) that was punishable as a felony;
- 2) Continuous sexual abuse of a young child or children;
- 3) Indecency with a child;
- 4) Sexual assault;
- 5) Aggravated sexual assault;
- 6) Incest;
- 7) Aggravated kidnapping if the defendant committed the offense with the intent to violate or abuse the victim sexually;
- 8) Burglary of a habitation if the defendant committed the offense with the intent to commit one of the above listed offenses; or
- 9) An offense involving family violence, stalking or a violation of a protective order or magistrate's order.

This bill becomes effective on September 1, 2009.

## House Bill 1343

H. B. 1343, authored by Rep. Jose Menendez, was signed into law by the Governor on June 19, 2009. This bill provides that if it is shown on the trial of the offense of failure to avoid injuring or endangering a visually impaired pedestrian crossing a roadway in a crosswalk that as a result of the commission of the offense a collision occurred causing serious bodily injury or death to the visually impaired person, the offense will be a misdemeanor punishable by:

- 1) a fine of not more than \$500; and
- 2) 30 hours of community service to an organization or agency that primarily served disabled or visually impaired persons, to be completed in not less than six months and not more than one year.

Moreover under this bill a portion of the community service required under this measure must include sensitivity training. Finally this bill becomes effective for offenses committed on or after September 1, 2009.

## House Bill 1372

H. B. 1372, authored by Rep. Mark Shelton, was signed into law by the Governor on June 19, 2009. This bill provides that the offense of trafficking of persons is one of the included offenses for which a victim is entitled to rights and compensation under Chapter 56 of the Code of Criminal Procedure (Rights of Crime Victims). This bill goes into effective immediately.

## House Bill 1506

H. B. 1506, authored by Rep. Abel Herrero, was signed by the Governor on June 19, 2009. This bill provides that a magistrate can require as a condition of release on bond that a defendant charged with an offense involving family violence:

- 1) refrain from going to or near a residence, school, place of employment, or other location, as specifically described in the bond, frequented by an alleged victim of the offense;
- 2) carry or wear a global positioning monitoring system device and pay the costs associated with operating that system in relation to the defendant; or
- 3) if the alleged victim of the offense consents after receiving information of the victim's right to participate in a global positioning monitoring system or to refuse to participate in that system, pay the costs associated with providing the victim with an electronic receptor device that:
  - i. is capable of receiving the global positioning monitoring system information from the device carried or worn by the defendant; and
  - ii. notifies the victim if the defendant is at or near a location that the defendant has been ordered to refrain from going to or near.

## House Bill 1506 (continued)

This bill further states that in determining whether to order a defendant's participation in a global positioning monitoring system under this measure, the magistrate must consider the likelihood that the defendant's participation will deter the defendant from seeking to kill, physically injure, stalk, or otherwise threaten the alleged victim before trial. In addition this bill provides that if the magistrate determines that a defendant is indigent, the magistrate may, based on a sliding scale established by local rule, require the defendant to pay costs in an amount that is less than the full amount of the costs associated with operating the global positioning monitoring system in relation to the defendant or providing the victim with an electronic receptor device.

## **House Bill 1506 (continued)**

Moreover this bill states that a magistrate that imposes a condition requiring the defendant to comply with the monitoring or contact conditions specified under this measure must order the entity that operates the global positioning monitoring system to notify the court and the appropriate local law enforcement agency if the defendant violates a condition of bond imposed under this bill. Finally the bill does not limit the authority of a magistrate to impose any other reasonable conditions of bond or enter any orders of protection under other applicable law. This bill becomes effective on September 1, 2009.

## House Bill 1633

H. B. 1633, authored by Rep. Armando Walle, was signed into law by the Governor on June 19, 2009. This bill provides that if a court grants community supervision to a defendant convicted of graffiti, the court must require as a condition of community supervision that the defendant perform:

- 1) at least fifteen hours of community service if the amount of pecuniary loss resulting from the graffiti offense is \$50 or more but less than \$500; or
- 2) at least thirty hours of community service if the amount of pecuniary loss resulting from the graffiti offense is \$500 or more.

This bill further provides that a court must order a defendant convicted of the offense of graffiti to make restitution by:

- A) reimbursing the owner of the property for the cost of restoring the property; or
- B) with the consent of the owner of the property, personally restoring the property by removing or painting over any markings the defendant made.

This bill becomes effective for offenses committed on or after September 1, 2009.

## House Bill 1985

H. B. 1985, authored by Rep. Trey Martinez Fischer, was signed by the Governor on June 19, 2009. This bill provides that if a defendant is indicted for the offense of continuous sexual abuse of a young child or children, indecency with a child by contact, sexual assault or aggravated sexual assault at the direction of the court on the court's own motion or on the request of the victim of the alleged offense, the defendant shall undergo a standard diagnostic test approved by the United States Food and Drug Administration for human immunodeficiency virus (HIV) infection and other sexually transmitted diseases. This bill further provides that on request of the victim of the alleged offense, the court must order the defendant to undergo the test not later than 48 hours after an indictment for the offense is presented against the defendant or the defendant waives indictment. Moreover this bill provides that if the victim requests the testing of the defendant and a law enforcement agency is unable to locate the defendant during the 48 hour period allowed for that testing, the running of the 48 hours period will be tolled until the law enforcement agency locates the defendant and the defendant is present in the jurisdiction. Finally this bill becomes effective on September 1, 2009.

## House Bill 2808

H. B. 2808, authored by Rep. Senfronia Thompson, was signed by the Governor on June 19, 2009. This bill provides that a licensing authority may not consider a person to have been convicted of an offense for purposes of obtaining a license under the Occupations Code if, regardless of the statutory authorization:

- 1) the person entered a plea of guilty or nolo contendere;
- 2) the judge deferred further proceedings without entering an adjudication of guilt and placed the person under the supervision of the court or an officer under the supervision of the court; and
- 3) at the end of the period of supervision, the judge dismissed the proceedings and discharged the person.

## House Bill 2808 (continued)

This bill further states that a licensing authority may consider a person to have been convicted of an offense for purposes of obtaining a license under the Occupations Code regardless of whether the proceedings were dismissed and the person was discharged if, after considering:

- (1) the nature and seriousness of the crime;
- (2) the relationship of the crime to the purposes for requiring a license to engage in the occupation;
- (3) the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved; and
- (4) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of the licensed occupation

## House Bill 2808 (continued)

and further considering:

- (1) the extent and nature of the person's past criminal activity;
- (2) the age of the person when the crime was committed;
- (3) the amount of time that has elapsed since the person's last criminal activity;
- (4) the conduct and work activity of the person before and after the criminal activity;
- (5) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or after release; and
- (6) other evidence of the person's fitness, including letters of recommendation from:
  - (A) prosecutors and law enforcement and correctional officers who prosecuted, arrested, or had custodial responsibility for the person;
  - (B) the sheriff or chief of police in the community where the person resides; and
  - (C) any other person in contact with the convicted person;

## House Bill 2808 (continued)

the licensing authority determines that:

- 1) the person may pose a continued threat to public safety; or
- 2) employment of the person in the licensed occupation would create a situation in which the person has an opportunity to repeat the prohibited conduct.

