

FAMILY CODE

CHAPTER 59. PROGRESSIVE SANCTIONS MODEL

Sec. 59.001. PURPOSES. The purposes of the progressive sanctions model are to:

(1) ensure that juvenile offenders face uniform and consistent consequences and punishments that correspond to the seriousness of each offender's current offense, prior delinquent history, special treatment or training needs, and effectiveness of prior interventions;

(2) balance public protection and rehabilitation while holding juvenile offenders accountable;

(3) permit flexibility in the decisions made in relation to the juvenile offender to the extent allowed by law;

(4) consider the juvenile offender's circumstances;

(5) recognize that departure of a disposition from this model is not necessarily undesirable and in some cases is highly desirable; and

(6) improve juvenile justice planning and resource allocation by ensuring uniform and consistent reporting of disposition decisions at all levels.

Added by Acts 1995, 74th Leg., ch. 262, Sec. 53, eff. Jan. 1, 1996. Amended by Acts 2003, 78th Leg., ch. 479, Sec. 3, eff. Sept. 1, 2003.

Sec. 59.002. SANCTION LEVEL ASSIGNMENT BY PROBATION DEPARTMENT. (a) The probation department may assign a sanction level of one to a child referred to the probation department under Section 53.012.

(b) The probation department may assign a sanction level of two to a child for whom deferred prosecution is authorized under Section 53.03.

Added by Acts 1995, 74th Leg., ch. 262, Sec. 53, eff. Jan. 1, 1996.

Sec. 59.003. SANCTION LEVEL ASSIGNMENT MODEL. (a) Subject to Subsection (e), after a child's first commission of delinquent conduct or conduct indicating a need for supervision, the probation department or prosecuting attorney may, or the juvenile court may, in a disposition hearing under Section 54.04 or a modification hearing under Section 54.05, assign a child one of the following sanction levels according to the child's conduct:

(1) for conduct indicating a need for supervision, other than conduct described in Section 51.03(b)(5) or a Class A or B misdemeanor, the sanction level is one;

(2) for conduct indicating a need for supervision under Section 51.03(b)(5) or a Class A or B misdemeanor, other than a misdemeanor involving the use or possession of a firearm, or for delinquent conduct under Section 51.03(a)(2), the sanction level is two;

(3) for a misdemeanor involving the use or possession of a firearm or for a state jail felony or a felony of the third degree, the sanction level is three;

(4) for a felony of the second degree, the sanction level is four;

(5) for a felony of the first degree, other than a felony involving the use of a deadly weapon or causing serious bodily injury, the sanction level is five;

(6) for a felony of the first degree involving the use of a deadly weapon or causing serious bodily injury, for an aggravated controlled substance felony, or for a capital felony, the sanction level is six; or

(7) for a felony of the first degree involving the use of a deadly weapon or causing serious bodily injury, for an aggravated controlled substance felony, or for a capital felony, if the petition has been approved by a grand jury under Section 53.045, or if a petition to transfer the child to criminal court has been filed under Section 54.02, the sanction level is seven.

(b) Subject to Subsection (e), if the child subsequently is found to have engaged in delinquent conduct in an adjudication hearing under Section 54.03 or a hearing to modify a disposition under Section 54.05 on two separate occasions and each involves a violation of a penal law of a classification that is less than the classification of the child's previous conduct, the juvenile court may assign the child a sanction level that is one level higher than the previously assigned sanction level, unless the child's previously assigned sanction level is six.

(c) Subject to Subsection (e), if the child's subsequent commission of delinquent conduct or conduct indicating a need for

supervision involves a violation of a penal law of a classification that is the same as or greater than the classification of the child's previous conduct, the juvenile court may assign the child a sanction level authorized by law that is one level higher than the previously assigned sanction level.

(d) Subject to Subsection (e), if the child's previously assigned sanction level is four or five and the child's subsequent commission of delinquent conduct is of the grade of felony, the juvenile court may assign the child a sanction level that is one level higher than the previously assigned sanction level.

(e) The probation department may, in accordance with Section 54.05, request the extension of a period of probation specified under sanction levels one through five if the circumstances of the child warrant the extension.

