

Swift and Sure Sanctions in Community Supervision

Bill Analysis: House Bill 1242

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House Bill 1242 seeks to amend the Code of Criminal Procedure to permit courts in Texas using swift and sure sanctions more flexibility to impose jail time on offenders serving a term of community supervision.

Under current law, Section 12(a) of Article 42.12 of the Code of Criminal Procedure, a felony offender on community supervision may not serve more than 180 days in a county jail as a condition of his or her community supervision.

This unnecessarily inhibits a court's ability to order short periods of confinement in a county jail as a sanction for disobeying a probation requirement.

These short periods of confinement are otherwise known as swift and sure sanctions, a system of probation management that has proven effective in other states across the country.

Swift and sure sanctions impart immediate, certain, and consistent penalties on probationers who violate a term of their supervision, often in the form of short jail stays that grow progressively longer with each additional violation. The standard probation supervision model without the option of swift and sure sanctions usually results in multiple violations stacking up and culminating in revocation to prison.

These sanctions are far more effective and have enhanced outcomes in the jurisdictions which have adopted swift and sure sanctions. In Hawaii, the first jurisdiction to use swift and sure sanctions in its HOPE Court, drug use dropped 83 percent for offenders assigned to the HOPE Court, and missed appointments dropped 71 percent.¹ In addition, revocations

were two-thirds less likely for HOPE Court probationers than a comparison sample of traditional probationers.

Swift and sure sanctions are also jail utilization neutral. The ultimate total of jail time ordered for HOPE Court probationers was equal to the total for a standard probationer, and the presiding judge over the HOPE Court, Judge Steven Alm, estimated that the cost for a probationer in a program with swift and sure sanctions is only around \$1,000 more than traditional probation, and more than pays for itself in reduced revocations and prison terms.²

Swift and sure sanctions proved so successful in Hawaii that their use is spreading: Alaska, Arizona, Arkansas, California, Illinois, Indiana, Massachusetts, Missouri, New Hampshire, Oregon, Washington, and our very own state of Texas in Tarrant County have adopted the model to some degree.

However, in Texas, courts using swift and sure sanctions currently run into a roadblock within the Code of Criminal Procedure. For example, if an offender serves 60 to 120 days of up-front jail time, as is often required in individual Penal Code offenses, a supervising court has fewer days left under Section 12 (a) to order swift and sure sanctions.

House Bill 1242 would create greater flexibility for courts and probation departments, cut costs by reducing revocations, increase public safety by reducing drug use, and could lead to an increase in successful outcomes for probationers across Texas. ★

¹ Angela Hawken, and Mark Kleiman, "Managing Drug Involved Probationers with Swift and Certain Sanctions: Evaluating Hawaii's HOPE" (Dec. 2009).

² Richard Kiyabu, Joachim Steinberg, Minako Yoshida, "Hawaii's Opportunity Probation with Enforcement (HOPE): An Implementation Analysis" (May 2010).