

By: Turner

H.B. No. 1075

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the proportionality of criminal sentences and to the
3 consequences of a defendant's violating a condition of community
4 supervision.

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

6 SECTION 1. Chapter 42, Code of Criminal Procedure, is
7 amended by adding Article 42.021 to read as follows:

8 Art. 42.021. PURPOSE OF SENTENCE. (a) The purpose of a
9 sentence is to:

10 (1) provide punishment that is likely to reduce the
11 chance that the defendant will recidivate;

12 (2) rehabilitate the defendant, while recognizing
13 that different rehabilitation strategies are appropriate for
14 different defendants; and

15 (3) impose penalties on the defendant that are
16 proportionate to the seriousness of the offense for which the
17 defendant is sentenced.

18 (b) A sentence should be appropriate for the offense
19 committed and the defendant being sentenced.

20 SECTION 2. Section 5(b), Article 42.12, Code of Criminal
21 Procedure, is amended to read as follows:

22 (b) On violation of a condition of community supervision
23 imposed under Subsection (a) of this section, the defendant may be
24 arrested and detained as provided in Section 21 of this article.

1 The defendant is entitled to a hearing limited to the determination
2 by the court of whether it proceeds with an adjudication of guilt on
3 the original charge. An [No] appeal may not be taken from this
4 determination during the hearing at which the determination is
5 made. After an adjudication of guilt, all proceedings, including
6 assessment of punishment, pronouncement of sentence, granting of
7 community supervision, and defendant's appeal continue as if the
8 adjudication of guilt had not been deferred. A court assessing
9 punishment after an adjudication of guilt of a defendant charged
10 with a state jail felony may suspend the imposition of the sentence
11 and place the defendant on community supervision or may order the
12 sentence to be executed, regardless of whether the defendant has
13 previously been convicted of a felony.

14 SECTION 3. Section 21, Article 42.12, Code of Criminal
15 Procedure, is amended by adding Subsection (f) to read as follows:

16 (f) A court may proceed with an adjudication of guilt under
17 Section 5(b), increase the period of community supervision under
18 Section 22, or revoke community supervision under Section 23 only
19 if the court determines that the defendant's violation of a
20 condition of community supervision was intentional. For purposes
21 of this subsection, a defendant's violation of a condition of
22 community supervision is presumed to be intentional if the
23 violation is the defendant's commission of a subsequent offense.

24 SECTION 4. Section 22, Article 42.12, Code of Criminal
25 Procedure, is amended by adding Subsection (e) to read as follows:

26 (e) A sanction imposed on a defendant under this section for
27 violating a condition of community supervision must be proportional

1 to the nature and severity of the violation.

2 SECTION 5. Section 21(f), Article 42.12, Code of Criminal
3 Procedure, as added by this Act, applies only to a hearing held
4 under Section 5(b) or Section 21, Article 42.12, Code of Criminal
5 Procedure, on or after the effective date of this Act. A hearing
6 held under Section 5(b) or Section 21, Article 42.12, Code of
7 Criminal Procedure, before the effective date of this Act is
8 governed by the law in effect at the time of the hearing, and the
9 former law is continued in effect for that purpose.

10 SECTION 6. This Act takes effect September 1, 2007.