

BILL ANALYSIS

H.B. 722
By: Longoria
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties contend that there are too many offenders, primarily low-level offenders, in Texas state jails, which prevents those offenders from participating in community services or accessing treatment and drives up costs. To save taxpayer dollars and strengthen communities, H.B. 722 authorizes a judge who places a defendant on community supervision for a state jail felony to amend the record of conviction to reflect a conviction for a Class A misdemeanor in lieu of a state jail felony under certain conditions.

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. 722 amends the Code of Criminal Procedure to authorize a judge on a defendant's written motion after completion of two-thirds of the original community supervision period for a state jail felony 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 disposition of community supervision and discharge of the defendant to amend the record of conviction to reflect a conviction for a Class A misdemeanor in lieu of a state jail felony if the following conditions are met:

- the offense for which the defendant was placed on community supervision was not burglary, burglary of a vehicle, improper sexual activity with a person in custody, driving while intoxicated with a child passenger, an offense against the person, 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 asserts that the defendant meets the conditions for an amendment of the record of conviction under the bill;
- the defendant provides a copy of the motion and statement to the attorney representing the state; and
- the judge finds at the hearing held on the motion that an amendment of the record of

conviction is in the best interest of justice.

H.B. 722 prohibits a judge who so 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. The bill establishes that a defendant whose record of a conviction is so amended is not considered to have been convicted of a felony with respect to the modified offense, that such 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 purposes of amending a record of conviction only until the expiration of the term of community supervision.

H.B. 722 amends the Penal Code to require the written consent of the prosecuting attorney before sentencing before a court may amend a record of conviction under the bill's provisions.

EFFECTIVE DATE

September 1, 2017.