This bill does not apply if the person is an applicant for or the holder of a license that authorizes the person to provide:

- 1) law enforcement or public health, education, or safety services;  
or
- 2) financial services in an industry regulated by the securities commissioner, the banking commissioner, the savings and mortgage lending commissioner, or the credit union commissioner.

This bill goes into effective immediately.

## House Bill 3671

H. B. 3671, authored by Rep. Ralph Sheffield, was signed into law by the Governor on June 19, 2009. This bill amends Article 42.09, Section 8 (a), Code of Criminal Procedure, by deleting the requirement that a copy of the record of arrest for each offense be part of the transfer documents that a county must prepare before a defendant can be transferred to the Texas Department of Criminal Justice. This bill becomes effective on September 1, 2009.

## Senate Bill 82

S. B. 82, authored by Sen. Jane Nelson, was signed into law by the Governor on June 19, 2009. This bill mandates that a defendant placed on community supervision for a domestic violence offense be required to pay \$100 to a family violence center. This bill amends Article 42.12, Section 11 (h), Code of Criminal Procedure, to provide that if a judge grants community supervision to a person convicted of an offense under Title 5, Penal Code, that the court has determined involves family violence, the judge must require the person to pay \$100 to a family violence center that receives state or federal funds and that serves the county in which the court is located. In addition this bill amends Section 103.021(22), Code of Criminal Procedure to provide that fees for a pretrial intervention program shall consist of a supervision fee of \$60 per month plus expenses and a district attorney, criminal district attorney, or county attorney administrative fee not to exceed \$500.

## Senate Bill 82 (continued)

In 2005 the Legislature enacted S. B. 1006, which authorized a court that placed a defendant in a pre-trial diversion program to order the individual to pay a supervision fee in an amount not more than \$60 per month as a condition of participating in the program. Then during the last legislative session the Legislature enacted H. B. 2385 which authorized a district attorney, criminal district attorney, or county attorney to collect a fee in an amount not to exceed \$500 to be used to reimburse a county for expenses, including expenses of the district attorney's, criminal district attorney's, or county attorney's office, related to a defendant's participation in a pretrial intervention program offered in that county. This bill clarifies that a court can order the defendant to pay the \$500 pretrial intervention fee to the prosecutor's office as a cost of court as well as the \$60 pretrial supervision fee to the CSCD.

Finally this bill becomes effective on September 1, 2009.

## Senate Bill 418

S. B. 418, authored by Sen. John Carona, was signed by the Governor on June 19, 2009. This bill mandates that a criminal justice agency<sup>1</sup> compile criminal information into an intelligence database for the purpose of investigating or prosecuting the criminal activities of criminal combinations or criminal street gangs. This bill further mandates that a law enforcement agency in a municipality with a population of 50,000 or more or in a county with a population of 100,000 or more compile and maintain in a local or regional intelligence database criminal information relating to a criminal street gang. Finally this bill mandates that a local law enforcement agency send to the Department of Public Safety information compiled and maintained under this measure. This bill becomes effective on September 1, 2009.

<sup>1</sup> A “criminal justice agency” means a federal or state agency that is engaged in the administration of criminal justice under a statute or executive order and allocates a substantial part of its annual budget to the administration of criminal justice. A criminal justice agency includes a municipal or county agency, or school district law enforcement agency, that is engaged in the administration of criminal justice under a statute or executive order.

## Senate Bill 633

S. B. 633, authored by Sen. Kel Seliger, was signed into law by the Governor on June 19, 2009. This bill increases the number of regional drug court programs that can be established by counties or municipalities. This bill amends Section 469.0025 (a), Health and Safety Code, to provide that the commissioners courts of two or more counties, or the governing bodies of two or more municipalities, can elect to establish a regional drug court program for the participating counties or municipalities. Under the current law, it requires the commissioners courts of three or more counties, or the governing bodies of three or more municipalities to establish a regional drug court program. Thus this bill will potentially increase the number of regional drug court programs established in the state. Finally this bill goes into effect immediately.

## Senate Bill 689

S. B. 689, authored by Sen. Florence Shapiro, was signed by the Governor on June 19, 2009. This bill provides that if a court grants community supervision to a defendant who is required to register as a sex offender and:

- 1) is convicted of or receives a grant of deferred adjudication for the offenses of indecency with a child, sexual assault of a child, aggravated sexual assault of the child, online solicitation of a child or sexual performance of a child;
- 2) uses the Internet or any other type of electronic device used for Internet access to commit the offense or engage in the conduct for which the person is required to register as a sex offender; or
- 3) is assigned a numeric risk level of three,

## **Senate Bill 689 (continued)**

The court as a condition of community supervision must prohibit the defendant from using the Internet to:

- 1) access material that is obscene;
- 2) access a commercial social networking site;
- 3) communicate with any individual concerning sexual relations with an individual who is younger than 17 years of age; or
- 4) communicate with another individual the defendant knows is younger than 17 years of age.

## Senate Bill 689 (continued)

This bill further provides that on request by a commercial social networking site<sup>1</sup>, the Department of Public Safety may provide that the commercial social networking site:

- 1) all public information that is contained in the database DPS maintains on defendants required to register as sex offenders; and
- 2) any online identifier established or used by a person who uses the site, is seeking to use the site; or is precluded from using the site.

<sup>1</sup>This bill defines a “commercial social networking site to mean an Internet website that:

- A) allows users, through the creation of Internet web pages or profiles or other similar means, to provide personal information to the public or other users of the Internet website;
- B) offers a mechanism for communication with other users of the Internet website; and
- C) has the primary purpose of facilitating online social interactions; and
- D) does not include an Internet service provider, unless the Internet service provider separately operates and directly derives revenue from an Internet website described by this measure.

## Senate Bill 689 (continued)

In addition this bill states that DPS by rule must establish a procedure through which a commercial social networking site may request information under this measure. Moreover this bill states that a commercial social networking site or the site's agent:

- 1) can use information received under this measure only to:
  - A) prescreen persons seeking to use the site; or
  - B) preclude persons registered as sex offenders from using the site; and
- 2) may not use any information received under this measure that the networking site obtained solely under this measure in any manner not described by this bill.

