

By: Hamilton

H.B. No. 2992

A BILL TO BE ENTITLED

AN ACT

1
2 relating to judicial discretion to impose certain conditions of
3 community supervision or to order a sentence executed.

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

5 SECTION 1. Section 12(a), Article 42.12, Code of Criminal
6 Procedure, is amended to read as follows:

7 (a) (1) If a judge having jurisdiction of a misdemeanor case
8 requires as a condition of community supervision that the defendant
9 submit to a period of confinement in a county jail, the period of
10 confinement may not exceed 30 days. If a judge having jurisdiction
11 of a felony case requires as a condition of community supervision
12 that the defendant submit at the beginning of the period of
13 community supervision to a period of confinement in a county jail,
14 the period of confinement may not exceed 180 days.

15 (2) In a felony case, if the judge under Section 22
16 continues or modifies community supervision, the judge may impose
17 as a condition of the continuation or modification that the
18 defendant submit to a period of confinement in a county jail. A
19 period of confinement imposed on a defendant under this
20 subdivision, when added to a period imposed on the defendant under
21 Subdivision (1), may not exceed 360 days.

22 SECTION 2. Section 15(a)(1), Article 42.12, Code of
23 Criminal Procedure, is amended to read as follows:

24 (1) On conviction of a state jail felony under Section

1 481.115(b), 481.1151(b)(1), 481.116(b), 481.121(b)(3), or
2 481.129(g)(1), Health and Safety Code, that is punished under
3 Section 12.35(a), Penal Code, the judge shall suspend the
4 imposition of the sentence and place the defendant on community
5 supervision, unless the defendant has previously been convicted of
6 or placed on deferred adjudication for a felony, in which event the
7 judge may suspend the imposition of the sentence and place the
8 defendant on community supervision or may order the sentence to be
9 executed. The provisions of this subdivision requiring the judge
10 to suspend the imposition of the sentence and place the defendant on
11 community supervision do not apply to a defendant who under Section
12 481.1151(b)(1), Health and Safety Code, possessed more than five
13 abuse units of the controlled substance or under Section
14 481.121(b)(3), Health and Safety Code, possessed more than one
15 pound of marihuana.

16 SECTION 3. The change in law made by this Act applies only
17 to a defendant placed on community supervision for an offense
18 committed on or after the effective date of this Act. A defendant
19 placed on community supervision for an offense committed before the
20 effective date of this Act is governed by the law in effect when the
21 offense was committed, and the former law is continued in effect for
22 that purpose. For purposes of this section, an offense was
23 committed before the effective date of this Act if any element of
24 the offense was committed before that date.

25 SECTION 4. This Act takes effect September 1, 2005.