

CODE OF CRIMINAL PROCEDURE

TITLE 1. CODE OF CRIMINAL PROCEDURE

CHAPTER 42. JUDGMENT AND SENTENCE

Art. 42.12 COMMUNITY SUPERVISION

Basic Conditions of Community Supervision

Sec. 11. (a) The judge of the court having jurisdiction of the case shall determine the conditions of community supervision and may, at any time during the period of community supervision, alter or modify the conditions. The judge may impose any reasonable condition that is designed to protect or restore the community, protect or restore the victim, or punish, rehabilitate, or reform the defendant. Conditions of community supervision may include, but shall not be limited to, the conditions that the defendant shall:

- (1) Commit no offense against the laws of this State or of any other State or of the United States;
- (2) Avoid injurious or vicious habits;
- (3) Avoid persons or places of disreputable or harmful character, including any person, other than a family member of the defendant, who is an active member of a criminal street gang;
- (4) Report to the supervision officer as directed by the

judge or supervision officer and obey all rules and regulations of the community supervision and corrections department;

(5) Permit the supervision officer to visit the defendant at the defendant's home or elsewhere;

(6) Work faithfully at suitable employment as far as possible;

(7) Remain within a specified place;

(8) Pay the defendant's fine, if one is assessed, and all court costs whether a fine is assessed or not, in one or several sums;

(9) Support the defendant's dependents;

(10) Participate, for a time specified by the judge, in any community-based program, including a community-service work program under Section 16 of this article;

(11) Reimburse the county in which the prosecution was instituted for compensation paid to appointed counsel for defending the defendant in the case, if counsel was appointed, or if the defendant was represented by a public defender's office, in an amount that would have been paid to an appointed attorney had the county not had a public defender's office;

(12) Remain under custodial supervision in a community corrections facility, obey all rules and regulations of the

facility, and pay a percentage of the defendant's income to the facility for room and board;

(13) Pay a percentage of the defendant's income to the defendant's dependents for their support while under custodial supervision in a community corrections facility;

(14) Submit to testing for alcohol or controlled substances;

(15) Attend counseling sessions for substance abusers or participate in substance abuse treatment services in a program or facility approved or licensed by the Department of State Health Services;

(16) With the consent of the victim of a misdemeanor offense or of any offense under Title 7, Penal Code, participate in victim-defendant mediation;

(17) Submit to electronic monitoring;

(18) Reimburse the compensation to victims of crime fund for any amounts paid from that fund to or on behalf of a victim, as defined by Article 56.32, of the defendant's offense or if no reimbursement is required, make one payment to the compensation to victims of crime fund in an amount not to exceed \$50 if the offense is a misdemeanor or not to exceed \$100 if the offense is a felony;

(19) Reimburse a law enforcement agency for the

analysis, storage, or disposal of raw materials, controlled substances, chemical precursors, drug paraphernalia, or other materials seized in connection with the offense;

(20) Pay all or part of the reasonable and necessary costs incurred by the victim for psychological counseling made necessary by the offense or for counseling and education relating to acquired immune deficiency syndrome or human immunodeficiency virus made necessary by the offense;

(21) Make one payment in an amount not to exceed \$50 to a crime stoppers organization as defined by Section 414.001, Government Code, and as certified by the Texas Crime Stoppers Council;

(22) Submit a DNA sample to the Department of Public Safety under Subchapter G, Chapter 411, Government Code, for the purpose of creating a DNA record of the defendant;

(23) In any manner required by the judge, provide public notice of the offense for which the defendant was placed on community supervision in the county in which the offense was committed; and

(24) Reimburse the county in which the prosecution was instituted for compensation paid to any interpreter in the case.

(b) A judge may not order a defendant to make any payments as

a term or condition of community supervision, except for fines, court costs, restitution to the victim, and other conditions related personally to the rehabilitation of the defendant or otherwise expressly authorized by law. The court shall consider the ability of the defendant to make payments in ordering the defendant to make payments under this article.