## **Senate Bill 689 (continued)**

Under this measure the court may modify the condition of community supervision at any time if:

- 1) the condition interferes with the defendant's ability to attend school or become or remains employed and consequently constitutes an undue hardship for the defendant; or
- 2) the defendant is the parent or guardian of an individual who is younger than 17 years of age and the defendant is not otherwise prohibited from communicating with that individual.

## **Senate Bill 689 (continued)**

Finally this bill adds an Article 62.0551 to the Code of Criminal Procedure to provide that if a person required to register as a sex offender changes any online identifier included on the person's registration form or establishes any new online identifier not already included on the person's registration form, the person, not later than the later of the seventh day after the change or establishment or the first date the applicable authority by policy allows the person to report, must report the change or establishment to the person's primary registration authority in the manner prescribed by the authority.

This bill becomes effective on September 1, 2009.

## Senate Bill 727

S. B. 727, authored by Sen. Dan Patrick, was signed into law by the Governor on June 19, 2009. This bill states that a judge granting community supervision to a defendant convicted of a felony must require that the defendant, as a condition of community supervision, provide a DNA sample for the purpose of creating a DNA record of the defendant, unless the defendant has already submitted the required sample under other state law. This bill becomes effective on September 1, 2009.

By stating that probationers convicted of a felony must submit a DNA sample as a condition of community supervision, it would appear that this bill is only applicable to felony probationers placed on “regular” community supervision and not probationers granted deferred adjudication community supervision.

However this bill also amends Article 102.020, Code of Criminal Procedure, to provide that a person must pay as a cost of court \$34.00 on placement of the person on community supervision, including deferred adjudication community supervision, if the person is required to submit a DNA sample under this measure. Thus it appears that the intent of this legislation is to include persons charged with felony offenses and granted deferred adjudication community supervision.

## Senate Bill 1506

S. B. 1506, authored by Sen. John Whitmire, was signed into law by the Governor on May 26, 2009. This bill provides that a magistrate can revoke a pre-trial bond and order the defendant arrested if the defendant fails to pay the costs of monitoring or testing for a controlled substance if the payment is ordered as a condition of bond and the magistrate determines that the defendant is not indigent and is financially able to make the payments as ordered. This bill further provides that the cost of electronic monitoring or testing for a controlled substance under this measure can be assessed as court costs or ordered paid directly by the defendant as a condition of bond. Finally this bill becomes effective on September 1, 2009.

## Senate Bill 1557

S. B. 1557, authored by Sen. Robert Duncan, was signed by the Governor on June 19, 2009. This bill provides that not later than 72 hours after receiving credible information that may establish reasonable cause to believe that a defendant committed to the sheriff's custody has a mental illness or is a person with mental retardation, including observation of the defendant's behavior immediately before, during, and after the defendant's arrest and the results of any previous assessment of the defendant, the sheriff shall provide written or electronic notice of the information to the magistrate. This bill further provides that on a determination that there is reasonable cause to believe that the defendant has a mental illness or is a person with mental retardation, the magistrate shall order the local mental health or mental retardation authority or another qualified mental health or mental retardation expert to:

- A) collect information regarding whether the defendant has a mental illness or is a person with mental retardation, including information B) obtained from any previous assessment of the defendant; and
- provide to the magistrate a written assessment of the information collected under this measure.

## **Senate Bill 1557 (continued)**

Finally this bill states that after the trial court receives the applicable expert's written assessment relating to the defendant or elects to use the results of a previous determination, the trial court may consider the written assessment during the punishment phase after a conviction of the offense for which the defendant was arrested, as part of a presentence investigation report, or in connection with the impositions of conditions following placement on community supervision, including deferred adjudication community supervision.

This bill becomes effective on September 1, 2009.

## Senate Bill 1832

S. B. 1832, authored by Sen. Dan Patrick, was signed into law by the Governor on May 23, 2009. This bill provides that a defendant is ineligible for “regular” community supervision from a judge if the defendant is convicted of criminal solicitation to commit capital murder that is punishable as a first degree felony. Nevertheless under this bill a defendant is still eligible to receive deferred adjudication community supervision for the offense of criminal solicitation to commit capital murder that is punishable as a first degree felony and if otherwise eligible, a jury can recommend community supervision for this offense. Finally this bill becomes effective on September 1, 2009.

## Senate Bill 1940

S. B. 1940, authored by Sen. Leticia Van de Putte, was signed into law by the Governor on June 19, 2009. This bill provides that the commissioners court of a county may establish a veterans court program for persons arrested for or charged with any misdemeanor or felony offense. Under this bill a defendant is eligible to participate in a veterans court program established under this measure only if the attorney representing the state consents to the defendant's participation in the program and if the court in which the criminal case is pending finds that the defendant:

- 1) is a veteran or current member of the United States armed forces, including a member of the reserves, national guard, or state guard; and
- 2) suffers from a brain injury, mental illness, or mental disorder, including post-traumatic stress disorder that:
  - A) resulted from the defendant's military service in a combat zone or other similar hazardous duty area; and
  - B) materially affected the defendant's criminal conduct at issue in the case.

## Senate Bill 1940 (continued)

This bill further provides that the court in which the criminal case is pending shall allow an eligible defendant to choose whether to proceed through the veterans court program or otherwise through the criminal justice system. This bill also states that if a defendant successfully completes a veterans court program, after notice to the attorney representing the state and a hearing in the veterans court at which that court determines that a dismissal is in the best interest of justice, the court in which the criminal case is pending shall dismiss the criminal action against the defendant<sup>3</sup>.

<sup>3</sup> This bill references the completion of this program as authorized under Section 76.011 of the Government Code. Section 76.011 authorizes the establishment of a pre-trial diversion program by a community supervision and corrections department. Thus this bill contemplates that a CSCD may be required to supervise defendants placed in a veterans court program.

## Senate Bill 1940 (continued)

This bill lists the duties of a veterans drug court to:

- 1) ensure a person eligible for the program is provided legal counsel before voluntarily to proceed through the program and while participating in the program;
- 2) allow a participant to withdraw from the program at any time before a trial on the merits has been initiated;
- 3) provide a participant with a court-ordered individualized treatment plan indicating the services that will be provided to the participant; and
- 4) ensure that the jurisdiction of the veterans court continues for a period of not less than six months but does not continue beyond the period of community supervision for the offense charged.

## Senate Bill 1940 (continued)

This bill further provides that a veterans court program established under this measure may collect from a participant in the program:

- A) a reasonable program fee not to exceed \$1,000.00; and
- B) a testing, counseling, and treatment fee in an amount necessary to cover the costs of any testing, counseling, or treatment performed or provided under the program.

Moreover this bill specifies that fees collected under this measure may be paid on a period basis or on a deferred payment schedule at the discretion of the judge, magistrate, or program director administering the program. These fees must be:

- A) based on the participant's ability to pay; and
- B) used only for purposes specific to the program.

