

## **BILL ANALYSIS**

C.S.H.B. 2736  
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Criminal Jurisprudence  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties assert that, as originally conceived, the state jail system was designed to restructure and improve the state criminal justice and corrections systems by redirecting individuals with low-level offenses out of overcrowded prisons and providing these individuals the opportunity to serve a sentence through community supervision, thereby reserving space in prisons for individuals who pose a legitimate threat to public safety. To restore the original intent of the state jail system, these parties propose a split-sentencing scheme in which certain defendants could serve half of the imposed sentence in a state jail facility, followed by a period of community supervision. The goal of this scheme, the parties assert, is to save taxpayer dollars, enhance public safety through lower recidivism rates, increase self-responsibility, and strengthen communities. C.S.H.B. 2736 seeks to implement split-sentencing for certain state jail felony defendants.

### **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. 2736 amends the Code of Criminal Procedure to require a judge who orders the execution of a defendant's sentence for a state jail felony, other than certain offenses under the Texas Controlled Substances Act, to suspend the further execution of the sentence and place the defendant on community supervision on the defendant's completion of one-half of the sentence imposed, including time credits earned for diligently participating in an educational, vocational, treatment, or work program, unless the execution of the sentence resulted from an adjudication of the guilt of a defendant previously placed on deferred adjudication community supervision for the offense. The bill limits a term of community supervision under the bill's provisions to a maximum of two years but authorizes the judge to extend the term in accordance with certain specified provisions relating to state jail felony community supervision and to the continuation or modification of community supervision.

C.S.H.B. 2736 requires the Texas Department of Criminal Justice (TDCJ), not later than the 10th day before the date on which a defendant serving a term of confinement in a state jail felony facility completes one-half of the imposed sentence, to notify the judge of the date on which one-half of the sentence is complete. The bill requires the judge, on receipt of the notice, to promptly notify the attorney representing the state and the defendant or the defendant's counsel and to hold a hearing for the limited purpose of establishing the conditions of community supervision appropriate for the defendant. The bill's provisions relating to requiring the suspension of the sentence and placement on community supervision of certain state jail felony defendants do not apply if the offense for which the defendant was originally sentenced was one of the following offenses: improper sexual activity with a person in custody; driving while intoxicated with a child passenger; any offense against the person; failure to comply with sex offender registration requirements; or an offense involving family violence.

C.S.H.B. 2736 requires a judge, if a defendant violates a condition of community supervision following placement on community supervision under the bill's provisions, to order that all time credits previously earned by the defendant for diligent participation in an applicable program be forfeited and to require the defendant to serve the remainder of the original sentence imposed.

C.S.H.B. 2736 amends the Government Code to require TDCJ to adopt policies and procedures to determine the cost savings to TDCJ realized through the release of defendants on community supervision under the bill's provisions and to provide 10 percent of that cost savings to the community justice assistance division to be allocated to individual community supervision and corrections departments and used for the same purposes that state aid is used under statutory provisions regarding the payment of state aid to departments for various services.

### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 2736 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

#### INTRODUCED

SECTION 1. Section 15(f), Article 42.12, Code of Criminal Procedure, is amended by amending Subdivision (1) and adding Subdivision (2-a) to read as follows:

(1) If a defendant violates a condition of community supervision imposed on the defendant under this article and after a hearing under Section 21 ~~[of this article]~~ the judge revokes the defendant's community supervision, the judge shall dispose of the case in the manner provided by Section 23 ~~[of this article]~~. If the defendant violates a condition of community supervision following placement on community supervision under Subdivision (2-a), the judge shall order that all time credits previously earned by the defendant under Subsection (h)(6) be forfeited and shall require the defendant to serve the remainder of the original sentence imposed.

(2-a) A judge who orders a sentence to be executed under Subsection (a)(2) shall on the defendant's completion of one-half of the sentence imposed, including time credits earned under Subsection (h)(6), suspend the further execution of the sentence and place the defendant on community supervision, unless the execution of the sentence resulted from an adjudication of the guilt of a defendant previously placed on deferred

#### HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 15(f), Article 42.12, Code of Criminal Procedure, is amended by amending Subdivision (1) and adding Subdivision (2-a) to read as follows:

(1) If a defendant violates a condition of community supervision imposed on the defendant under this article and after a hearing under Section 21 ~~[of this article]~~ the judge revokes the defendant's community supervision, the judge shall dispose of the case in the manner provided by Section 23 ~~[of this article]~~. If the defendant violates a condition of community supervision following placement on community supervision under Subdivision (2-a), the judge shall order that all time credits previously earned by the defendant under Subsection (h)(6) be forfeited and shall require the defendant to serve the remainder of the original sentence imposed.

(2-a) A judge who orders a sentence to be executed under Subsection (a)(2) shall on the defendant's completion of one-half of the sentence imposed, including time credits earned under Subsection (h)(6), suspend the further execution of the sentence and place the defendant on community supervision, unless the execution of the sentence resulted from an adjudication of the guilt of a defendant previously placed on deferred

adjudication community supervision for the offense. A term of community supervision under this subdivision may not exceed two years.

adjudication community supervision for the offense. A term of community supervision under this subdivision may not exceed two years, except that the judge may extend the term in accordance with Subsection (b) or Section 22(c). Not later than the 10th day before the date on which a defendant serving a term of confinement in a state jail felony facility completes one-half of the sentence imposed, the Texas Department of Criminal Justice shall notify the judge of the date on which one-half of the sentence is complete. On receipt of the notice, the judge shall promptly notify the attorney representing the state and the defendant or the defendant's counsel and shall hold a hearing for the limited purpose of establishing the conditions of community supervision appropriate for the defendant. This subdivision does not apply if the offense for which the defendant was originally sentenced was an offense:  
(A) under Section 39.04(a)(2), Section 49.045, or Title 5, Penal Code;  
(B) under Article 62.102; or  
(C) involving family violence, as defined by Section 71.004, Family Code.

No equivalent provision.

SECTION 2. Chapter 509, Government Code, is amended by adding Section 509.017 to read as follows:  
Sec. 509.017. SPECIAL ALLOCATION FOR CERTAIN DEFENDANTS PLACED ON STATE JAIL FELONY COMMUNITY SUPERVISION. Notwithstanding any other provision of this chapter, the Texas Department of Criminal Justice shall adopt policies and procedures to:  
(1) determine the cost savings to the Texas Department of Criminal Justice realized through the release of defendants on community supervision under Section 15(f)(2-a), Article 42.12, Code of Criminal Procedure; and  
(2) provide 10 percent of that cost savings to the division to be allocated to individual departments and used for the same purpose that state aid is used under Section 509.011.

SECTION 2. The change in law made by this Act applies only to a defendant who is convicted of an offense on or after the effective date of this Act. A defendant who is convicted of an offense before the

SECTION 3. The change in law made by this Act to Section 15(f), Article 42.12, Code of Criminal Procedure, applies only to a defendant who is convicted of an offense on or after the effective date of this Act. A

effective date of this Act is governed by the law in effect at the time of the conviction, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

defendant who is convicted of an offense before the effective date of this Act is governed by the law in effect at the time of the conviction, and the former law is continued in effect for that purpose.

SECTION 4. Same as introduced version.