

## **BILL ANALYSIS**

C.S.H.B. 939  
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Criminal Jurisprudence  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Under state law, possession of less than one gram of certain controlled substances is punishable as a state jail felony, which can result in confinement in a state jail facility for up to two years. The drastic penalization and conviction of individuals for such possession substantially contributes to the vast prison population in Texas, despite the fact that some of these individuals are first-time offenders. C.S.H.B. 939 seeks to reduce the penalty for possession of less than one gram of certain controlled substances, excluding fentanyl, for first time offenders.

### **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. 939 amends the Health and Safety Code to decrease the penalty for the following conduct from a state jail felony to a Class A misdemeanor with a minimum term of confinement of 180 days, provided the actor has not been previously convicted of possession of marihuana or a controlled substance in any penalty group:

- possession of a controlled substance in Penalty Group 1 or 2 that is, by aggregate weight, including adulterants or dilutants, less than one gram; and
- possession of a controlled substance in Penalty Group 1-A with fewer than 20 abuse units.

The bill changes the penalty enhancement for such conduct committed in a drug-free zone from a third degree felony to a state jail felony. The bill retains the state jail felony penalty for such conduct, and the third degree felony penalty enhancement for such conduct committed in a drug-free zone, if the actor has a prior possession conviction.

C.S.H.B. 939 amends the Code of Criminal Procedure to authorize a judge who grants community supervision to a person convicted of a Class A misdemeanor offense of possession of a controlled substance in Penalty Group 1, 1-A, 2, or 2-A to require that the person successfully complete an educational program on substance abuse awareness approved by the Texas Department of Licensing and Regulation as a condition of community supervision.

C.S.H.B. 939 applies only to an offense committed on or after the bill's effective date. The bill provides for the continuation of the law in effect before the bill's effective date for purposes of an offense, or any element thereof, that occurred before that date.

**EFFECTIVE DATE**

September 1, 2023.

**COMPARISON OF INTRODUCED AND SUBSTITUTE**

While C.S.H.B. 939 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The introduced decreased the penalty for possession of a controlled substance in Penalty Group 1-B that is, by aggregate weight, including adulterants or dilutants, less than one gram from a state jail felony to a Class A misdemeanor with a minimum term of confinement of 180 days. The substitute omits this penalty decrease.