Finally this bill goes into effective immediately.

## Senate Bill 2340

S. B. 2340, authored by Sen. Kip Averitt, was signed by the Governor on June 19, 2009. This bill provides that a court can require a defendant to serve all or part of a sentence of confinement in county jail by participating in an electronic monitoring program rather than being confined in the county jail, if the program:

- 1) is operated by a community supervision and corrections department that serves the county in which the court is located and has been approved by the community justice assistance division of the Texas Department of Criminal Justice; or
- 2) is operated by the commissioners court of the county, or by a private vendor under contract with the commissioners court, if the defendant has not been placed on community supervision.

## **Senate Bill 2340 (continued)**

This bill further provides that a commissioners court can establish and operate an electronic monitoring program for the purpose of monitoring defendants required by a court of the county to participate in an electronic monitoring program in lieu of serving a sentence of confinement in a county jail or in order to discharge fines and costs imposed by the court. Finally this bill states that the commissioners court shall provide for the sheriff or the community supervision and corrections department serving the county, under an agreement with the commissioners court, to oversee and operate, or if the program is operated by a private vendor, oversee the operation of, an electronic monitoring program established under this measure.

## **Senate Bill 2340 (continued)**

This bill was enacted in response to Attorney General Opinion No. GA-0683, delivered on November 13, 2008. In this opinion the Attorney General opined that the Code of Criminal Procedure did not authorize a county commissioners court to establish an electronic monitoring program separate from that established by a community supervision and corrections department for the purpose of monitoring defendants required by a court of the county to participate in an electronic monitoring program in lieu of serving a sentence of confinement in a county jail. This bill now provides the authorization to the county that the Attorney General opined that the county did not previously statutorily have. This bill went into effective immediately.



# **Records Retention**



# **CSCD Funding**

# CSCD Funding Comparison

## FY 2008-2009 vs. FY 2010-2011

	FY 2008	FY 2009	FY 2010	FY 2011
<b>Basic</b>	\$105,744,392	\$107,326,403	\$111,443,958	\$112,680,413
<b>DP</b>	\$113,627,659	\$124,110,306	\$118,593,921	\$122,968,920
<b>CCP</b>	\$38,770,088	\$38,770,088	\$38,770,088	\$38,770,088
<b>TAIP</b>	\$11,604,012	\$11,604,911	\$11,604,912	\$11,604,911
<b>TOTAL</b>	\$267,747,051	\$281,811,708	\$280,412,879	\$286,024,332

## Rider 17

**Rider 17 Transfer Authority within and between Goals.** Subject to capital budget provisions contained in this Act, the Texas Department of Criminal Justice is authorized to transfer such amounts as may be necessary within appropriations made for each goal.

Funds may be transferred between goals, provided that before any transfer between goals which will have the cumulative effect of changing expenditures for any goal by more than 20 percent of the amount appropriated for that goal for the fiscal year, written notification of intent to transfer be provided the Governor, the Legislative Budget Board, the Senate Finance Committee, and the House Appropriations Committee.

Same as Rider 21 in FY 2008-2009 Appropriations Bill

## Rider 54

**Rider 54 Appropriation: Refunds of Unexpended Balances from CSCDs.** The Texas Department of Criminal Justice (TDCJ) shall maintain procedures to ensure that the state is refunded all unexpended and unencumbered balances of state funds held as of the close of this biennium by local community supervision and corrections departments (CSCDs). All estimated fiscal years 2008-09 refunds received from CSCDs by TDCJ are appropriated above in Strategies A.1.1, Basic Supervision, A.1.2, Diversion Programs, A.1.3, Community Corrections, and A.1.4, Treatment Alternatives to Incarceration. All refunds received by TDCJ in excess of \$19,800,000 shall be redistributed by TDCJ for the benefit of the community supervision and corrections system (estimated to be \$0).

In Rider 60 in FY 2008-2009 Appropriations Bill “All refunds received by TDCJ in excess of \$18,600,000 shall be redistributed by TDCJ for the benefit of the community supervision and corrections system (estimated to be \$0).

## Rider 56

**Rider 56 Treatment Alternatives to Incarceration Program.** The Texas Department of Criminal Justice is directed to expend at least \$3.25 million each fiscal year of the biennium on the Treatment Alternatives to Incarceration Program as specified in Government Code § 76.017.

Same as Rider 62 in FY 2008-2009 Appropriations Bill

## Rider 63

**Rider 63 Probation Caseload Reduction.** Out of funds appropriated above to the Texas Department of Criminal Justice in Strategy A.1.2, Diversion Programs, at least \$14,092,422 in fiscal year 2010 and at least \$14,092,422 in fiscal year 2011 shall be used to fund community supervision officers to reduce caseloads consisting of medium and high risk offenders.

Same as Rider 69 in FY 2008-2009 Appropriations Bill

## Rider 64

- **Rider 64 Residential Treatment and Sanction Beds Funding.** From funds appropriated above in Strategy A.1.2, Diversion Programs, at least \$13,637,500 shall be expended in fiscal year 2010 and at least \$13,637,500 shall be expended in fiscal year 2011 on residential treatment and sanction beds. In distribution of these funds, the Community Justice Assistance Division of the Texas Department of Criminal Justice shall give preference to community supervision and corrections departments having access to currently existing, unfunded residential treatment and sanction beds. The Community Justice Assistance Division shall also give preference to community supervision and corrections departments that have higher rates of community supervision technical revocations in order to maximize the positive effect on the criminal justice system.

Same as Rider 69 in FY 2008-2009 Appropriations Bill

## Rider 64 (continued)

In FY 2008-2009 Appropriations Bill contained Rider 73 which provide “Contract Temporary Capacity. Funds appropriated above in Strategy C. 1. 10, Contracted Temporary Capacity, shall only be used to contract for additional capacity when inmate populations exceed 97.5% of total capacity. If actual incarceration populations are less than projected, appropriations in excess of actual need are to be transferred to Strategy A. 1. 2 Diversion Programs, on a semi-annual basis.

There is no similar rider in FY 2010-2011 Appropriations Bill. This is because no funds were appropriated to Strategy C. 1. 10, Contracted Temporary Capacity.

## Rider 72

**Rider 72 Marlin Correctional Mental Health Facility.** From funds appropriated by this Act for the repair and rehabilitation of facilities, \$13,500,000 in General Obligation Bond Proceeds may be expended to convert the Marlin Veterans Affairs Hospital into an inpatient mental health facility for the Texas Department of Criminal Justice. Also, funds appropriated above in Strategy C.1.1, Correctional Security Operations, include \$5,500,000 in fiscal year 2011 in General Revenue Funds for the operations of the facility, and funds appropriated above in Strategy C.1.7, Psychiatric Care, include \$4,843,986 in fiscal year 2011 in General Revenue Funds to provide inpatient mental health care.

