

BILL ANALYSIS

C.S.S.B. 1173
By: West
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note that state jails were originally intended as a diversion from more costly state prison incarceration under which persons convicted of state jail felonies could serve part of the imposed sentence in a state jail and, at the discretion of the court, be subsequently released to complete the sentence under community supervision. However, this policy, the parties contend, has changed as most defendants currently sentenced to state jail serve the full sentence in confinement. Meanwhile, budget cuts over the past decade have diminished available treatment for offenders at the state jail level and only a small percentage of those sentenced to state jail are enrolled in substance abuse or other treatment programs. Treatment and other services available to offenders under community supervision have proven effective in lowering revocation rates and reducing recidivism. In addition, the Texas Department of Criminal Justice estimates that releasing state jail offenders to community supervision could result in millions of dollars in savings to the state. C.S.S.B. 1173 seeks to address these issues by amending current law regarding procedures for the sentencing and placement on community supervision of 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.S.B. 1173 amends the Code of Criminal Procedure to require a presentence investigation report provided by a supervision officer to a judge regarding a defendant 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. The bill, for purposes of a judge's statutory authority to order the execution of a sentence for a state jail felony in a case in which the judge assesses the punishment and standard provisions relating to state jail felony punishments apply, other than a specified controlled substances-related state jail felony, authorizes the judge to 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. The bill 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 such a sentence or ordering such a sentence to be executed and requires the judge to order the sentence to be executed in whole if a jury assessing punishment does not recommend community supervision.

C.S.S.B. 1173 requires a judge, before imposing a sentence in such a state jail felony case in which the judge assesses the punishment, to review the presentence investigation report prepared for the defendant by the supervision officer and 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 prescribed by the bill's provisions. The bill requires a judge who 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.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.S.B. 1173 may differ from the engrossed version in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

SENATE ENGROSSED

SECTION 1. Subsection (a), Section 9, Article 42.12, Code of Criminal Procedure, is amended.

SECTION 2. Subdivision (2), Subsection (a), Section 15, Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(2) On conviction of a state jail felony punished under Section 12.35(a), Penal Code, other than a state jail felony listed in Subdivision (1), the judge may:

(A) suspend the imposition of the sentence and place the defendant on community supervision; or

(B) ~~[may]~~ order the sentence to be executed;

(i) in whole; or

(ii) in part, with a term of community supervision to commence immediately on release of the defendant from confinement.

SECTION 3. Subdivision (1), Subsection (c), Section 15, Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(1) Before imposing a sentence in a state jail felony case, the judge shall review the presentence investigation report prepared

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as engrossed version except for recitation.

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

(2) On conviction of a state jail felony punished under Section 12.35(a), Penal Code, other than a state jail felony listed in Subdivision (1), subject to Subdivision (2-a), the judge may:

(A) suspend the imposition of the sentence and place the defendant on community supervision; or

(B) ~~[may]~~ order the sentence to be executed;

(i) in whole; or

(ii) in part, with a term of community supervision to commence immediately on release of the defendant from confinement.

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

SECTION 3. Section 15(c)(1), Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(1) Before imposing a sentence in a state jail felony case in which the judge assesses the punishment, the judge shall review the presentence investigation report prepared

for the defendant under Section 9 and shall 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). A judge may 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, if the judge suspends the execution of the sentence or orders the execution of the sentence only in part, shall impose conditions of community supervision consistent with the recommendations contained in the presentence investigation report prepared for the defendant.

SECTION 4. 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. 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. 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 5. This Act takes effect September 1, 2013.

for the defendant under Section 9 and shall 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). A judge may 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, if the judge suspends the execution of the sentence or orders the execution of the sentence only in part, shall impose conditions of community supervision consistent with the recommendations contained in the presentence investigation report prepared for the defendant.

SECTION 4. Same as engrossed version.

SECTION 5. Same as engrossed version.