(f) Before the court assigns the child a sanction level that involves the revocation of the child's probation and the commitment of the child to the Texas Youth Commission, the court shall hold a hearing to modify the disposition as required by Section 54.05.

Added by Acts 1995, 74th Leg., ch. 262, Sec. 53, eff. Jan. 1, 1996. Amended by Acts 1997, 75th Leg., ch. 1015, Sec. 19, eff. June 19, 1997; Acts 1997, 75th Leg., ch. 1086, Sec. 22, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1477, Sec. 20, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1297, Sec. 42, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 479, Sec. 4, 5, eff. Sept. 1, 2003.

Sec. 59.004. SANCTION LEVEL ONE. (a) For a child at sanction level one, the juvenile court or probation department may:

(1) require counseling for the child regarding the child's conduct;

(2) inform the child of the progressive sanctions that may be imposed on the child if the child continues to engage in delinquent conduct or conduct indicating a need for supervision;

(3) inform the child's parents or guardians of the parents' or guardians' responsibility to impose reasonable restrictions on the child to prevent the conduct from recurring;

(4) provide information or other assistance to the child or the child's parents or guardians in securing needed social services;

(5) require the child or the child's parents or guardians to participate in a program for services under Section 264.302, if a program under Section 264.302 is available to the child or the child's parents or guardians;

(6) refer the child to a community-based citizen intervention program approved by the juvenile court; and

(7) release the child to the child's parents or guardians.

(b) The probation department shall discharge the child from the custody of the probation department after the provisions of this section are met.

Added by Acts 1995, 74th Leg., ch. 262, Sec. 53, eff. Jan. 1, 1996. Amended by Acts 1997, 75th Leg., ch. 1086, Sec. 23, eff. Sept. 1, 1997.

Sec. 59.005. SANCTION LEVEL TWO. (a) For a child at sanction level two, the juvenile court, the prosecuting attorney, or the probation department may, as provided by Section 53.03:

(1) place the child on deferred prosecution for not less than three months or more than six months;

(2) require the child to make restitution to the victim of the child's conduct or perform community service restitution appropriate to the nature and degree of harm caused and according to the child's ability;

(3) require the child's parents or guardians to identify restrictions the parents or guardians will impose on the child's activities and requirements the parents or guardians will set for the child's behavior;

(4) provide the information required under Sections 59.004(a)(2) and (4);

(5) require the child or the child's parents or guardians to participate in a program for services under Section 264.302, if a program under Section 264.302 is available to the child or the child's parents or guardians;

(6) refer the child to a community-based citizen intervention program approved by the juvenile court; and

(7) if appropriate, impose additional conditions of probation.

(b) The juvenile court or the probation department shall

discharge the child from the custody of the probation department on the date the provisions of this section are met or on the child's 18th birthday, whichever is earlier.

Added by Acts 1995, 74th Leg., ch. 262, Sec. 53, eff. Jan. 1, 1996. Amended by Acts 1997, 75th Leg., ch. 1086, Sec. 24, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1477, Sec. 21, eff. Sept. 1, 1999.

Sec. 59.006. SANCTION LEVEL THREE. (a) For a child at sanction level three, the juvenile court may:

(1) place the child on probation for not less than six months;

(2) require the child to make restitution to the victim of the child's conduct or perform community service restitution appropriate to the nature and degree of harm caused and according to the child's ability;

(3) impose specific restrictions on the child's activities and requirements for the child's behavior as conditions of probation;

(4) require a probation officer to closely monitor the child's activities and behavior;

(5) require the child or the child's parents or guardians to participate in programs or services designated by the court or probation officer; and

(6) if appropriate, impose additional conditions of probation.

(b) The juvenile court shall discharge the child from the custody of the probation department on the date the provisions of this section are met or on the child's 18th birthday, whichever is earlier.

Added by Acts 1995, 74th Leg., ch. 262, Sec. 53, eff. Jan. 1, 1996. Amended by Acts 1997, 75th Leg., ch. 1086, Sec. 25, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 479, Sec. 6, eff. Sept. 1, 2003.

