

BILL ANALYSIS

Senate Research Center
79R11707 PEP-D

H.B. 1759
By: Keel (Whitmire)
Criminal Justice
5/2/2005
Engrossed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Under current law, a jury that imposes confinement as punishment for an offense may recommend to the judge that the judge suspend the imposition of the sentence and place the defendant on community supervision. At that time, the judge is required to suspend the imposition of the sentence and place the defendant on community supervision if the jury makes that recommendation in the verdict. However, under current law, the jury is not permitted to recommend community supervision for any defendant who is "sentenced to serve a term of confinement under Section 12.35," the state jail felony statute, under the provisions of Section 4(d)(2), Article 42.12, Code of Criminal Procedure.

H.B. 1759 permits a jury to recommend community supervision for a defendant who has been convicted of a state jail felony, unless the imposition of the sentence occurs automatically and community supervision is ordered under Section 15(d), Article 42.12, Code of Criminal Procedure.

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 4(d), Article 42.12, Code of Criminal Procedure, to provide that a defendant is not eligible for community supervision under this section if the defendant is convicted of a state jail felony for which suspension of the imposition of the sentence occurs automatically under Section 15(a), rather than if the defendant is sentenced to serve a term of confinement under Section 12.35, Penal Code.

SECTION 2. Amends Section 15(c)(1), Article 42.12, Code of Criminal Procedure, to delete the existing exception to this section authorizing a judge to impose on the defendant a condition that the defendant submit to a period of confinement in a county jail under Section 5 or 12 of this article only if the term does not exceed ninety days.

SECTION 3.(a) Provides that the change in law made by this Act to Section 4(d), Article 42.12, Code of Criminal Procedure, applies to a defendant who on or after the effective date of this Act files the motion required by Section 4(e), Article 42.12, Code of Criminal Procedure, for jury-recommended community supervision, regardless of whether the offense with which the defendant is charged was committed before, on, or after the effective date of this Act.

(b) Makes application of the change in law made by this Act to Section 15(c)(1), Article 42.12, Code of Criminal Procedure, prospective.

SECTION 4. Effective date: September 1, 2005.