

BILL ANALYSIS

C.S.H.B. 2170
By: Murphy
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that the absence of enhanced penalties for certain repeat misdemeanor offenses enables some criminals to specialize in misdemeanor crimes. As a result, the parties continue, these career criminals are punished with light sentences and serve their time in county jail facilities, causing some repeat offenders to be deprived of adequate access to treatment options to address any underlying problems. The parties believe that the lack of treatment options and the light penalties imposed for these types of crimes build a pathway to a life of crime. C.S.H.B. 2170 seeks to break this cycle.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2170 amends the Penal Code to enhance from a Class A misdemeanor to a state jail felony the penalty for an offense that is otherwise a Class A misdemeanor if it is shown on the trial of the offense that the defendant has been previously convicted four or more times of a Class A misdemeanor or any degree of felony, at least one of the previous convictions was of a felony, and each of the previous offenses was committed in the 10-year period preceding the date of commission of the instant offense. The bill excludes a state jail felony resulting from such an enhancement from statutory provisions enhancing to the next higher degree of felony the penalty for certain repeat and habitual felony offenders on trial for a first, second, or third degree felony if it is shown on the trial of the offense that the defendant has previously been finally convicted of any such felony. The bill prohibits a state jail felony resulting from the enhancement of a Class A misdemeanor offense for certain repeat and habitual misdemeanor offenders from being used as the basis for certain felony enhancement purposes.

C.S.H.B. 2170 includes previous convictions for two state jail felonies resulting from the enhancement of a Class A misdemeanor offense among the state jail felony convictions used as the basis for the enhancement of certain state jail felonies to a third degree felony for certain repeat and habitual misdemeanor offenders. The bill excludes a previous conviction for a state jail felony resulting from such enhancement from the previous felony convictions that may be used as the basis for the enhancement of certain state jail felonies to a second degree felony for those offenders.

C.S.H.B. 2170 amends the Code of Criminal Procedure to include a conviction of certain offenses under the Texas Controlled Substances Act punishable as a state jail felony for certain repeat and habitual offenders among the state jail felony convictions for which a judge is required or authorized, depending on a previous conviction or deferred adjudication, to suspend imposition of the defendant's sentence and order the defendant to be placed on community supervision. The bill includes a conviction of a state jail felony resulting from the enhancement of a Class A misdemeanor offense for certain repeat and habitual misdemeanor offenders among the convictions for which a judge is authorized to suspend the imposition of the defendant's sentence and place the defendant on community supervision or order the sentence to be executed in whole or in part with a term of community supervision.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2170 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED	HOUSE COMMITTEE SUBSTITUTE
SECTION 1. Sections 12.42(a), (b), and (d), Penal Code, are amended.	SECTION 1. Same as introduced version.
SECTION 2. Sections 12.42(c)(1) and (5), Penal Code, are amended.	SECTION 2. Same as introduced version.
SECTION 3. Section 12.425, Penal Code, is amended.	SECTION 3. Same as introduced version.
SECTION 4. Section 12.43, Penal Code, is amended by amending Subsections (a) and (b) and adding Subsection (b-1) to read as follows: (a) <u>Except as provided under Subsection (b-1), if [H] it is shown on the trial of a Class A misdemeanor that the defendant has been previously [before] convicted of a Class A misdemeanor or any degree of felony, on conviction <u>the defendant [he]</u> shall be punished by:</u> (1) a fine not to exceed \$4,000; (2) confinement in jail for any term of not more than one year or less than 90 days; or (3) both such fine and confinement. (b) <u>Except as provided under Subsection (b-1), if [H] it is shown on the trial of a Class B misdemeanor that the defendant has been previously [before] convicted of a Class A or Class B misdemeanor or any degree of</u>	SECTION 4. Section 12.43, Penal Code, is amended by amending Subsection (a) and adding Subsection (b-1) to read as follows: (a) <u>Except as provided under Subsection (b-1), if [H] it is shown on the trial of a Class A misdemeanor that the defendant has been previously [before] convicted of a Class A misdemeanor or any degree of felony, on conviction <u>the defendant [he]</u> shall be punished by:</u> (1) a fine not to exceed \$4,000; (2) confinement in jail for any term of not more than one year or less than 90 days; or (3) both such fine and confinement.

felony, on conviction the defendant [he] shall be punished by:

- (1) a fine not to exceed \$2,000;
- (2) confinement in jail for any term of not more than 180 days or less than 30 days; or
- (3) both such fine and confinement.

(b-1) An offense that is otherwise punishable as a Class A or Class B misdemeanor is punishable as a state jail felony if it is shown on the trial of the offense that:

(1) the defendant has been previously convicted four or more times of a Class A or Class B misdemeanor or any degree of felony; and

(2) each of the previous offenses was committed in the 10-year period preceding the date of commission of the instant offense.

SECTION 5. Sections 15(a)(1) and (2), Article 42.12, Code of Criminal Procedure, are amended.

SECTION 6. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 7. This Act takes effect September 1, 2015.

(b-1) An offense that is a Class A misdemeanor is a state jail felony if it is shown on the trial of the offense that:

(1) the defendant has been previously convicted four or more times of a Class A misdemeanor or any degree of felony;

(2) at least one of the previous convictions described by Subdivision (1) was of a felony; and

(3) each of the previous offenses was committed in the 10-year period preceding the date of commission of the instant offense.

SECTION 5. Same as introduced version.

SECTION 6. Same as introduced version.

SECTION 7. Same as introduced version.