

BILL ANALYSIS

Senate Research Center

H.B. 1790
By: Longoria et al. (Hinojosa)
Criminal Justice
5/15/2013
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Interested parties contend that the state jail system was originally designed to restructure and improve the state criminal justice and corrections systems by redirecting individuals with lower-level offenses out of overcrowded prisons and back into communities through community supervision, thus reserving space in prisons for those who pose a greater risk to public safety.

However, interested parties report that, as a result of various statutory changes over the years, tens of thousands of Texans, primarily those convicted of minor drug or property offenses, have been sentenced directly to confinement in a state jail with little or no access to treatment or support typically provided in community supervision. In addition, reports indicate that incarceration in state jails usually results in higher recidivism rates and higher costs than incarceration alternatives such as community supervision.

The parties contend that offering offenders charged with a state jail felony the opportunity to receive a conviction for a lower-grade offense will encourage more offenders to opt for community supervision, providing more rehabilitative and treatment opportunities and a better chance for reintegration into society.

To save taxpayer dollars, enhance public safety through lower recidivism, increase self-responsibility, and strengthen communities, H.B. 1790 provides for the modification of the record of conviction of a state jail felony to a Class A misdemeanor for certain eligible defendants who satisfy all conditions of community supervision.

H.B. 1790 amends current law relating to certain procedures for defendants who successfully complete a period of state jail felony community supervision.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 15, Article 42.12, Code of Criminal Procedure, by adding Subsections (l), (m), and (n), as follows:

- (l) Requires a judge who places a defendant on community supervision following conviction of a state jail felony, on agreement of the attorney representing the state and the defendant, to inform the defendant of the procedure provided for an amendment of the order of conviction under this subsection. Requires the judge, in any case in which the defendant is informed under this subsection, on written motion of the defendant after completion of two-thirds of the original community supervision period, to review the defendant's record and consider whether to amend the record of conviction to reflect a conviction for a Class A misdemeanor in lieu of a state jail felony. Authorizes the judge, on discharge of the defendant, on disposition of the case in a manner provided by Section 20 (Reduction or Termination of Community Supervision), to amend the record of conviction to reflect a conviction for a Class A misdemeanor in lieu of a state jail felony, subject to Subsection (m), if:

(1) the offense for which the defendant was placed on community supervision was not an offense under Section 30.04 (Burglary of Vehicles), Section 39.04(a)(2) (relating to a certain person committing an offense if the person intentionally engages in a form of sexual contact with an individual in custody or employs, authorizes, or induces the individual to engage in sexual conduct or a sexual performance), Section 49.045 (Driving While Intoxicated with Child Passenger), or Title 5 (Offenses Against the Person), Penal Code; under Article 62.102 (Failure to Comply with Registration Requirements) of this code; or involving family violence, as defined by Section 71.004 (Family Violence), Family Code;

(2) the defendant has fulfilled to the judge's satisfaction all the conditions of community supervision, including the payment of all required restitution, and is not delinquent on the payment of any fines, costs, and fees that the defendant has the ability to pay;

(3) the defendant files with the written motion for the hearing a statement that contains a summary of the defendant's performance during community supervision, including compliance with the conditions of community supervision and asserts that the defendant meets the conditions for an amendment of the record of conviction under this subsection;

(4) the defendant at the time of filing the statement with the court also provides a copy of the motion and statement to the attorney representing the state; and

(5) at the hearing held on the motion, the judge finds that an amendment of the record of conviction is in the best interest of justice.

(m) Prohibits a judge who amends a record of conviction under Subsection (l) from modifying the name of the state jail felony offense for which the judge placed the defendant on community supervision. Provides that a defendant whose record of conviction is amended under Subsection (l) is not considered to have been convicted of a felony with respect to the modified offense for any purpose other than the purpose described by Section 20(a)(1) (relating to authorizing the judge to set aside a verdict for a defendant, who is then required to be release from all penalties, except that proof of the conviction or plea of guilty is required to be made known to the judge should the defendant again be convicted of any criminal offense).

(n) Provides that a record of conviction that is amended under Subsection (l) supersedes and takes the place of the record of conviction as it existed on the original date of conviction. Provides that a judge retains jurisdiction for the purposes of Subsection (l) only until the expiration of the term of community supervision.

SECTION 2. Provides that the change in law made by this Act applies only to a defendant who is placed on community supervision on or after the effective date of this Act, regardless of whether the offense for which the defendant is placed on community supervision is committed before, on, or after that date.

SECTION 3. Effective date: September 1, 2013.