

BILL ANALYSIS

H.B. 1859
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Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Currently, a criminal court judge who has sentenced an individual to shock probation or boot camp in a felony case is not allowed to withdraw the finding of guilt and place the individual on deferred adjudication even if the judge determines that the individual benefited from the shock probation or boot camp and that those methods were effective.

Additionally, a criminal district court judge is prohibited from reducing a sentence upon denying shock probation. This in essence restricts the judge from effectively and efficiently performing his duty. The judge is best informed of the case and is most familiar with the defendant. Thus, the judge should be afforded the opportunity to either withdraw the finding of guilt and place the defendant on deferred adjudication or reduce the sentence upon denying shock probation.

House Bill 1859 authorizes a judge in a felony case to withdraw the finding of guilt and place the offender on deferred adjudication.

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

House Bill 1859 amends the Code of Criminal Procedure to authorize a criminal district judge in a felony case to withdraw the finding of guilt, defer further proceedings in the matter, and place the defendant on deferred adjudication community supervision or suspend further execution of the sentence and place the defendant on community supervision in accordance with judge ordered supervision provisions.

The bill authorizes a judge to reduce the time of incarceration required by the original sentence imposed if the judge denies the motion for shock probation.

EFFECTIVE DATE

September 1, 2005.