

SUBJECT: Extending community supervision for misdemeanors

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 8 ayes — Talton, Dunnam, Farrar, Galloway, Hinojosa, Keel, Nixon,
A. Reyna

0 nays

1 absent — Place

WITNESSES: For — H. Paul Canales

Against — None

On — Susan Cranford; Bonita White

BACKGROUND : The Code of Criminal Procedure states that the period of community supervision, commonly known as probation, may not exceed three years for a misdemeanor case. During community supervision, criminal proceedings against the defendant are deferred without an adjudication of guilt, or, if the defendant has been adjudicated guilty, sentences of imprisonment, confinement or fine are suspended in whole or in part. As conditions of community supervision, the judge may order a defendant to pay certain fines, court costs, and restitution to the victim. Defendants who violate one of those conditions may be arrested and detained, and criminal proceedings continued as if they had not been deferred or the deferred sentence imposed.

DIGEST: HB 1467 would authorize judges to extend the period of community supervision in misdemeanor cases for up to two years beyond the three-year limit if the defendant failed to pay a fine, costs or restitution and the judge determined that extending supervision would increase the likelihood of those items being fully paid.

The bill would take effect September 1, 1997, and would apply only to a defendant placed on community supervision after conviction of an offense committed on or after the effective date.

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SUPPORTERS SAY: HB 1467 would give judges an additional tool to collect fees, costs and restitution from defendants under community supervision. Currently, judges have only two alternatives when defendants have failed to pay those amounts completely and are nearing the end of their maximum three-year supervision period: they may overlook the failure, losing jurisdiction at the end of the supervision period to order the defendant to pay those amounts, or they may revoke community supervision, causing the defendant to face resumed criminal proceedings or incarceration at a considerable cost to the correctional system.

HB 1467 would give judges a new option to extend community supervision in limited circumstances. Judges could apply this new option in those cases where a defendant is making a good faith effort to pay, but has not earned enough income to pay off all fines, costs and restitution in the three-year supervision period currently allowed. These primarily would be defendants that a judge does not want to see incarcerated for failure to pay fines or relieved entirely of the responsibility to pay those fines.

Defendants often face a substantial amount of fees, costs and restitution, and many need an extended period of supervision in order to fully pay those amounts. This bill could give them the additional time they need to comply fully with the conditions of their community supervision. Additionally, it would help the criminal justice system and ensure that victims receive the full amount of fines, costs and restitution that have been ordered.

OPPONENTS SAY: The deadline for payment of fines, costs and restitution must be drawn somewhere, and it is appropriate to draw it at three years as current law requires. That should be a sufficient amount of time for the vast majority of defendants with the proper financial priorities to pay what they owe to the courts and to their victims. Community supervision is a privilege that must be earned, not a right that should be expected.

Furthermore, HB 1467 could increase the financial burden on county community supervision departments. The state only pays the county for the first 182 days of a defendant's community service, and the county must pay for the rest. Although defendants may be ordered to pay the costs of community service, they face a number of fines and costs and often cannot or do not pay the costs of their community service. This bill would extend

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for two years the amount of time that counties could be stuck with the costs of a defendant's community supervision.