In Rider 80 in FY 2008-2009 Appropriations Bill the amount funds appropriated by this Act for the repair and rehabilitation of facilities to convert the Marlin Veterans Affairs Hospital into an inpatient mental health facility was \$3,500,000 in General Obligation Bond Proceeds

## Rider 75

**Rider 75 Diversion Initiatives.** The Department of Criminal Justice shall use funds appropriated above for various diversion initiatives in the strategies and General Revenue amounts specified below:

- a. Strategy A.1.2, Diversion Programs. Funding for probation outpatient substance abuse treatment appropriated in the amount of \$5,000,000 in fiscal year 2010 and \$5,000,000 in fiscal year 2011;
- b. Strategy A.1.2, Diversion Programs. Funding for probation residential treatment beds (800) appropriated in the amount of \$18,004,723 in fiscal year 2010 and \$18,004,723 in fiscal year 2011;

## **Rider 75 (continued)**

c. Strategy B.1.1, Special Needs Projects. Funding for the Texas Correctional Office on Offenders with Medical or Mental Impairments (TCOOMMI) to provide mental health services, medications, and continuity of care to juvenile and adult offenders with mental impairments appropriated in the amount of \$5,000,000 in fiscal year 2010 and \$5,000,000 in fiscal year 2011;

d. Strategy C.2.5, Substance Abuse Treatment. Funding for Substance Abuse Felony Punishment Facility treatment beds (additional beds in contracted capacity) appropriated in the amount of \$37,226,325 in fiscal year 2010 (1,399 beds) and \$39,980,583 in fiscal year 2011 (1,500 beds). The funding includes aftercare in transitional treatment centers and outpatient counseling;

## Rider 75 (continued)

e. Strategy C.2.5, Substance Abuse Treatment. Funding for In-Prison Therapeutic Community Program expansion (1,000 additional treatment slots in existing capacity) appropriated in the amount of \$12,054,125 in fiscal year 2010 and \$12,054,125 in fiscal year 2011. The funding includes aftercare in transitional treatment centers and outpatient counseling;

f. Strategy C.2.5, Substance Abuse Treatment. Funding for Driving While Intoxicated (DWI) treatment beds (500 additional treatment beds in contracted capacity) appropriated in the amount of \$6,027,063 in fiscal year 2010 and \$6,027,063 in fiscal year 2011. The funding includes aftercare in transitional treatment centers and outpatient counseling;

g. Strategy C.2.5, Substance Abuse Treatment. Funding for additional treatment slots in State Jails (1,200 beds in existing capacity) appropriated in the amount of \$2,900,000 in fiscal year 2010 and \$2,900,000 in fiscal year 2011;

## **Rider 75 (continued)**

- h. Strategy F.2.2, Halfway House Facilities. Funding for parole halfway houses (300 additional beds) appropriated in the amount of \$3,542,324 in fiscal year 2010 and \$3,542,324 in fiscal year 2011; and
- i. Strategy F.2.3, Intermediate Sanction Facilities. Funding for additional probation and parole beds appropriated in the amount of \$14,375,891 in fiscal year 2010 (992 beds) and \$20,279,035 in fiscal year 2011 (1,400 beds).

## Rider 84

### **Rider 84** in the Appropriations Bill for FY 2008-2009

- a. was the same
- b. was eliminate in FY 2010-2011 This provided for funding for probation intermediate sanction facilities (700 additional beds) appropriated in the amount of \$5,024,723 in fiscal year 2008 and \$12,026,385 in fiscal year 2009.
- c. was the same in FY 2009
- d. was the same
- e. Substance Abuse Felony Punishment Facility beds was the same for FY 2009

## **Rider 84 (continued)**

- f. Substance Abuse Treatment Funding for In-Prison Therapeutic Community Program expansion was the same for FY 2009
- g. DWI treatment beds was the same for FY 2009
- h. Funding for additional treatment beds in state jail felony facilities was the same.
- i. Parole halfway house beds was the same for FY 2008-2009.
- j. Intermediate Sanction Facility. Funding for 700 additional parole beds appropriated in the amount of \$3,448,025 in fiscal year 2008 and \$8,252,650 in fiscal year 2009.

## Rider 78

**Rider 78 Targeted Substance Abuse Treatment.** From funds appropriated above in Strategy A.1.2, Diversion Programs, \$1,000,000 in fiscal year 2010 and \$1,000,000 in fiscal year 2011 may be used to provide substance abuse aftercare and treatment in an outpatient setting in conjunction with ongoing monitoring and oversight provided by the contracting entity for defendants completing contract residential or community corrections facilities' placements for substance abuse.

It is the intent of the Legislature that the Department of Criminal Justice shall give preference to those counties with the greatest need in order to maximize the positive effect of reducing recidivism and providing alternatives to incarceration within the criminal justice system.

Rider 89 in the FY 2008-2009 Appropriation Bill made this rider for medically targeted substance abuse treatment.

## Rider 80

**Rider 80 Community Supervision Officers and Direct Care Staff Salary Increases.** From funds appropriated above in Strategy A.1.2, Diversion Programs, the Department of Criminal Justice (TDCJ) shall provide \$4,375,000 in fiscal year 2010 and \$8,750,000 in fiscal year 2011 in General Revenue Funds to local community supervision and corrections departments for salary increases for community supervision officers and direct care staff. It is the intent of the Legislature that the community supervision officers and direct care staff receive a three and a half percent increase in salaries in fiscal year 2010 and an additional three and a half percent increase in fiscal year 2011 based on the employee's annual compensation as of August 31, 2009. These funds shall not be used to supplant existing expenditures associated with programs and services within local community supervision and corrections departments.

## Rider 81

Finally **Rider 81 Contingency for Reducing and Increasing Texas Department of Criminal Justice Appropriations.** Contingent on the enactment of Senate Bill 1206, House Bill 1899, House Bill 1958, or similar legislation relating to the release of certain inmates who complete a rehabilitation tier program from the Texas Department of Criminal Justice, by the Eighty-first Legislature, Regular Session, funding in Goal C, Incarcerate Felons, is reduced by \$9,039,832 in General Revenue Funds in fiscal year 2010 and \$5,742,667 in General Revenue Funds in fiscal year 2011. Also contingent on the enactment of this legislation, funding in Strategy F.2.1 Parole Supervision, is increased by \$736,746 in General Revenue Funds in fiscal year 2010 and \$468,027 in General Revenue Funds in fiscal year 2011 to provide for the supervision of these offenders.

