

BILL ANALYSIS

C.S.H.B. 2650
By: Allen
Corrections
Committee Report (Substituted)

BACKGROUND AND PURPOSE

A national corrections advocacy organization recommends using evidence-based practices for corrections and criminal justice policymaking. Observers contend that evidence-based practices entail fashioning correctional solutions that address the root causes of criminal behavior in an effort to prevent people within the criminal justice system from re-offending. Interested parties contend that intermediate administrative sanctions would allow supervision officers to apply sanctions prior to an official hearing and that this practice allows the people who have the most contact with offenders on community supervision, and possibly the best insight into the offender's needs, to apply discipline to the offenders in an efficient and reasonable manner.

C.S.H.B. 2650 seeks to allow supervision officers to impose intermediate administrative sanctions on individuals who violate certain community supervision conditions.

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

C.S.H.B. 2650 amends the Government Code to require the district judge or district judges trying criminal cases in each judicial district and the statutory county court judges trying criminal cases in the county or counties served by the judicial district, for the district courts and county courts at law in the judicial district that try criminal cases, to adopt a single system of progressive intermediate sanctions for violations of conditions of community supervision that includes sanctions for a failure to report, to participate in a program or service, to refrain from the use of alcohol or a controlled substance, or to pay fines, fees, and costs and sanctions targeted for special cases or high risk offenders. The bill requires the judge or judges to establish a review process to follow in considering a reduction in or early termination of community supervision. The bill requires the community justice assistance division of the Texas Department of Criminal Justice to establish, and to adopt not later than November 1, 2011, a model list of progressive intermediate sanctions that may be adopted in a judicial district. The bill requires the judge or judges, in adopting a system of progressive intermediate sanctions, to consider the model list of intermediate sanctions established by the community justice assistance division and authorizes the judges to adopt the model list. The bill requires the judges to adopt the system and establish the review process not later than January 1, 2012.

C.S.H.B. 2650 amends the Code of Criminal Procedure to remove the authorization for a judge that places a defendant on community supervision to authorize the supervision officer supervising the defendant or a magistrate appointed by the district courts in the county that give preference to criminal cases to modify the conditions of community supervision for the limited purpose of transferring the defendant to different programs within the community supervision continuum of programs and sanctions. The bill removes the filing and referral requirements for such an officer or magistrate when a defendant agrees or does not agree to the conditions

modification in writing. The bill authorizes a judge that places a defendant on community supervision to authorize the supervision officer supervising the defendant to modify the conditions of community supervision for the limited purpose of imposing an intermediate sanction and requires a supervision officer, before imposing an intermediate sanction, to provide written notice to the defendant of the nature of the violation or violations involved, the date on which each violation occurred, and the intermediate sanction to be imposed. The bill requires the imposition of an intermediate sanction to conform with the system of progressive intermediate sanctions adopted by the judges under the bill's provisions. The bill requires the defendant, on receipt of the notice of the violation, to immediately accept or object to the imposition of the intermediate sanction. The bill entitles a defendant who objects to the imposition of the intermediate sanction to an administrative review to be conducted by the community supervision and corrections department supervising the defendant not later than the fifth day after the date the defendant received the notice. The bill requires the director of the community supervision and corrections department, or the director's designee, to dismiss or affirm the imposition of the intermediate sanction at the conclusion of the administrative review. The bill makes the intermediate sanction effective immediately if the director or the director's designee, as applicable, affirms the imposition of the intermediate sanction. The bill prohibits the court, on successful completion of an intermediate sanction, from revoking community supervision, proceeding to an adjudication in the case, or imposing any other sanction based on the violation for which the intermediate sanction was imposed.

C.S.H.B. 2650 prohibits a supervision officer from imposing an intermediate sanction in response to a violation of the terms of community supervision if the violation is based on the commission of a felony offense or imposing as an intermediate sanction any condition extending the term of community supervision, increasing a fine, or placing a defendant in a correctional facility. The bill requires a supervision officer who modifies the conditions of community supervision to deliver a copy of the modified conditions to the defendant, file a copy of the conditions with the sentencing court, and note the date of delivery of the copy in the defendant's file.

C.S.H.B. 2650 includes as a basic condition of community supervision the condition that the defendant comply with any intermediate sanction imposed by the supervision officer under the bill's provisions, unless the condition is dismissed by the director of the community supervision and corrections department or by the director's designee. The bill makes nonsubstantive and conforming changes.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 2650 differs from the original by requiring the director of the community supervision and corrections department supervising a defendant who is the subject of an intermediate sanction or the director's designee to dismiss or affirm the imposition of the intermediate sanction at the conclusion of the administrative review and by making a conforming change, whereas the original requires the community supervision and corrections department to take such actions at the conclusion of the review. The substitute differs from the original by prohibiting a supervision officer from imposing an intermediate sanction in response to a certain violation or imposing certain conditions as a sanction, whereas the original prohibits such an officer or community supervision and corrections department from taking such actions and makes a conforming change. The substitute differs from the original by including any condition increasing a fine among the conditions that are prohibited from being imposed as an intermediate sanction by a supervision officer, whereas the original does not include that condition.

C.S.H.B. 2650 differs from the original, in the provision requiring a defendant to comply with

any imposed intermediate sanction as a basic condition of community supervision, by providing an exception to that requirement if the condition is dismissed by the director or the director's designee, whereas the original provides no such exception.