

BILL ANALYSIS

C.S.H.B. 99
By: Toth
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

There have been calls to reform the criminal justice system through the decriminalization and decreasing of penalties for certain nonviolent, low-level offenses. Specifically, it has been suggested that the penalties for possession of small amounts of marihuana should be decreased. C.S.H.B. 99 seeks to decrease the penalty for the possession of two ounces or less of marihuana, prohibit arrests for such possession without a warrant, and require probation and deferred disposition for such possession and certain drug paraphernalia offenses.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 99 amends the Health and Safety Code to decrease the penalty for the possession of two ounces or less of marihuana from a Class B misdemeanor to a Class C misdemeanor and to remove the penalty enhancement for such conduct committed in certain drug-free zones. These provisions apply to an offense committed before, on, or after September 1, 2021, except that a final conviction for an offense that exists on that date is unaffected by the bill.

C.S.H.B. 99 amends the Code of Criminal Procedure to prohibit a peace officer or any other person from arresting a person without a warrant for an applicable marihuana possession offense, including an offense committed within view or in the presence of certain peace officers.

C.S.H.B. 99 requires a justice or municipal court judge, on a defendant's plea of guilty or nolo contendere for an applicable marihuana possession offense or for a Class C misdemeanor offense of possession or delivery of drug paraphernalia, to defer further proceedings without entering an adjudication of guilt and place the defendant on probation unless the defendant has previously received a deferral of disposition for either offense committed within the 12-month period preceding the date of the commission of the instant offense.

C.S.H.B. 99 amends the Government Code to remove the eligibility of certain persons convicted of or placed on deferred adjudication community supervision for an applicable marihuana possession offense to petition for an order of nondisclosure of criminal history record information on grounds of having committed the offense solely as a victim of trafficking of persons or compelling prostitution.

C.S.H.B. 99 amends the Transportation Code as follows:

- to clarify that a person's driver's license is not automatically suspended on final conviction of an applicable marihuana possession offense;
- to require a person convicted of such an offense to pay a fee equivalent to the sum of all fees applicable to a suspension and reinstatement of a driver's license; and
- to establish that the Department of Public Safety is not prohibited from issuing a driver's license to a person convicted of such an offense who did not hold a driver's license on the date of the conviction.

These provisions take effect on the 91st day after the date the office of the attorney general publishes in the Texas Register the following findings:

- that the legislature has adopted a certain resolution concerning a state law that meets the requirements of certain federal law;
- that the governor has submitted related certifications to the U.S. secretary of transportation; and
- that the secretary has responded to the governor's submission and certified that highway funds will not be withheld from the state in response to any modification to or repeal of the state law required under that federal law.

EFFECTIVE DATE

Except as otherwise provided, September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 99 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes a requirement not in the original relating to probation and deferral of final disposition on a defendant's plea of guilty or nolo contendere for certain Class C misdemeanor offenses.