Sec. 59.007. SANCTION LEVEL FOUR. (a) For a child at sanction level four, the juvenile court may:

(1) require the child to participate as a condition of probation for not less than three months or more than 12 months in an intensive services probation program that emphasizes frequent contact and reporting with a probation officer, discipline, intensive supervision services, social responsibility, and productive work;

(2) after release from the program described by Subdivision (1), continue the child on probation supervision;

(3) require the child to make restitution to the victim of the child's conduct or perform community service restitution appropriate to the nature and degree of harm caused and according to the child's ability;

(4) impose highly structured restrictions on the child's activities and requirements for behavior of the child as conditions of probation;

(5) require a probation officer to closely monitor the child;

(6) require the child or the child's parents or guardians to participate in programs or services designed to address their particular needs and circumstances; and

(7) if appropriate, impose additional sanctions.

(b) The juvenile court shall discharge the child from the custody of the probation department on the date the provisions of this section are met or on the child's 18th birthday, whichever is earlier.

Added by Acts 1995, 74th Leg., ch. 262, Sec. 53, eff. Jan. 1, 1996. Amended by Acts 1997, 75th Leg., ch. 1086, Sec. 26, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1297, Sec. 43, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 479, Sec. 7, eff. Sept. 1, 2003.

Sec. 59.008. SANCTION LEVEL FIVE. (a) For a child at sanction level five, the juvenile court may:

(1) as a condition of probation, place the child for not less than six months or more than 12 months in a post-adjudication secure correctional facility;

(2) after release from the program described by Subdivision (1), continue the child on probation supervision;

(3) require the child to make restitution to the victim of the child's conduct or perform community service restitution appropriate to the nature and degree of harm caused and according to the child's ability;

(4) impose highly structured restrictions on the child's activities and requirements for behavior of the child as

conditions of probation;

(5) require a probation officer to closely monitor the child;

(6) require the child or the child's parents or guardians to participate in programs or services designed to address their particular needs and circumstances; and

(7) if appropriate, impose additional sanctions.

(b) The juvenile court shall discharge the child from the custody of the probation department on the date the provisions of this section are met or on the child's 18th birthday, whichever is earlier.

Added by Acts 1995, 74th Leg., ch. 262, Sec. 53, eff. Jan. 1, 1996. Amended by Acts 1997, 75th Leg., ch. 1086, Sec. 27, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 479, Sec. 8, eff. Sept. 1, 2003.

Sec. 59.009. SANCTION LEVEL SIX. (a) For a child at sanction level six, the juvenile court may commit the child to the custody of the Texas Youth Commission. The commission may:

(1) require the child to participate in a highly structured residential program that emphasizes discipline, accountability, fitness, training, and productive work for not less than nine months or more than 24 months unless the commission extends the period and the reason for an extension is documented;

(2) require the child to make restitution to the victim of the child's conduct or perform community service restitution appropriate to the nature and degree of the harm caused and according to the child's ability, if there is a victim of the child's conduct;

(3) require the child and the child's parents or guardians to participate in programs and services for their particular needs and circumstances; and

(4) if appropriate, impose additional sanctions.

(b) On release of the child under supervision, the Texas Youth Commission parole programs may:

(1) impose highly structured restrictions on the child's activities and requirements for behavior of the child as conditions of release under supervision;

(2) require a parole officer to closely monitor the child for not less than six months; and

(3) if appropriate, impose any other conditions of supervision.

(c) The Texas Youth Commission may discharge the child from the commission's custody on the date the provisions of this section are met or on the child's 19th birthday, whichever is earlier.

Added by Acts 1995, 74th Leg., ch. 262, Sec. 53, eff. Jan. 1, 1996. Amended by Acts 1997, 75th Leg., ch. 1086, Sec. 28, eff. Sept. 1, 1997.