S. B. 1206 was vetoed by the Governor and H. B. 1899 and H. B. 1958 were never enacted. All three were identical.



# **Early Termination**

## House Bill 1678

H. B. 1678, authored by Rep. Jerry Madden, was passed by the Eightieth Legislature at its regular session and signed into law by the Governor on June 15, 2007. This bill makes certain substantial changes to the laws dealing with community supervision. This bill amends Article 42.12, Section 3 (b), Code of Criminal Procedure, to provide that while ordinarily the maximum term of community supervision in a felony case is ten years, it will be five years for a third degree controlled substances offense or a third degree felony property offense other than the offense of online solicitation of a child. In addition, this bill amends Article 42.12, Section 4, Code of Criminal Procedure, to provide that a jury will no longer be authorized to recommend community supervision for a defendant convicted of murder.

## House Bill 1678 (continued)

Since this provision is found in Section 20 (a) of Article 42.12, *supra*, and since Article 42.12, Section 20 only deals with “regular” community supervision, it would appear that the mandated review period is inapplicable for defendants granted deferred adjudication. Moreover, since this provision states that the review period only applies upon completion of one-half of the term of community supervision or two years, *whichever is more* (emphasis added) and since the maximum term of community supervision for a misdemeanor is two years, it would appear that this provision is inapplicable to misdemeanor cases. Further, for those probated cases that fall within this provision of the law, the review period will only be necessary for a defendant initially placed on community supervision on or after September 1, 2007.

## House Bill 1678 (continued)

Also, this bill amends Subsection (b) of this Section to provide that henceforth while a defendant placed on “regular” community supervision for a state jail felony offense will be eligible for early termination and may be allowed to withdraw the defendant’s plea of guilt or have the verdict set aside and then have the court dismiss all criminal charges, a probationer granted “regular” community supervision for a 3g offense will no longer be eligible for early termination or be allowed to withdraw the defendant’s plea of guilt or have the verdict set aside and then have the court dismiss all criminal charges. Moreover this bill amends Article 42.12, Section 22 (c), Code of Criminal Procedure, to provide that a court will only be able to extend a period of community supervision for a probationer upon a showing of good cause.

## House Bill 1678 (continued)

Also, this bill amends Subsection (b) of this Section to provide that henceforth while a defendant placed on “regular” community supervision for a state jail felony offense will be eligible for early termination and may be allowed to withdraw the defendant’s plea of guilt or have the verdict set aside and then have the court dismiss all criminal charges, a probationer granted “regular” community supervision for a 3g offense will no longer be eligible for early termination or be allowed to withdraw the defendant’s plea of guilt or have the verdict set aside and then have the court dismiss all criminal charges. Moreover this bill amends Article 42.12, Section 22 (c), Code of Criminal Procedure, to provide that a court will only be able to extend a period of community supervision for a probationer upon a showing of good cause.

## House Bill 1678 (continued)

This bill also removes the floor that specified that the judge had to order a defendant to perform at least a certain minimum number of community service hours. Now Article 42.12, Section 16 (b) is amended to provide that the amount of community service work ordered by the judge:

- (1) may not exceed 1,000 hours for an offense classified as a first degree felony;
- (2) may not exceed 800 hours for an offense classified as a second degree felony;
- (3) may not exceed 600 hours for an offense classified as a third degree felony;
- (4) may not exceed 400 hours for an offense classified as a state jail felony;
- (5) may not:
  - (A) exceed 600 hours for an offense under Section 30.04, Penal Code, classified as a Class A misdemeanor; or

## House Bill 1678 (continued)

- (B) exceed 200 hours for any other offense classified as a Class A misdemeanor or for any other misdemeanor for which the maximum permissible confinement, if any, exceeds six months or the maximum permissible fine, if any, exceeds \$4,000; and
- (6) may not exceed 100 hours for an offense classified as a Class B misdemeanor or for any other misdemeanor for which the maximum permissible confinement, if any, does not exceed six months and the maximum permissible fine, if any, does not exceed \$4,000.

## House Bill 1678 (continued)

Finally this bill requires a court to give credit on a revoked or imposed sentence if the person successfully completed a drug treatment program at a Substance Abuse Felony Punishment (SAFP) facility or other court-ordered residential program. This bill amends Article 42.03 (a) (2), Code of Criminal Procedure in order to provide that the judge of the court in which the defendant is convicted must give the defendant credit on the person's sentence for the time that the defendant has spent in a substance abuse felony treatment facility operated by the Texas Department of Criminal Justice or other court-ordered residential program or facility as a condition of deferred adjudication community supervision if the defendant successfully completed the treatment program at that facility. In addition, this bill amends Article 42.12, Section 23 (b), Code of Criminal Procedure, to require a judge to credit on a revoked sentence any time served by the defendant, as a condition of community supervision, in a substance abuse treatment facility operated by the Texas Department of Criminal Justice or another court-ordered residential program or facility but only if the defendant successfully completed the treatment program in that facility.

## House Bill 1678 (continued)

This bill also provides the same credit for a defendant sentenced to a state jail felony facility. This bill amends Article 42.12, Section 15 (h) (2), Code of Criminal Procedure, to provide that a judge must credit against any time a defendant was required to serve in a state jail felony facility time served by the defendant in a substance abuse treatment facility operated by the Texas Department of Criminal Justice or other court-ordered residential program or facility as a condition of deferred adjudication community supervision but only if the defendant successfully completed the treatment program at the facility. Furthermore this bill amends Subdivision (3) of Subsection (h) of this section to provide that a judge must credit against any time a defendant was subsequently required to serve in a state jail felony facility after revocation of community supervision any time served after sentencing in a substance abuse treatment facility operated by the Texas Department of Criminal Justice or other court-ordered residential program or facility if the defendant successfully completed the treatment program in that facility. Lastly the changes in the law made to credit for time served, community service, eligibility for early termination and dismissal of the charges against the defendant, and the five year term of community supervision for third degree drug and property offenses apply only to those defendants initially placed on community supervision on or after September 1, 2007.

# Sample Policy

Added 10/07

## SECTION 2-16 REVIEW for CONSIDERATION OF EARLY TERMINATION or REDUCTION IN TERM OF COMMUNITY SUPERVISION

**Reason for this Policy:** In 2007 the Texas Legislature enacted H.B. 1678. This bill amends Article 42.12, Section 20 (a), Code of Criminal Procedure, to provide that on completion of one-half of the original community supervision period or two years, whichever is more, the judge must review the defendant's record and consider whether to reduce or terminate the period of supervision.

**Eligible Defendants – Those defendants:**

- placed on regular community supervision for a state jail felony offense on or after September 1, 2007; and
- placed on regular community supervision on or after September 1, 2007 for an offense for which the term of community supervision is more than two years.

**Eligibility for Review –** If an eligible defendant is in substantial compliance with the conditions of community supervision, then the trial court having jurisdiction over the defendant must review his/her case in order to consider whether to grant the defendant early termination or reduce the period of community supervision.

