

By: Chisum

H.B. No. 41

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the confinement of defendants convicted of state jail  
3 felonies.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 12.35, Penal Code, is amended by  
6 amending Subsection (a) and by adding Subsection (d) to read as  
7 follows:

8 (a) Except as provided by Subsection (c), an individual  
9 adjudged guilty of a state jail felony shall be punished by  
10 confinement in a state jail or a community corrections facility for  
11 any term of not more than two years or less than 180 days.

12 (d) In this section, "community corrections facility" has  
13 the meaning assigned by Section 509.001, Government Code.

14 SECTION 2. Section 15, Article 42.12, Code of Criminal  
15 Procedure, is amended by amending Subsections (d), (e), (f), (g),  
16 and (h) and by adding Subsection (i) to read as follows:

17 (d) A judge may impose as a condition of community  
18 supervision that a defendant submit at the beginning of the period  
19 of community supervision to a term of confinement in a state jail  
20 felony facility or a community corrections facility for a term of  
21 not less than 90 days or more than 180 days, or a term of not less  
22 than 90 days or more than one year if the defendant is convicted of  
23 an offense punishable as a state jail felony under Section 481.112,  
24 481.1121, 481.113, or 481.120, Health and Safety Code. A judge may

1 not require a defendant to submit to both the term of confinement  
2 authorized by this subsection and a term of confinement under  
3 Section 5 or 12 of this article. For the purposes of this  
4 subsection, a defendant previously has been convicted of a felony  
5 regardless of whether the sentence for the previous conviction was  
6 actually imposed or was probated and suspended.

7 (e) If a defendant violates a condition of community  
8 supervision imposed on the defendant under this article and after a  
9 hearing under Section 21 of this article the judge modifies the  
10 defendant's community supervision, the judge may impose any  
11 sanction permitted by Section 22 of this article, except that if the  
12 judge requires a defendant to serve a period of confinement in a  
13 state jail felony facility or a community corrections facility as a  
14 modification of the defendant's community supervision, the minimum  
15 term of confinement is 90 days and the maximum term of confinement  
16 is 180 days.

17 (f)(1) If a defendant violates a condition of community  
18 supervision imposed on the defendant under this article and after a  
19 hearing under Section 21 of this article the judge revokes the  
20 defendant's community supervision, the judge shall dispose of the  
21 case in the manner provided by Section 23 of this article.

22 (2) The court retains jurisdiction over the defendant  
23 for the period during which the defendant is confined in a state  
24 jail or a community corrections facility. At any time after the  
25 75th day after the date the defendant is received into the custody  
26 of a state jail or a community corrections facility, the judge on  
27 the judge's own motion, on the motion of the attorney representing

1 the state, or on the motion of the defendant may suspend further  
2 execution of the sentence and place the defendant on community  
3 supervision under the conditions of this section.

4 (3) When the defendant or the attorney representing  
5 the state files a written motion requesting suspension by the judge  
6 of further execution of the sentence and placement of the defendant  
7 on community supervision, the clerk of the court, if requested to do  
8 so by the judge, shall request a copy of the defendant's record  
9 while confined from the facility director of the state jail felony  
10 facility or community corrections facility in which the defendant  
11 is confined or, if the defendant is confined in county jail, from  
12 the sheriff. On receipt of the request, the facility director or  
13 the sheriff shall forward to the judge, as soon as possible, a full  
14 and complete copy of the defendant's record while confined. When  
15 the defendant files a written motion requesting suspension of  
16 further execution of the sentence and placement on community  
17 supervision, he shall immediately deliver or cause to be delivered  
18 a true and correct copy of the motion to the office of the attorney  
19 representing the state. The judge may deny the motion without a  
20 hearing but may not grant the motion without holding a hearing and  
21 providing the attorney representing the state and the defendant the  
22 opportunity to present evidence on the motion.

23 (g) The facility director of a state jail felony facility or  
24 community corrections facility shall report to a judge who orders a  
25 defendant confined in the facility as a condition of community  
26 supervision or as sanction imposed as a modification of community  
27 supervision under Subsection (e) not less than every 90 days on the

1 defendant's programmatic progress, conduct, and conformity to the  
2 rules of the facility.

3 (h)(1) A defendant confined in a state jail felony facility  
4 or community corrections facility does not earn good conduct time  
5 for time served in the facility.

6 (2) A judge may credit against any time a defendant is  
7 required to serve in a state jail felony facility or community  
8 corrections facility time served by the defendant in county jail  
9 from the time of the defendant's arrest and confinement until  
10 sentencing by the trial court.

11 (3) A judge shall credit against any time a defendant  
12 is subsequently required to serve in a state jail felony facility or  
13 community corrections facility after revocation of community  
14 supervision any time served by the defendant in a state jail felony  
15 facility or community corrections facility after sentencing.

16 (i) In this section, "community corrections facility" has  
17 the meaning assigned by Section 509.001, Government Code.

18 SECTION 3. (a) The change in law made by this Act applies  
19 only to a defendant convicted of an offense committed on or after  
20 the effective date of this Act. For purposes of this section, an  
21 offense is committed before the effective date of this Act if any  
22 element of the offense occurs before the effective date.

23 (b) A defendant convicted of an offense committed before the  
24 effective date of this Act is covered by the law in effect when the  
25 offense was committed, and the former law is continued in effect for  
26 that purpose.

27 SECTION 4. This Act takes effect September 1, 2003.