Sec. 59.010. SANCTION LEVEL SEVEN. (a) For a child at sanction level seven, the juvenile court may certify and transfer the child under Section 54.02 or sentence the child to commitment to the Texas Youth Commission under Section 54.04(d)(3), 54.04(m), or 54.05(f). The commission may:

(1) require the child to participate in a highly structured residential program that emphasizes discipline, accountability, fitness, training, and productive work for not less than 12 months or more than 10 years unless the commission extends the period and the reason for the extension is documented;

(2) require the child to make restitution to the victim of the child's conduct or perform community service restitution appropriate to the nature and degree of harm caused and according to the child's ability, if there is a victim of the child's conduct;

(3) require the child and the child's parents or guardians to participate in programs and services for their particular needs and circumstances; and

(4) impose any other appropriate sanction.

(b) On release of the child under supervision, the Texas Youth Commission parole programs may:

(1) impose highly structured restrictions on the child's activities and requirements for behavior of the child as conditions of release under supervision;

(2) require a parole officer to monitor the child closely for not less than 12 months; and

(3) impose any other appropriate condition of supervision.

Added by Acts 1995, 74th Leg., ch. 262, Sec. 53, eff. Jan. 1, 1996.

Amended by Acts 1997, 75th Leg., ch. 1086, Sec. 29, eff. Sept. 1, 1997.

Sec. 59.011. DUTY OF JUVENILE BOARD. A juvenile board shall require the juvenile probation department to report progressive sanction data electronically to the Texas Juvenile Probation Commission in the format and time frames specified by the commission.

Added by Acts 1995, 74th Leg., ch. 262, Sec. 53, eff. Jan. 1, 1996. Amended by Acts 2001, 77th Leg., ch. 1297, Sec. 44, eff. Sept. 1, 2001.

Sec. 59.012. REPORTS BY CRIMINAL JUSTICE POLICY COUNCIL. (a) The Criminal Justice Policy Council shall analyze trends related to juvenile referrals and the impact of reforms on recidivism rates using standard scientific sampling or appropriate scientific methodologies to represent statewide patterns. The council shall compile other policy studies as determined by the executive director of the council or as requested by the governor, lieutenant governor, or speaker of the house of representatives to assist in policy development.

(b) The Criminal Justice Policy Council shall report its findings and related recommendations to improve juvenile justice policies to the governor and the members of the legislature on or before January 15 of each odd-numbered year.

(c) The Criminal Justice Policy Council may incorporate its findings and recommendations under this section into its report required under Section 413.013, Government Code.

Added by Acts 1995, 74th Leg., ch. 262, Sec. 53, eff. Jan. 1, 1996. Amended by Acts 2001, 77th Leg., ch. 1297, Sec. 45, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 479, Sec. 9, eff. Sept. 1, 2003.

Sec. 59.013. LIABILITY. The Texas Youth Commission, a juvenile board, a court, a person appointed by a court, an attorney for the state, a peace officer, or a law enforcement agency is not liable for a failure or inability to provide a service listed under Sections 59.004-59.010.

Added by Acts 1995, 74th Leg., ch. 262, Sec. 53, eff. Jan. 1, 1996.

Sec. 59.014. APPEAL. A child may not bring an appeal or a postconviction writ of habeas corpus based on:

(1) the failure or inability of any person to provide a service listed under Sections 59.004-59.010;

(2) the failure of a court or of any person to make a sanction level assignment as provided in Section 59.002 or 59.003;

(3) a departure from the sanction level assignment model provided by this chapter; or

(4) the failure of a juvenile court or probation department to report a departure from the model.

Added by Acts 1995, 74th Leg., ch. 262, Sec. 53, eff. Jan. 1, 1996. Amended by Acts 1999, 76th Leg., ch. 1011, Sec. 1, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1477, Sec. 22, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 479, Sec. 10, eff. Sept. 1, 2003.

Sec. 59.015. WAIVER OF SANCTIONS ON PARENTS OR GUARDIANS. On a finding by the juvenile court or probation department that a child's parents or guardians have made a reasonable good faith effort to prevent the child from engaging in delinquent conduct or engaging in conduct indicating a need for supervision and that, despite the parents' or guardians' efforts, the child continues to engage in such conduct, the court or probation department shall waive any sanction that may be imposed on the parents or guardians at any sanction level.

Added by Acts 1995, 74th Leg., ch. 262, Sec. 53, eff. Jan. 1, 1996.