

By: Longoria

H.B. No. 1790

A BILL TO BE ENTITLED

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) and (m) to read as follows:

(1) A judge who places a defendant on community supervision following conviction of a state jail felony shall inform the defendant of the procedure provided for a modification of the order of conviction under this subsection. Not later than the 70th day before the date on which the defendant will complete the term of community supervision imposed by the judge, the defendant may request the judge to modify the record of conviction to reflect a conviction for a Class A misdemeanor in lieu of a state jail felony. The judge shall dispose of the case in the manner provided by Section 20, except that the judge, on discharge of the defendant, shall grant the defendant's request to modify the record of conviction, subject to Subsection (m), if:

(1) the offense for which the defendant was placed on community supervision was not an offense under Title 5, Penal Code;

(2) the defendant has satisfactorily fulfilled all the conditions of community supervision, including the payment of all required restitution, and is not delinquent on the payment of any

1 finest, costs, and fees that the defendant has the ability to pay;

2 (3) on receipt of a request under this subsection, the
3 judge provides written notice of the right to request a hearing to
4 the attorney representing the state and the defendant or, if the
5 defendant has an attorney, the defendant's attorney; and

6 (4) before the expiration of the term of community
7 supervision:

8 (A) a hearing is not requested by either party;

9 or

10 (B) a hearing is held at which the judge finds
11 that a modification of the record of conviction is in the best
12 interest of justice.

13 (m) A judge who modifies a record of conviction under
14 Subsection (l) may not modify the name of the state jail felony
15 offense for which the judge placed the defendant on community
16 supervision. A defendant whose record of conviction is modified
17 under Subsection (l) is not considered to have been convicted of a
18 felony with respect to the modified offense for any purpose other
19 than the purpose described by Section 20(a)(1).

20 SECTION 2. The change in law made by this Act applies only
21 to a defendant who is placed on community supervision on or after
22 the effective date of this Act, regardless of whether the offense
23 for which the defendant is placed on community supervision is
24 committed before, on, or after that date.

25 SECTION 3. This Act takes effect September 1, 2013.