

BILL ANALYSIS

H.B. 333
By: Longoria
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties contend that the state jail system was originally designed to restructure and improve the state criminal justice and corrections systems by redirecting individuals with lower-level offenses out of overcrowded prisons and back into communities through community supervision, thus reserving space in prisons for those who pose a greater risk to public safety. However, interested parties report that, as a result of various statutory changes over the years, tens of thousands of Texans, primarily those convicted of minor drug or property offenses, have been sentenced directly to confinement in a state jail with little or no access to treatment or support typically provided in community supervision. In addition, reports indicate that incarceration in a state jail usually results in higher recidivism rates and higher costs than incarceration alternatives such as community supervision.

The parties contend that offering offenders charged with a state jail felony the opportunity to receive a conviction for a lower-grade offense will encourage more offenders to opt for community supervision, providing more rehabilitative and treatment opportunities and a better chance for reintegration into society. The goal of H.B. 333 is to save taxpayer dollars, enhance public safety through lower recidivism, increase self-responsibility, and strengthen communities by revising the law relating to community supervision.

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

H.B. 333 amends the Code of Criminal Procedure to authorize a judge, 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 from the prosecuting attorney prior to sentencing, to 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. The bill authorizes the judge, on reducing or terminating community supervision and discharging the defendant, to make that amendment on the following conditions:

- the offense for which the defendant was placed on community supervision was not an offense of burglary, burglary of a vehicle, improper sexual activity with a person in custody, driving while intoxicated with a child passenger, or an offense against the person; an offense of failure to comply with sex offender registration requirements; or an

offense involving family violence;

- the defendant has fulfilled to the judge's satisfaction all the conditions of community supervision, including the payment of all required restitution, and is not delinquent on the payment of any fines, costs, and fees that the defendant has the ability to pay;
- the defendant files with the written motion a statement that contains a summary of the defendant's performance during community supervision, including compliance with the conditions of community supervision, and that asserts that the defendant meets the conditions for an amendment of the record of conviction;
- the defendant provides a copy of the motion and statement to the attorney representing the state; and
- at the hearing held on the motion, the judge finds that an amendment of the record of conviction is in the best interest of justice.

H.B. 333 prohibits a judge who amends a record of conviction from modifying the name of the state jail felony offense for which the judge placed the defendant on community supervision and specifies that a defendant whose record of conviction is amended is not considered to have been convicted of a felony with respect to the modified offense. The bill establishes that an amended record of conviction supersedes and takes the place of the record of conviction as it existed on the original date of conviction and that a judge retains jurisdiction for the purposes of amending a conviction only until the expiration of the term of community supervision.

H.B. 333 amends the Penal Code to authorize a court, with the written consent of the prosecuting attorney prior to sentencing, to amend a defendant's record of conviction of a state jail felony to reflect a conviction for a Class A misdemeanor in lieu of a state jail felony as provided by the bill's provisions.

EFFECTIVE DATE

September 1, 2015.