

BILL ANALYSIS

Senate Research Center

S.B. 1173
By: West
Criminal Justice
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 1173 returns state jails to their original purpose as a diversion to more costly state prison incarceration. Under the state jail program, the courts were provided with judicial remedies for offenders convicted of state jail felony offenses that carried shorter sentences (maximum two years). Persons convicted of state jail felonies served part of their in confinement but could be, at the discretion of the court, released to complete their sentences under community supervision. That policy has changed. Presently, most defendants sentenced to state jail serve their full sentences in confinement.

Due to budget cuts in 2003, treatment at the state jail level is nearly non-existent. Now, less than 10 percent of those sentenced to state jail are enrolled in substance abuse or other treatment programs. Nearly all (99 percent) are released to the community without supervision or treatment.

The majority of those sentenced to state jail were convicted of non-violent, low-level drug offenses and property crimes. They serve sentences ranging from six months to two years with no ability to earn good time. Due to the lack of treatment, the three-year reincarceration rate for offenders sentenced to state jail is higher than for those sent to state prison. State jail offenders are also rearrested at rates that are twice that of those who are sentenced to community supervision.

Treatment and other services available to offenders under community supervision have proven effective in lowering revocation rates and reducing recidivism. In addition, those positive outcomes produced by persons sentenced to community supervision are obtained at significantly less cost to the state. The Texas Department of Criminal Justice estimates that releasing state jail offenders to community supervision could result in savings of up to \$37 million.

S.B. 1173 amends current law relating to procedures for the sentencing and placement on community supervision of defendants charged with the commission of a state jail felony.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 9(a), Article 42.12, Code of Criminal Procedure, as follows:

- (a) Requires the presentence investigation report, if the defendant is charged with a state jail felony, to contain recommendations for conditions of community supervision that the community supervision and corrections department considers advisable or appropriate based on the circumstances of the offense and other factors addressed in the report. Makes nonsubstantive changes.

SECTION 2. Amends Section 15(a), Article 42.12, Code of Criminal Procedure, by amending Subdivision (2) and adding Subdivisions (2-a) and (2-b), as follows:

(2) Authorizes the judge, on conviction of a state jail felony punished under Section 12.35(a) (relating to time for punishment by confinement for an individual), Penal Code, other than a state jail felony listed in Subdivision (1) (relating to a judge suspending the imposition of a sentence in favor of community supervision), subject to Subdivision (2-a), to:

(A) Makes a nonsubstantive change; or

(B) order the sentence to be executed in whole or in part, with a term of community supervision to commence immediately on release of the defendant from confinement.

Makes nonsubstantive changes.

(2-a) Requires the judge, in any case in which the jury assesses the punishment, to follow the recommendations of the jury in suspending the imposition of a sentence or ordering a sentence to be executed. Requires the judge, if a jury assessing punishment does not recommend community supervision, to order the sentence to be executed in whole.

(2-b) Provides that a defendant is considered to be finally convicted if the judge orders the sentence to be executed under Subdivision (2)(B), regardless of whether the judge orders the sentence to be executed in whole or only in part.

SECTION 3. Amends Section 15(c)(1), Article 42.12, Code of Criminal Procedure, as follows:

(1) Requires the judge, before imposing a sentence in a state jail felony case in which the judge assesses the punishment, to review the presentence investigation report prepared for the defendant under Section 9 (relating to a report issued to the judge about the circumstances of an offense) and to determine whether the best interests of justice require the judge to suspend the imposition of the sentence and place the defendant on community supervision or to order the sentence to be executed in whole or in part as provided by Subsection (a)(2) (relating to a judge suspending the imposition of a sentence in favor of community supervision). Authorizes a judge to impose any condition of community supervision on a defendant that the judge could impose on a defendant placed on supervision for an offense other than a state jail felony and requires the judge, if the judge suspends the execution of the sentence or orders the execution of the sentence only in part, to impose conditions of community supervision consistent with the recommendations contained in the presentence investigation report prepared for the defendant.

SECTION 4. Amends Chapter 509, Government Code, by adding Section 509.017, as follows:

Sec. 509.017. SPECIAL ALLOCATION FOR CERTAIN DEFENDANTS PLACED ON STATE JAIL FELONY COMMUNITY SUPERVISION. Requires the Texas Department of Criminal Justice (TDCJ), notwithstanding any other provision of this chapter, to adopt policies and procedures to:

(1) determine the cost savings to TDCJ realized through the release of defendants on community supervision under Section 15(a)(2)(B)(ii) (relating to authorizing the judge to order the sentence to be executed in part, with a term of community supervision to commence immediately on release of the defendant from confinement), Article 42.12, Code of Criminal Procedure; and

(2) provide 30 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 (Payment of State Aid).

SECTION 5. Provides that the changes in law made by this Act apply only to the sentencing and placement on community supervision of a defendant for an offense that is committed on or after the effective date of this Act. Provides that the sentencing and placement on community

supervision of a defendant for an offense that is committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and that law is continued in effect for that purpose. Provides that, for purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date..

SECTION 6. Effective date: September 1, 2013.