

# SENATE AMENDMENTS

## 2<sup>nd</sup> Printing

By: Longoria, Thompson of Harris, Burnam,  
Hughes, Rose

H.B. No. 1790

A BILL TO BE ENTITLED

1 AN ACT

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

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

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

8 (1) A judge who places a defendant on community supervision  
9 following conviction of a state jail felony, on agreement of the  
10 attorney representing the state and the defendant, shall inform the  
11 defendant of the procedure provided for an amendment of the order of  
12 conviction under this subsection. In any case in which the  
13 defendant is informed under this subsection, on written motion of  
14 the defendant after completion of two-thirds of the original  
15 community supervision period, the judge shall review the  
16 defendant's record and consider whether to amend the record of  
17 conviction to reflect a conviction for a Class A misdemeanor in lieu  
18 of a state jail felony. On disposition of the case in a manner  
19 provided by Section 20, the judge, on discharge of the defendant,  
20 may amend the record of conviction to reflect a conviction for a  
21 Class A misdemeanor in lieu of a state jail felony, subject to  
22 Subsection (m), if:

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

1           (A) under Section 30.04, Section 39.04(a)(2),  
2 Section 49.045, or Title 5, Penal Code;

3           (B) under Article 62.102 of this code; or

4           (C) involving family violence, as defined by  
5 Section 71.004, Family Code;

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

11           (3) the defendant files with the written motion for  
12 the hearing a statement that:

13           (A) contains a summary of the defendant's  
14 performance during community supervision, including compliance  
15 with the conditions of community supervision; and

16           (B) asserts that the defendant meets the  
17 conditions for an amendment of the record of conviction under this  
18 subsection;

19           (4) the defendant at the time of filing the statement  
20 with the court also provides a copy of the motion and statement to  
21 the attorney representing the state; and

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

25           (m) A judge who amends a record of conviction under  
26 Subsection (1) may not modify the name of the state jail felony  
27 offense for which the judge placed the defendant on community

1 supervision. A defendant whose record of conviction is amended  
2 under Subsection (1) is not considered to have been convicted of a  
3 felony with respect to the modified offense for any purpose other  
4 than the purpose described by Section 20(a)(1).

5 (n) A record of conviction that is amended under Subsection  
6 (1) supersedes and takes the place of the record of conviction as it  
7 existed on the original date of conviction. A judge retains  
8 jurisdiction for the purposes of Subsection (1) only until the  
9 expiration of the term of community supervision.

10 SECTION 2. The change in law made by this Act applies only  
11 to a defendant who is placed on community supervision on or after  
12 the effective date of this Act, regardless of whether the offense  
13 for which the defendant is placed on community supervision is  
14 committed before, on, or after that date.

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

# ADOPTED

MAY 22 2013

*Atalay Spaw*  
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY: *J. J. Acirg*

- 1 Amend H.B. No. 1790 (senate committee printing) as follows:
- 2 (1) In SECTION 1 of the bill, in added Section 15(1),  
3 Article 42.12, Code of Criminal Procedure, strike all of the  
4 language from "A judge who" (page 1, line 23) through "the judge  
5 shall" (page 1, line 30), and substitute the following:  
6 On written motion of the defendant after completion of two-thirds  
7 of the original community supervision period for a state jail  
8 felony with respect to which written consent was obtained under  
9 Section 12.44(c), Penal Code, the judge may
- 10 (2) In SECTION 1 of the bill, in added Section 15(1),  
11 Article 42.12, Code of Criminal Procedure (page 1, line 33), strike  
12 "disposition of the case" and substitute "disposition of the  
13 community supervision".
- 14 (3) In SECTION 1 of the bill, in added Section 15(1)(1)(A),  
15 Article 42.12, Code of Criminal Procedure (page 1, line 40),  
16 between "under" and "Section 30.04", insert "Section 30.02".
- 17 (4) In SECTION 1 of the bill, in added Section 15(1)(1)(B),  
18 Article 42.12, Code of Criminal Procedure (page 1, line 42), strike  
19 "of this code".
- 20 (5) In SECTION 1 of the bill, at the end of added Section  
21 15(m), Article 42.12, Code of Criminal Procedure (page 2, lines  
22 8-9), strike "for any purpose other than the purpose described by  
23 Section 20(a)(1)".
- 24 (6) Strike SECTION 2 of the bill (page 2, lines 15-19) and  
25 substitute the following:  
26 SECTION 2. Section 12.44, Penal Code, is amended by adding  
27 Subsection (c) to read as follows:  
28 (c) With the written consent of the prosecuting attorney  
29 prior to sentencing, the court may amend the record of conviction to

1 reflect a conviction for a Class A misdemeanor in lieu of a state  
2 jail felony as provided by Section 15(1), Article 42.12, Code of  
3 Criminal Procedure.