(c) If the judge or jury places a defendant on community supervision, the judge shall require the defendant to demonstrate to the court whether the defendant has an educational skill level that is equal to or greater than the average skill level of students who have completed the sixth grade in public schools in this state. If the judge determines that the defendant has not attained that skill level, the judge shall require as a condition of community supervision that the defendant attain that level of educational skill, unless the judge determines that the defendant lacks the intellectual capacity or the learning ability to ever achieve that level of skill.

(d) If the judge places a defendant on community supervision and the defendant is determined to have a mental illness or be a person with mental retardation as provided by Article 16.22 or Chapter 46B or in a psychological evaluation conducted under Section 9(i) of this article, the judge may require the defendant

as a condition of community supervision to submit to outpatient or inpatient mental health or mental retardation treatment if the:

(1) defendant's:

(A) mental impairment is chronic in nature; or

(B) ability to function independently will continue to deteriorate if the defendant does not receive mental health or mental retardation services; and

(2) judge determines, in consultation with a local mental health or mental retardation services provider, that appropriate mental health or mental retardation services for the defendant are available through the Texas Department of Mental Health and Mental Retardation under Section 534.053, Health and Safety Code, or through another mental health or mental retardation services provider.

(e) A judge granting community supervision to a defendant required to register as a sex offender under Chapter 62 shall require that the defendant, as a condition of community supervision:

(1) register under that chapter; and

(2) submit a DNA sample to the Department of Public Safety under Subchapter G, Chapter 411, Government Code, for the purpose of creating a DNA record of the defendant, unless the

defendant has already submitted the required sample under other state law.

(f) A judge may not require a defendant to undergo an orchiectomy as a condition of community supervision.

(g) A judge who grants community supervision to a person may require the person to make one payment in an amount not to exceed \$50 to a children's advocacy center established under Subchapter E, Chapter 264, Family Code, if the person is charged with or convicted of an offense under Section 21.11 or 22.011(a)(2), Penal Code.

(h) If a judge grants community supervision to a person convicted of an offense under Title 5, Penal Code, that the court determines involves family violence, the judge shall 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 this subsection, "family violence" has the meaning assigned by Section 71.004, Family Code, and "family violence center" has the meaning assigned by Section 51.002, Human Resources Code.

(i) A judge who grants community supervision to a sex offender evaluated under Section 9A may require the sex offender as a condition of community supervision to submit to treatment,

specialized supervision, or rehabilitation according to offense-specific standards of practice adopted by the Council on Sex Offender Treatment. On a finding that the defendant is financially able to make payment, the judge shall require the defendant to pay all or part of the reasonable and necessary costs of the treatment, supervision, or rehabilitation.

(j) A judge granting community supervision to a defendant convicted of a felony shall require that the defendant, as a condition of community supervision, provide a DNA sample under Subchapter G, Chapter 411, Government Code, for the purpose of creating a DNA record of the defendant, unless the defendant has already submitted the required sample under other state law.

(k) A court granting community supervision to a defendant convicted of an offense under Section 28.08, Penal Code, shall require as a condition of community supervision that the defendant perform:

(1) at least 15 hours of community service if the amount of pecuniary loss resulting from the commission of the offense is \$50 or more but less than \$500; or

(2) at least 30 hours of community service if the amount of pecuniary loss resulting from the commission of the offense is \$500 or more.

(1) (1) If the court grants community supervision to a person convicted of an offense under Section 42.072, Penal Code, the court may require as a condition of community supervision that the person may not:

(A) communicate directly or indirectly with the victim; or

(B) go to or near the residence, place of employment, or business of the victim or to or near a school, day-care facility, or similar facility where a dependent child of the victim is in attendance.

(2) If the court requires the prohibition contained in Subdivision (1) (B) of this subsection as a condition of community supervision, the court shall specifically describe the prohibited locations and the minimum distances, if any, that the person must maintain from the locations.

(m) If a judge grants community supervision to a person convicted of an offense under Section 42.09, 42.091, 42.092, or 42.10, Penal Code, the judge may require the person to attend a responsible pet owner course sponsored by a municipal animal shelter, as defined by Section 823.001, Health and Safety Code, that:

(1) receives federal, state, county, or municipal funds;

and

(2) serves the county in which the court is located.

Confinement as a Condition of Community Supervision

Eff. September 1, 2009