

BILL ANALYSIS

S.B. 423
By: Carona
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Most people who join gangs are drawn into a lifestyle that includes criminal activity. Criminal activity usually leads a person to arrest for and then conviction of a crime.

When convicted, an offender may be placed on community supervision, in which case the offender may be permitted to continue living and working in the offender's community without many enforceable restrictions on daily activities. In this event, there may be strong temptations for the offender to continue in the gang lifestyle, including by staying in contact with other gang members. When this happens, the offender is subjected to the same negative influences that brought the offender to conviction in the first place.

Currently, Section 11 (Basic Conditions of Community Supervision), Article 42.12 (Community Supervision), Code of Criminal Procedure, contains a nonexclusive list of conditions that a judge may impose on a person who has been placed on community supervision. Included in the list of conditions is a requirement that the person placed on community supervision "avoid persons or places of disreputable or harmful character." This discretionary condition is the only condition that might restrict a person on community supervision from associating with other gang members; however, it is not mandatory that a judge impose this condition on a person placed on community supervision. The bill would help address the important problems associated with high recidivism rates for gang members by reducing the negative influences on gang members who have been placed on community supervision.

S.B. 423 requires that, when a judge finds that an offender is a member of a criminal street gang at the time the offense at issue was committed and the offender is placed on community supervision, a condition of that offender's community supervision prohibits the offender from knowingly communicating with another member of a criminal street gang, other than a family member of the defendant.

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 11(a), Article 42.12, Code of Criminal Procedure, to authorize conditions of community supervision to include a condition that requires the defendant to avoid persons or places of disreputable or harmful character, including any person, other than a family member of the defendant, who is an active member of a criminal street gang. Makes nonsubstantive changes.

SECTION 4. Effective date: September 1, 2009.

EFFECTIVE DATE

September 1, 2009.