

BILL ANALYSIS

C.S.H.B. 4518
By: Cook
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Observers note that many states provide the ability to adjust the sentence of an individual to remedy circumstances in which information is revealed to indicate a sentence is not serving the interest of justice, appeal is not procedurally possible, and parole eligibility is years away. C.S.H.B. 4518 seeks to create a framework for judicial commutations by allowing an attorney representing the state for the jurisdiction in which an inmate was convicted to file a motion to grant commutation, notifying victims of such motions, and allowing victims to provide input.

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. 4518 amends the Code of Criminal Procedure to authorize a court, on motion of the state's attorney, to grant a commutation of punishment in accordance with the bill's provisions for an inmate serving a term of imprisonment. The motion must be filed by the state's attorney for the jurisdiction in which the inmate was convicted and may be filed in any district court in the county in which the inmate was convicted. The bill authorizes the state's attorney, until the court has granted the motion, to withdraw the motion. If the motion is withdrawn, the court is prohibited from granting a commutation in the case based on that motion.

C.S.H.B. 4518 authorizes the court, in determining whether to grant the motion, to consider the following information:

- the inmate's disciplinary record and record of rehabilitation while imprisoned;
- evidence that reflects whether the inmate's age, time served, or diminished physical condition has reduced the inmate's risk for committing an offense in the future; and
- evidence that reflects any change in the inmate's circumstances since the original sentencing such that the inmate's continued imprisonment is no longer in the interest of justice.

The bill authorizes the court, in granting relief with respect to judicial commutation, to reduce an inmate's sentence to a term that is less than the statutory minimum for the offense that existed at the time of the offense, including by reducing the sentence to time served and ordering the inmate's immediate release. The bill prohibits the court from increasing a sentence under the bill's provisions. Except as provided by the bill, the Texas Rules of Appellate Procedure apply to all hearings and orders with respect to resentencing. The bill establishes that neither the state's

attorney nor the inmate is entitled to appeal the court's decision to deny a motion for judicial commutation.

C.S.H.B. 4518 entitles a victim, guardian of a victim, or close relative of a deceased victim to the right to be informed of any motion to grant such a judicial commutation and of any hearings or orders with respect to the commutation. If a victim notifies the state's attorney that the victim opposes a motion to grant the commutation, the state's attorney must inform the court of the victim's objections.

EFFECTIVE DATE

January 1, 2024, if the constitutional amendment authorizing the legislature to enact laws providing for a court to grant a commutation of punishment to certain individuals serving a term of imprisonment is approved by the voters.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 4518 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.

While the introduced provided for an inmate to file a motion including certain agreed statement of facts for resentencing with consent of the state's attorney, the substitute provides instead for the state's attorney to file a motion for commutation of punishment on behalf of the inmate and sets out certain requirements for the filing of the motion. Instead of authorizing the court to grant the motion for resentencing, as the introduced did, the substitute authorizes the court to grant the commutation of punishment on motion of the state's attorney.

The substitute includes provisions that were not in the introduced entitling a victim, guardian of a victim, or close relative of a deceased victim to the right to be informed of any motion to grant a judicial commutation and of any hearings or orders with respect to the commutation and, if a victim notifies the state's attorney that the victim opposes a motion to grant the commutation, requiring that state's attorney to inform the court of the victim's objections.

The substitute omits provisions in the introduced that did the following:

- defined "attorney representing the state";
- authorized the state's attorney to condition the attorney's consent to a motion for commutation on any appropriate reason; and
- authorized the inmate to withdraw the motion.

The substitute revises provisions in the introduced by doing the following:

- replacing the authorization in the introduced for the state's attorney to withdraw consent of the motion with the authorization for the state's attorney to withdraw the motion itself;
- clarifying that the provision in the introduced authorizing the court, in granting relief, to reduce an inmate's sentence to a term that is less than the statutory minimum for the offense that existed at the time of the offense includes by means of reducing the sentence to time served and ordering the inmate's immediate release; and
- changing the provision in the introduced that made the Texas Rules of Appellate Procedure applicable to all hearings and orders under the bill to make those rules applicable to all such hearings and orders except as provided by the bill.