**Ineligible for Review –** If an otherwise eligible defendant is:

- delinquent in paying the required restitution, fines, costs, or fees that the defendant has the ability to pay or;
- has not completed court ordered counseling or treatment.

**Ineligible defendants – Those defendants:**

- granted regular community supervision for a misdemeanor offense;
- placed on deferred adjudication community supervision;
- placed on regular community supervision for a 3g offense on or after September 1, 2007;
- placed on regular community supervision for an intoxication offense;
- placed on regular community supervision for state jail felony offense before September 1, 2007; and
- placed on regular community supervision for an offense that requires the defendant to register as a sex offender.

# Sample Policy

Once an eligible defendant has been placed on regular community supervision on or after September 1, 2007, the supervision officer will calculate the projected date that the Court must review the defendant's case, ie: one-half the term of community supervision or two years, whichever is greater.

The officer will then tickle the case for 90 days prior to the projected review date.

Ninety (90) days prior to the projected review date, the supervision officer will prepare for the court a status report on the defendant. The status report will inform the court of whether or not the defendant is in substantial compliance with the conditions of community supervision. If the defendant is not in substantial compliance, the supervision officer will inform the court of the particular condition(s) with which the defendant is not in compliance and what the defendant must do to be in substantial compliance with the condition(s) of community supervision. Prior to submission to the court, the unit supervisor of the office to which the supervision officer is assigned must review the status report and then forward it to the court.

If the court denies a review for consideration of early termination or a reduction in the term of community supervision, the officer will prepare for the court's signature an Order of Denial that identifies the condition(s) of community with which the defendant is not in compliance and what actions the defendant must take to be in substantial compliance. If the court nevertheless decides to review the defendant's case, the supervision officer will contact the court coordinator in accordance with the procedure outlined in the paragraph below.

If the defendant is in substantial compliance with the conditions of community supervision, then within 90 days of the projected review date, the supervision officer will notify the court coordinator of the court having jurisdiction over the case of the need for a review date and will also furnish to the court coordinator the most up to date address for the defendant.

# Order Denying Review

NO. \_\_\_\_\_

THE STATE OF TEXAS                    }}     IN THE DISTRICT COURT OF  
  
  }}     \_\_\_\_\_ COUNTY, TEXAS  
  
  }}     \_\_\_\_JUDICIAL DISTRICT COURT

## ORDER DENYING REVIEW FOR CONSIDERATION OF EARLY TERMINATION

On this the \_\_\_\_ day of \_\_\_\_\_, 200\_, the Court considered whether the defendant, \_\_\_\_\_, was entitled to a review of his/her case in the above styled and numbered cause for consideration of early termination or a reduction in the term of community supervision in accordance with V. A. C. P, Article 42.12, Section 20 (a). The Court finds that the defendant is delinquent in paying the following required restitution, fines, costs, or fees and that the defendant has the ability to make these payments:

Type	Amount Delinquent	Total Amount Owed
<input type="checkbox"/> Court Costs		
<input type="checkbox"/> Fines		
<input type="checkbox"/> Attorney's Fees		
<input type="checkbox"/> Supervision Fee		
<input type="checkbox"/> Restitution		
<input type="checkbox"/> Other _____		

and/or has not completed the following court-ordered counseling or treatment:

Type

- ☐ Lifeskills
- ☐ Anger Management
- ☐ Domestic Violence
- ☐ Counseling
- ☐ Substance Abuse
- ☐ Other \_\_\_\_\_

THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED by this Court that the defendant is not entitled to a review for consideration of early termination or a reduction in the term of community supervision.

Moreover, the defendant is notified that in order to satisfactorily fulfill the conditions of community supervision imposed in the above styled and numbered cause the defendant must:

# Order Denying Review (continued)

Pay

In the amount of

By no later than

- ☐ Court Costs
- ☐ Fines
- ☐ Attorney's Fees
- ☐ Supervision Fee
- ☐ Restitution
- ☐ Other \_\_\_\_\_

Complete the following counseling and treatment

By no later than

- ☐ Lifeskills
- ☐ Anger Management
- ☐ Domestic Violence
- ☐ Counseling
- ☐ Substance Abuse
- ☐ Other \_\_\_\_\_

Complete the following programs and services

By no later than

- ☐ CSR
- ☐ GED
- ☐ NA/AA
- ☐ Letter of Apology
- ☐ Victim Impact Panel
- ☐ Other \_\_\_\_\_

The defendant is further informed that upon completion of the above cited and imposed conditions of community supervision, s/he will be eligible to have his/her case reviewed for consideration of early termination or a reduction in the term of community supervision. Nevertheless the Court is under no obligation to review this matter a second time and the defendant is hereby notified that it will be his/her responsibility to request a review for consideration of early termination or reduction in the term of community supervision if and when defendant has satisfactorily completed the conditions of community supervision imposed in the above styled and numbered cause.

Signed this the \_\_\_\_ day of \_\_\_\_\_, 200\_.

\_\_\_\_\_  
JUDGE PRESIDING

ACKNOWLEDGMENT OF RECEIPT

# Order Denying (continued)

I, \_\_\_\_\_, the defendant in the herein above styled and numbered cause do hereby acknowledge that I received a copy of the above-signed Order Denying Review for Consideration of Early Termination on this the \_\_\_\_\_ day of \_\_\_\_\_, 200\_ and I fully understand what I must do in order to satisfactorily complete the conditions of community supervision imposed in the above styled and numbered cause.

\_\_\_\_\_  
Defendant

\_\_\_\_\_  
Supervision Officer

# Status Report

## BELL COUNTY COMMUNITY SUPERVISION AND CORRECTIONS DEPARTMENT

\_\_\_\_TH JUDICIAL DISTRICT COURT  
DISTRICT ATTORNEY'S OFFICE

RE: \_\_\_\_\_  
# \_\_\_\_\_

### Status Report:

Compliance with Conditions of Community Supervision for Purpose of Review under Article 42.12,  
Section 20 (a), Code of Criminal Procedure

#### Payments

Type	Current	Amount Still Owed
a) Court Costs		
b) Fines		
c) Attorney's Fee		
d) Supervision Fee		
e) Restitution		
f) Other		

#### Counseling and Treatment

Type	Completed
a) Lifeskills	
b) Anger Management	
c) Domestic Violence	
d) Counseling	
e) Substance Abuse Treatment	

#### Programs and Services

Type	Completed
a) CSR	
b) GED	
c) NA/AA	
d) Letter of Apology	
e) Victim Impact Panel	
f) Other	

\_\_\_\_\_  
Supervision Officer

\_\_\_\_\_  
Date

## Records Retention – Start Date

1) Caseloads and Supervision files – Retention date begins on the date the CSCD ceases either direct or indirect supervision

*Note: If a department is providing courtesy supervision, closes interest on the probationer and the case is transferred back to the convicting jurisdiction, the retention date for the CSCD that provided courtesy supervision begins on the date the CSCD that re-assumed supervision ceases supervision.*

2) Statistical Records – Retention period begins on date statistical record is completed

3) Personnel Records – Retention period begins on either the date the individual ceases employment or for job applications, the date the application is completed

4) Financial Records – Retention period begins on either the date the information is recorded or for contracts, from the date that the contract is terminated.

