

BILL ANALYSIS

H.B. 3384
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Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The Texas Legislature created a category of felonies known as state jail felonies nearly 20 years ago. This category was created to punish the lowest-level felony offenders in an effort to reserve state prison beds, one of the most expensive punishment resources, for increased incarceration of the most dangerous felons. Observers note, however, that amendments have been made to the state jail statute over the years that have enhanced the punishment of state jail felonies to the more serious ranges of punishment associated with first, second, and third degree felonies and that have classified more serious state jail offenses as aggravated offenses.

It is further noted by interested parties that if it is shown on the trial of a state jail felony offense that the defendant has previously been finally convicted of two state jail felonies, the offense may carry the punishment of a third degree felony or it may carry the punishment of a second degree felony if the individual has been previously convicted of two felonies and the second felony is for an offense that occurred subsequent to the first previous conviction becoming final. The parties note that legislation is needed to clarify the meaning those provisions and to specify that the felonies do not include state jail offenses that are not aggravated. H.B. 3384 seeks to remain true to the intent of the legislature when it created the lower-level category of state felony offenses and to retain the special treatment given to state jail offenses punishable as aggravated state jail felonies.

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

H.B. 3384 amends the Penal Code to require a defendant to be punished for a felony of the third degree on conviction if it is shown on the trial of a state jail felony that the defendant has previously been finally convicted of two state jail felonies. The bill requires a defendant to be punished for a felony of the second degree on conviction if it is shown on the trial of a state jail felony that the defendant has previously been finally convicted of two felonies other than a state jail felony, and the second previous felony conviction is for an offense that occurred subsequent to the first previous conviction having become final. The bill requires a defendant to be punished for a felony of the second degree on conviction if it is shown on the trial of a state jail felony for which punishment may be enhanced that the defendant has previously been finally convicted of a felony other than a state jail felony.

H.B. 3384 removes provisions in law relating to the enhancement of state jail felonies into third-degree and second-degree felonies. The bill requires a defendant to be punished for a felony of the second degree if it is shown on the trial of a felony of the third degree that the defendant has previously been finally convicted of a felony other than a state jail felony. The bill requires a defendant to be punished for a felony of the first degree if it is shown on the trial of a felony of the second degree that the defendant has previously been finally convicted of a felony other than

a state jail felony. The bill requires a defendant to be punished by imprisonment in the Texas Department of Criminal Justice (TDCJ) for life, or for any term of not more than 99 years or less than 15 years, and authorizes such a defendant, in addition to imprisonment, to be punished by a fine not to exceed \$10,000, if it is shown on the trial of a felony of the first degree that the defendant has previously been finally convicted of a felony other than a state jail felony. The bill prohibits a previous conviction for a state jail felony from being used for enhancement purposes under provisions of law relating to a requirement for certain defendants to be punished by imprisonment in TDCJ for life or for any term of not more than 99 years or less than 25 years.

H.B. 3384 repeals Section 12.42(e), Penal Code, relating to a prohibition on prior convictions for a state jail felony being used for certain enhancement purposes.

EFFECTIVE DATE

September 1, 2011.