

AN ACT

relating to certain procedures for defendants who successfully complete a period of state jail felony community supervision.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 15, Article 42.12, Code of Criminal Procedure, is amended by adding Subsections (l), (m), and (n) to read as follows:

(l) On written motion of the defendant after completion of two-thirds of the original community supervision period for a state jail felony with respect to which written consent was obtained under Section 12.44(c), Penal Code, the judge may review the defendant's record and consider whether to amend the record of conviction to reflect a conviction for a Class A misdemeanor in lieu of a state jail felony. On disposition of the community supervision in a manner provided by Section 20, the judge, on discharge of the defendant, may amend the record of conviction to reflect a conviction for a Class A misdemeanor in lieu of a state jail felony, subject to Subsection (m), if:

(1) the offense for which the defendant was placed on community supervision was not an offense:

(A) under Section 30.02, Section 30.04, 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

1 Section 71.004, Family Code;

2 (2) the defendant has fulfilled to the judge's  
3 satisfaction all the conditions of community supervision,  
4 including the payment of all required restitution, and is not  
5 delinquent on the payment of any fines, costs, and fees that the  
6 defendant has the ability to pay;

7 (3) the defendant files with the written motion for  
8 the hearing a statement that:

9 (A) contains a summary of the defendant's  
10 performance during community supervision, including compliance  
11 with the conditions of community supervision; and

12 (B) asserts that the defendant meets the  
13 conditions for an amendment of the record of conviction under this  
14 subsection;

15 (4) the defendant at the time of filing the statement  
16 with the court also provides a copy of the motion and statement to  
17 the attorney representing the state; and

18 (5) at the hearing held on the motion, the judge finds  
19 that an amendment of the record of conviction is in the best  
20 interest of justice.

21 (m) A judge who amends a record of conviction under  
22 Subsection (1) may not modify the name of the state jail felony  
23 offense for which the judge placed the defendant on community  
24 supervision. A defendant whose record of conviction is amended  
25 under Subsection (1) is not considered to have been convicted of a  
26 felony with respect to the modified offense.

27 (n) A record of conviction that is amended under Subsection

1 (1) supersedes and takes the place of the record of conviction as it  
2 existed on the original date of conviction. A judge retains  
3 jurisdiction for the purposes of Subsection (1) only until the  
4 expiration of the term of community supervision.

5 SECTION 2. Section 12.44, Penal Code, is amended by adding  
6 Subsection (c) to read as follows:

7 (c) With the written consent of the prosecuting attorney  
8 prior to sentencing, the court may amend the record of conviction to  
9 reflect a conviction for a Class A misdemeanor in lieu of a state  
10 jail felony as provided by Section 15(1), Article 42.12, Code of  
11 Criminal Procedure.

12 SECTION 3. The change in law made by this Act applies only  
13 to a defendant who is placed on community supervision for an offense  
14 committed on or after the effective date of this Act. A defendant  
15 who is placed on community supervision for an offense committed  
16 before the effective date of this Act is governed by the law in  
17 effect on the date the offense was committed, and the former law is  
18 continued in effect for that purpose. For purposes of this section,  
19 an offense was committed before the effective date of this Act if  
20 any element of the offense occurred before that date.

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

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President of the Senate

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Speaker of the House

I certify that H.B. No. 1790 was passed by the House on May 9, 2013, by the following vote: Yeas 88, Nays 45, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1790 on May 24, 2013, by the following vote: Yeas 94, Nays 44, 3 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 1790 was passed by the Senate, with amendments, on May 22, 2013, by the following vote: Yeas 21, Nays 10.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor