

By: Collier

H.B. No. 2026

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. Subchapter L, Chapter 42A, Code of Criminal Procedure, is amended by adding Article 42A.563 to read as follows:

Art. 42A.563. AMENDMENT OF RECORD OF CONVICTION. (a) On written motion of a 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.

(b) On disposition of the community supervision in a manner provided by Article 42A.701, 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 (c), 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 a
8 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 article;

15 (4) the defendant provides a copy of the motion and
16 statement to the attorney representing the state; and

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

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

26 (d) A record of conviction that is amended under Subsection
27 (b) supersedes and takes the place of the record of conviction as it

1 existed on the original date of conviction.

2 (e) A judge retains jurisdiction for the purposes of this
3 article only until the expiration of the term of community
4 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 Article 42A.563, Code of Criminal
11 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, 2019.