4         SECTION 3. The change in law made by this Act applies only  
5 to a defendant who is placed on community supervision for an offense  
6 committed on or after the effective date of this Act. A defendant  
7 who is placed on community supervision for an offense committed  
8 before the effective date of this Act is governed by the law in  
9 effect on the date the offense was committed, and the former law is  
10 continued in effect for that purpose. For purposes of this section,  
11 an offense was committed before the effective date of this Act if  
12 any element of the offense occurred before that date.

13         (7) Renumber "SECTION 3" of the bill (page 2, line 20) as  
14 "SECTION 4".

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION**

**May 23, 2013**

**TO:** Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB1790** by Longoria (Relating to certain procedures for defendants who successfully complete a period of state jail felony community supervision.), **As Passed 2nd House**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Code of Criminal Procedure as it relates to certain procedures for defendants who successfully complete a period of state jail felony community supervision. The bill specifies procedures for judicial modification of conviction records to reflect a Class A misdemeanor conviction rather than a state jail felony conviction in certain instances.

It is assumed that implementing the bill's provisions would not significantly impact state correctional agency resources. This analysis assumes district courts should be able to absorb any additional workload with existing resources and does not anticipate any significant fiscal impact on the court system resulting from the bill. The bill would take effect on September 1, 2013, and only applies to offenses committed on or after that date.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 405  
Department of Public Safety

**LBB Staff:** UP, ESi, AM, TB, GG, JGA

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION**

**May 15, 2013**

**TO:** Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HBI 790** by Longoria (Relating to certain procedures for defendants who successfully complete a period of state jail felony community supervision.), **As Engrossed**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Code of Criminal Procedure as it relates to certain procedures for defendants who successfully complete a period of state jail felony community supervision. The bill specifies procedures for judicial modification of conviction records to reflect a Class A misdemeanor conviction rather than a state jail felony conviction in certain instances.

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**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 405  
Department of Public Safety

**LBB Staff:** UP, ESi, AM, TB, GG, JGA

**LEGISLATIVE BUDGET BOARD  
Austin, Texas**

**FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION  
Revision 1**

**April 30, 2013**

**TO:** Honorable Abel Herrero, Chair, House Committee on Criminal Jurisprudence

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB1790** by Longoria (Relating to certain procedures for defendants who successfully complete a period of state jail felony community supervision.), **Committee Report 1st House, Substituted**

<b>No significant fiscal implication to the State is anticipated.</b>
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It is assumed that implementing the bill's provisions would not significantly impact state correctional agency resources. The Office of Court Administration reports that district courts should be able to absorb any additional workload with existing resources and does not anticipate any significant fiscal impact on the court system resulting from the bill. The bill would take effect on September 1, 2013, and only applies to offenses committed on or after that date.

**Local Government Impact**

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**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 405  
Department of Public Safety

**LBB Staff:** UP, ESi, AM, TB, GG, JGA

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION**

**April 6, 2013**

**TO:** Honorable Abel Herrero, Chair, House Committee on Criminal Jurisprudence

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB1790** by Longoria ( Relating to certain procedures for defendants who successfully complete a period of state jail felony community supervision.), **Committee Report 1st House, Substituted**

<p><b>No significant fiscal implication to the State is anticipated.</b></p>
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The bill would amend the Code of Criminal Procedure as it relates to certain procedures for defendants who successfully complete a period of state jail felony community supervision. The bill specifies procedures for judicial modification of conviction records to reflect a Class A misdemeanor conviction rather than a state jail felony conviction in certain instances.

