

BILL ANALYSIS

Senate Research Center
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S.B. 1173
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Criminal Justice
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 1173 returns state jails to their original purpose as a diversion to more costly state prison incarceration. Under the state jail program, the courts were provided with judicial remedies for offenders convicted of state jail felony offenses that carried shorter sentences (maximum two years). Persons convicted of state jail felonies served part of their in confinement, but could be at the discretion of the court, released to complete their sentences under community supervision. That policy has changed. Presently, most defendants sentenced to state jail serve their full sentences in confinement.

Due to budget cuts in 2003, treatment at the state jail level is nearly non-existent. Now, less than 10 percent of those sentenced to state jail are enrolled in substance abuse or other treatment programs. Nearly all (99 percent) are released to the community without supervision or treatment.

The majority of those sentenced to state jail were convicted of non-violent, low-level drug offenses and property crimes. They serve sentences ranging from six months to two years with no ability to earn good time. Due to the lack of treatment, the three-year reincarceration rate for offenders sentenced to state jail is higher than for those sent to state prison. State jail offenders are also rearrested at rates that are twice that of those who are sentenced to community supervision.

Treatment and other services available to offenders under community supervision have proven effective in lowering revocation rates and reducing recidivism. In addition, those positive outcomes produced by persons sentenced to community supervision are obtained at significantly less cost to the state. The Texas Department of Criminal Justice estimates that releasing state jail offenders to community supervision could result in savings of up to \$37 million.

As proposed, S.B. 1173 amends current law relating to procedures for the sentencing and placement on community supervision of defendants charged with the commission of a state jail felony.

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 9(a), Article 42.12, Code of Criminal Procedure, as follows:

- (a) Requires the presentence investigation report, if the defendant is charged with a state jail felony, to contain recommendations for conditions of community supervision that are based on the use of progressive sanctions designed to reduce the revocation rate of defendants placed on community supervision. Makes nonsubstantive changes.

SECTION 2. Amends Section 15(a)(2), Article 42.12, Code of Criminal Procedure, to authorize the judge, on conviction of a state jail felony punished under Section 12.35(a) (relating to time for punishment by confinement for an individual), Penal Code, other than a state jail felony listed

in Subdivision (1) (relating to a judge suspending the imposition of a sentence in favor of community supervision), to order the sentence to be executed in whole or in part, with a term of community supervision to commence immediately on release of the defendant from confinement.

SECTION 3. Amends Section 15(c)(1), Article 42.12, Code of Criminal Procedure, as follows:

(1) Requires the judge, before imposing a sentence in a state jail felony case, to review the presentence investigation report prepared for the defendant under Section 9 (relating to a report issued to the judge about the circumstances of an offense) and to determine whether the best interests of justice require the judge to suspend the imposition of the sentence and place the defendant on community supervision or to order the sentence to be executed in whole or in part as provided by Subsection (a)(2) (relating to a judge suspending the imposition of a sentence in favor of community supervision). Authorizes a judge to impose any condition of community supervision on a defendant that the judge could impose on a defendant placed on supervision for an offense other than a state jail felony and, if the judge suspends the execution of the sentence or orders the execution of the sentence only in part, required to impose conditions of community supervision consistent with the recommendations contained in the presentence investigation report prepared for the defendant.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: September 1, 2013.