# Records Retention

Note: Retention periods apply to a record regardless of the medium in which it is maintained. Electronically stored data used to create a record must be retained, along with the hardware and software necessary to access the data, for the retention period assigned to the record, unless backup copies of the data generated are retained in paper or on microfilm for the retention period.

Note: Retention period may be controlled by CJAD policy, state laws, or federal statutes or regulations.

## Permanent Records

- 1) annual narrative and/or statistical activity reports prepared by the Director of the CSCD, supervisors, or other departmental personnel regarding daily or periodic activities;
- 2) orders issued by the head of the CSCD, including directives of the Board of Judges governing the department; or deputies possessing requisite authority, establishing policy or standard operating procedures;
- 3) a code of conduct;
- 4) special reports of plans, studies, and analyses relating to the department's strategies, personnel needs assessments, station boundary and manpower distribution studies, contingency plans, and similar planning reports pertinent to fulfilling the duties and responsibilities of a CSCD which are prepared by order or request of the governing body or considered by the governing body (as reflected in its minutes) or ordered or requested by a state agency or court; and
- 5) internal affairs investigation reports documenting the investigation of departmental shooting incidents which result in death or injury to any person.

## **CJAD Record Retention Policy**

Case records on each probationer under the direct or indirect supervision of a CSCD documenting all significant action decisions and services rendered, including assessment reports, medical and psychological information; case classification forms; supervision plans; periodic evaluations; presentence (or post sentence) investigation reports (PSIR); criminal history records; court orders; correspondence; and similar records relating to the supervision of a probationer must be retained for three years from the date direct or indirect supervision of probation ends and records documenting the distribution of cases among supervision officers, including monthly workload summaries, must be retained for three years.

# Other Retention Schedules

## A) Administrative Records

- i) Organizational Charts – when superseded
- ii) Policy and Procedure – Five years after superseded

## B) Statistical Records

## C) Personnel

- i) Certificates and Licenses – Five years after superseded or separation of employment
- ii) Employee pension and benefits records – One year after termination of the plan
- iii) Employee recognition records – Two years
- iv) Employee disciplinary records – Two years after case closed or action taken
- v) Employee service record – Permanent

## Other Retention Schedules

### C) Personnel (continued)

- vi) Employment application – Five years after date of separation
- vii) Case files relating to discrimination complaints – Three years after resolution of case.
- viii) Grievance records – Two years
- ix) Medical or psychological reports – Two years
- x) Controlled substances and alcohol use and testing documents – Five years
- xi) Documents used to change personnel manual – Two years
- xii) Position staffing and vacancy reports – Until superseded
- xiii) Position descriptions (personnel requisitions) – Two years
- xiv) Training and educational achievement records – Five years from date of separation

## Other Retention Schedules

### C) Personnel (continued)

- xv) Unemployment compensations claims – Five years after closed
- xvi) Workers compensation claim files – Five years after resolution of claim (29 CFR Section 1904.33)
- xvii) Forms and reports used to determine withholding and collection of taxes – Four years after separation from employment or after form amended,                      whichever is sooner
- xviii) Leave records – Permanent
- xix) Requests and authorization for vacation, compensatory, sick, FMLA and other type of authorized leave – Three years after end of fiscal year.

### D) Financial

- i) Insurance Policies – Four years (Local Schedule GR)
- ii) Insurance Claims – Three years after resolution of claim (Local Schedule GR)
- iii) Audit Reports – Permanent
- iv) Audit working papers – Three years after any questions concerning the audit have been resolved

## Other Retention Schedules

### D) Financial (continued)

- v) Insurance Claims – Three years after resolution of claim
- vi) Budgets – Permanent
- vii) Budget working papers – Two years
- viii) Records concerning the use of federal revenue sharing funds, including revenue and expenditure summaries, budgets and audits reports – Five years (31 CFR Section 103.38 (d)).
- xi) Monthly financial reports – Three years after the end of the fiscal year
- x) Annual financial reports – Permanent
- xi) Grant applications (successful) – Three, Five, or Seven years after the end of the fiscal year
- xii) Accounting policies and procedures – Five years after the policy or procedure has been superseded
- xiii) Billing statements – Three years after the end of the fiscal year

## Other Retention Schedules

### D) Financial (continued)

- xiv) Banking statements – Five years after the end of the fiscal year
- xv) Transaction statements:
  - if daily, 30 days;
  - if weekly, 90 days;
  - if monthly, two years;
  - if annual, three years after the end of the fiscal year.

### D) Legal Matters

- i) Legal Opinions - Three years (Local Schedule GR)
- ii) Litigation Case Files – One year after final disposition of the case (Local Schedule GR)
- iii) Open Records Requests – One year from date request for records fulfilled (Local Schedule GR)
- iv) Accident and damage reports to facilities, vehicles, or equipment if no personal injury is involved – Three years
- v) Lost and stolen property – Three years after the end of the fiscal year.
- vi) Visitor control registers (logs of visitors to limited access or restricted areas)

## Other Retention Schedules

### D) Financial (continued)

- xiv) Banking statements – Five years after the end of the fiscal year
- xv) Transaction statements:
  - if daily, 30 days;
  - if weekly, 90 days;
  - if monthly, two years;
  - if annual, three years after the end of the fiscal year.

### E) Legal Matters

- i) Legal Opinions - Three years (Local Schedule GR)
- ii) Litigation Case Files – One year after final disposition of the case (Local Schedule GR)
- iii) Open Records Requests – One year from date request for records fulfilled (Local Schedule GR)
- iv) Accident and damage reports to facilities, vehicles, or equipment if no personal injury is involved – Three years
- v) Lost and stolen property – Three years after the end of the fiscal year.

## Other Retention Schedules

### E) Legal Matters (continued)

- vi) Visitor control registers (logs of visitors to limited access or restricted areas) – Three years
- vii) Telephone logs – One year
- viii) Bloodborne pathogen training records – Three years
- ix) Hazardous materials training records – Five years

### F) Contracts

- i) Successful bids and RFPs – Three years after end of fiscal year
- ii) Unsuccessful bids – Two years after end of fiscal year
- iii) Inventory records – One year
- iv) Purchase orders – Three years after end of fiscal year
- v) Vehicle assignment records (for use by employees) – Two years