It is assumed that implementing the bill's provisions would not significantly impact state correctional agency resources. The Office of Court Administration reports that district courts should be able to absorb any additional workload with existing resources and does not anticipate any significant fiscal impact on the court system resulting from the bill. The bill would take effect on September 1, 2013, and only applies to offenses committed on or after that date.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 405  
Department of Public Safety

**LBB Staff:** UP, ESi, AM, TB, GG, JGA

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION**  
**Revision 1**

**April 29, 2013**

**TO:** Honorable Abel Herrero, Chair, House Committee on Criminal Jurisprudence

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB1790** by Longoria (Relating to certain procedures for defendants who successfully complete a period of state jail felony community supervision.), **As Introduced**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Code of Criminal Procedure as it relates to certain procedures for defendants who successfully complete a period of state jail felony community supervision. Under the provisions of the bill, the presiding judge shall inform the defendant of the right to modify the conviction record to reflect a Class A misdemeanor conviction rather than a state jail felony conviction. It is assumed that the implementing the bill's provisions would not significantly impact state correctional agency resources.

The bill would take effect on September 1, 2013, and only applies to offenses committed on or after that date.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 405 Department of Public Safety

**LBB Staff:** UP, ESi, GG, JGA

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION**

**March 18, 2013**

**TO:** Honorable Abel Herrero, Chair, House Committee On Criminal Jurisprudence

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB1790** by Longoria (Relating to certain procedures for defendants who successfully complete a period of state jail felony community supervision.), **As Introduced**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Code of Criminal Procedure as it relates to certain procedures for defendants who successfully complete a period of state jail felony community supervision. Under the provisions of the bill, the presiding judge shall inform the defendant of the right to modify the conviction record to reflect a Class A misdemeanor conviction rather than a state jail felony conviction. It is assumed that the implementing the bill's provisions would not significantly impact state correctional agency resources.

The bill would take effect on September 1, 2013, and only applies to offenses committed on or after that date.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 405 Department of Public Safety

**LBB Staff:** UP, ESi, GG, JGA

**LEGISLATIVE BUDGET BOARD**  
Austin, Texas

**CRIMINAL JUSTICE IMPACT STATEMENT**

**83RD LEGISLATIVE REGULAR SESSION**

**May 15, 2013**

**TO:** Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB1790** by Longoria (Relating to certain procedures for defendants who successfully complete a period of state jail felony community supervision.), **As Engrossed**

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

**Source Agencies:**

**LBB Staff:** UP, GG, JGA

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**CRIMINAL JUSTICE IMPACT STATEMENT**

**83RD LEGISLATIVE REGULAR SESSION**  
**Revision 1**

**April 30, 2013**

**TO:** Honorable Abel Herrero, Chair, House Committee on Criminal Jurisprudence

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB1790** by Longoria (Relating to certain procedures for defendants who successfully complete a period of state jail felony community supervision.), **Committee Report 1st House, Substituted**

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**Source Agencies:**

**LBB Staff:** UP, GG, JGA

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**CRIMINAL JUSTICE IMPACT STATEMENT**

**83RD LEGISLATIVE REGULAR SESSION**

**April 3, 2013**

**TO:** Honorable Abel Herrero, Chair, House Committee on Criminal Jurisprudence

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB1790** by Longoria ( Relating to certain procedures for defendants who successfully complete a period of state jail felony community supervision.), **Committee Report 1st House, Substituted**

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

**Source Agencies:**

**LBB Staff:** UP, GG, JGA

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**CRIMINAL JUSTICE IMPACT STATEMENT**

**83RD LEGISLATIVE REGULAR SESSION**  
**Revision 1**

**April 29, 2013**

**TO:** Honorable Abel Herrero, Chair, House Committee on Criminal Jurisprudence

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB1790** by Longoria (Relating to certain procedures for defendants who successfully complete a period of state jail felony community supervision.), **As Introduced**

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

**Source Agencies:**

**LBB Staff:** UP, GG, JGA

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**CRIMINAL JUSTICE IMPACT STATEMENT**

**83RD LEGISLATIVE REGULAR SESSION**

**March 18, 2013**

**TO:** Honorable Abel Herrero, Chair, House Committee On Criminal Jurisprudence

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB1790** by Longoria (Relating to certain procedures for defendants who successfully complete a period of state jail felony community supervision.), **As Introduced**

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

**Source Agencies:**

**LBB Staff:** UP, GG, JGA