

By: West
(White)

S.B. No. 1173

Substitute the following for S.B. No. 1173:

By: Herrero

C.S.S.B. No. 1173

A BILL TO BE ENTITLED

AN ACT

relating to procedures for the sentencing and placement on
community supervision of defendants charged with the commission of
a state jail felony.

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

SECTION 1. Section 9(a), Article 42.12, Code of Criminal
Procedure, is amended to read as follows:

(a) Except as provided by Subsection (g) ~~[of this section]~~,
before the imposition of sentence by a judge in a felony case, and
except as provided by Subsection (b) ~~[of this section]~~, before the
imposition of sentence by a judge in a misdemeanor case the judge
shall direct a supervision officer to report to the judge in writing
on the circumstances of the offense with which the defendant is
charged, the amount of restitution necessary to adequately
compensate a victim of the offense, the criminal and social history
of the defendant, and any other information relating to the
defendant or the offense requested by the judge. It is not
necessary that the report contain a sentencing recommendation, but
the report must contain a proposed client supervision plan
describing programs and sanctions that the community supervision
and corrections department would provide the defendant if the judge
suspended the imposition of the sentence or granted deferred
adjudication. If the defendant is charged with a state jail felony,
the report must contain recommendations for conditions of community

1 supervision that the community supervision and corrections
2 department considers advisable or appropriate based on the
3 circumstances of the offense and other factors addressed in the
4 report.

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

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

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

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

15 (i) in whole; or

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

19 (2-a) In any case in which the jury assesses the
20 punishment, the judge must follow the recommendations of the jury
21 in suspending the imposition of a sentence or ordering a sentence to
22 be executed. If a jury assessing punishment does not recommend
23 community supervision, the judge must order the sentence to be
24 executed in whole.

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

27 (1) Before imposing a sentence in a state jail felony

1 case in which the judge assesses the punishment, the judge shall
2 review the presentence investigation report prepared for the
3 defendant under Section 9 and shall determine whether the best
4 interests of justice require the judge to suspend the imposition of
5 the sentence and place the defendant on community supervision or to
6 order the sentence to be executed in whole or in part as provided by
7 Subsection (a)(2). A judge may impose any condition of community
8 supervision on a defendant that the judge could impose on a
9 defendant placed on supervision for an offense other than a state
10 jail felony and, if the judge suspends the execution of the sentence
11 or orders the execution of the sentence only in part, shall impose
12 conditions of community supervision consistent with the
13 recommendations contained in the presentence investigation report
14 prepared for the defendant.

15 SECTION 4. The changes in law made by this Act apply only to
16 the sentencing and placement on community supervision of a
17 defendant for an offense that is committed on or after the effective
18 date of this Act. The sentencing and placement on community
19 supervision of a defendant for an offense that is committed before
20 the effective date of this Act is governed by the law in effect on
21 the date the offense was committed, and that law is continued in
22 effect for that purpose. For purposes of this section, an offense
23 was committed before the effective date of this Act if any element
24 of the offense occurred before that date.

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