

BILL ANALYSIS

C.S.H.B. 3366
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Corrections
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Current law permits a state judge, under certain conditions, to place a criminal defendant under community supervision, rather than imposing a sentence, provides for the minimum and maximum period of such community supervision, and authorizes an extension of the maximum period at any time during the period of community supervision. Currently, a defendant confined in a state jail felony facility does not earn good conduct time for time served in the facility. C.S.H.B. 3366 seeks to permit some defendants confined in a state jail facility to be released or transferred to community supervision under certain circumstances.

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. 3366 amends the Code of Criminal Procedure to require the facility director of the state jail felony facility confining a defendant who is serving a sentence in the facility for an offense punishable as a state jail felony other than certain offenses relating to the possession of a specified controlled substance or possession of a prescription for a specified controlled substance who is not a member of a security threat group and has not been previously convicted of a felony to which judge ordered community supervision does not apply or any offense considered a reportable conviction or adjudication under the sex offender registration program, not later than the 30th day before the date on which the defendant will have served 75 percent of the defendant's sentence, to report to the sentencing court on the defendant's conduct and programmatic progress while confined in the facility.

C.S.H.B. 3366 authorizes the judge of the sentencing court, on receipt of such a report, to either: suspend further execution of the sentence and place the defendant on community supervision in any manner otherwise authorized under statutory provisions governing community supervision if the judge determines that the defendant has successfully completed, or substantially complied with the requirements of, any substance abuse treatment program or any industrial, work, agricultural, educational, or vocational program in which the defendant participated, and has not been the subject of major disciplinary action while confined in the state jail felony facility; or order that the defendant remain confined in the state jail felony facility for the remainder of the defendant's sentence.

C.S.H.B. 3366 authorizes a judge who places a defendant on community supervision in the previously described manner to impose any condition of community supervision or take any other action during the period of community supervision, including extending a period of community supervision, that the judge is otherwise authorized to impose or take under those statutory provisions.

C.S.H.B. 3366 requires the director of the state jail felony facility in which such a defendant is

confined to release the defendant if, on the date that the defendant has served 75 percent of the defendant's sentence, the judge of the sentencing court has not placed the defendant on community supervision or ordered that the defendant remain confined as previously described. The bill makes its provisions authorizing the release or transfer to community supervision of an applicable defendant an exception to the prohibition against a defendant confined in a state jail felony facility earning good conduct time for time served in the facility.

EFFECTIVE DATE

September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 3366 differs from the original by requiring the director of the state jail felony facility in which a certain state jail defendant is confined to report to the sentencing court by a specified date before the defendant will have served 75 percent of the sentence on the defendant's conduct and programmatic progress while confined in the facility, whereas the original requires the file of a certain state jail inmate to be sent to the sentencing court by that date if the Texas Department of Criminal Justice (TDCJ) in consultation with the unit warden has made certain determinations regarding the inmate.

C.S.H.B. 3366 differs from the original by making its provisions apply to a certain state jail inmate who is not a member of a security threat group and has not been previously convicted of a certain specified violent or sexual felony offense, whereas the original makes the requirement for sending a state jail inmate's file to the sentencing court contingent on TDCJ's determination that the inmate is not a member of a security threat group, has no previous felony conviction of a violent or sexual offense, and has an exemplary disciplinary record and demonstrated full compliance with certain prison programs while incarcerated.

C.S.H.B. 3366 differs from the original by authorizing the sentencing court judge on receipt of the inmate's conduct and progress report to either suspend the sentence and place the defendant on community supervision on a determination relating to the inmate's conduct and completion of or compliance with certain prison programs or order that the defendant be confined in the facility for the remainder of the sentence, whereas the original requires the transfer of the inmate to community supervision on the date at which 75 percent of the sentence has been discharged if the sentencing court does not notify TDCJ within the required period that the inmate is required to be incarcerated for the remainder of the sentence.

C.S.H.B. 3366 contains provisions not included in the original authorizing the sentencing court judge to impose any community supervision condition on the state jail felony defendant or take other authorized actions during the supervision period and requiring the director of the state jail felony facility confining the defendant to release the defendant if the sentencing court judge, on the date the defendant has served 75 percent of the sentence, has not placed the defendant on community supervision or ordered the defendant to remain confined.

C.S.H.B. 3366 omits provisions included in the original authorizing the sentencing court to place a state jail inmate transferred to community supervision in an intermediate sanctions facility for a specified period for an alleged commission of another offense or a substantial violation of supervision terms while on supervision, prohibiting such an offender from receiving credit towards the sentence for the time on community supervision following the placement in the intermediate sanctions facility, and requires the offender to discharge the remainder of the sentence that was remaining following release from the state jail.

C.S.H.B. 3366 contains a transition provision not included in the original. The substitute differs from the original by making its provisions effective September 1, 2011, whereas the original makes its provisions effective August 29, 2011.