

BILL ANALYSIS

C.S.H.B. 3336
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Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

While drug possession offenders continue to enter Texas prisons in high numbers, it was recently reported that the substance abuse felony punishment program operated by the Texas Department of Criminal Justice and designed to divert low-level drug offenders from prison has too many empty beds. Interested parties assert that alternatives to prison, such as a six-month state program like the substance abuse felony punishment program, drug court, or mandatory community supervision involving treatment are more suitable for a low-level drug possession offender than occupying space in prisons that could be used for more violent offenders. C.S.H.B. 3336 seeks to encourage judges to consider these available alternatives when sentencing low-level drug possession offenders.

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. 3336 amends the Code of Criminal Procedure to require a judge who sentences a defendant convicted of certain drug possession offenses to a term of confinement and orders the sentence to be immediately executed to state on the record and in writing the judge's reasons for requiring confinement instead of placing the defendant on community supervision or requiring the defendant to submit to a treatment program or other alternative to confinement and to place a copy of the written statement in the papers in the case. The bill's requirement does not apply to a defendant who has previously been convicted of a felony offense involving violence or an offense for which the defendant is required to register as a sex offender.

C.S.H.B. 3336 amends the Government Code to require the Office of Court Administration of the Texas Judicial System annually to collect data relating to sentencing of persons who are convicted of offenses involving the possession of a controlled substance or marijuana based on copies of written statements made by sentencing judges under the bill's provisions and placed in the papers in the case and to publish on its Internet website not later than December 1 of each year such data collected covering the previous state fiscal year. The bill establishes that the office is not required to publish such a report before December 1, 2014.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3336 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(a), Article 42.12, Code of Criminal Procedure, is amended by adding Subdivision (4) to read as follows:

(4) A judge who chooses not to suspend the imposition of a sentence requiring confinement must

state on the record and in writing the judge's reasons for requiring confinement instead of placing the defendant on community supervision or requiring the defendant to submit to a treatment program or other alternative to confinement and place a copy of the written statement in the papers in the case.

SECTION 2. Subchapter C, Chapter 72, Government Code, is amended.

SECTION 3. The Office of Court Administration of the Texas Judicial System is not required to publish a report under Section 72.031, Government Code, as added by this Act, before December 1, 2014.

SECTION 4. The change in law made by this Act applies to a person convicted of an offense involving the possession of a controlled substance or marihuana who is sentenced on or after the effective date of this Act, regardless of whether the offense is committed before, on, or after the effective date of this Act.

SECTION 5. This Act takes effect September 1, 2013.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Chapter 42, Code of Criminal Procedure, is amended by adding Article 42.024 to read as follows:

Art. 42.024. SENTENCING FOR DRUG POSSESSION OFFENSES. (a) A judge who sentences a defendant convicted of an offense under Section 481.115, 481.1151, 481.116, 481.1161, 481.117, 481.118, or 481.121, Health and Safety Code, to a term of confinement and orders the sentence to be immediately executed shall

state on the record and in writing the judge's reasons for requiring confinement instead of placing the defendant on community supervision or requiring the defendant to submit to a treatment program or other alternative to confinement and place a copy of the written statement in the papers in the case.

(b) This section does not apply to a defendant who has previously been convicted of a felony offense involving violence or an offense for which the defendant is required to register as a sex offender under Chapter 62.

SECTION 2. Substantially the same as introduced version.

SECTION 3. Same as introduced version.

SECTION 4. Same as introduced version.

SECTION 5. Same as introduced version.