

## **BILL ANALYSIS**

C.S.H.B. 3831  
By: Sherman, Sr.  
Corrections  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Reports indicate that revocation of release and re-incarceration of defendants on community supervision for technical violations is very costly to the state and ineffective in reducing recidivism. Furthermore, it has been suggested that the cost savings realized from keeping certain defendants on community supervision and out of correctional facilities would be better invested in strengthening community supervision, decreasing revocations, and improving public safety. C.S.H.B. 3831 seeks to accomplish these goals by prohibiting the revocation of community supervision for certain state jail felony defendants and third degree felony defendants based on technical violations.

### **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. 3831 amends the Code of Criminal Procedure, with regard to a hearing for an alleged technical violation of community supervision by a defendant on community supervision for a state jail felony or third degree felony offense, to prohibit a judge from revoking the defendant's community supervision if after the hearing the judge determines the defendant violated not more than three conditions of community supervision other than a violation:

- committed by a defendant who in the five years preceding the violation was convicted of certain felony offenses or sexually violent offenses or who has previously had community supervision revoked; or
- involving:
  - committing family violence;
  - being arrested for, charged with, or convicted of a felony offense, an offense against the person punishable as a misdemeanor, or an offense involving the possession of a firearm or any prohibited weapon;
  - contacting the victim of the offense for which the defendant was placed on community supervision;
  - failing to register as a sex offender under statutory provisions relating to the sex offender registration program for whom registration is required as a condition of community supervision;

- failing to report to a supervision officer as directed for 30 days or more if a supervision officer, peace officer, or other officer directed by the court attempted to contact the defendant in person at the defendant's last known residence or employment address; or
- leaving Texas without permission.

C.S.H.B. 3831 authorizes a judge who makes such a determination to continue, extend, or modify the defendant's community supervision, other than a modification that requires the defendant to serve a term of confinement based on the violation. The bill expressly does not limit the authority of a judge to revoke a defendant's community supervision or to impose a term of confinement if the defendant violates four or more applicable conditions of community supervision, except that before the defendant may be required to serve a term of confinement in a facility other than a community corrections facility or a substance abuse felony punishment facility operated by the Texas Department of Criminal Justice the judge must:

- exhaust all alternatives to incarceration;
- follow the continuum of care for a defendant who requires inpatient treatment for substance abuse, if applicable; and
- determine that the defendant is an imminent threat to the public.

C.S.H.B. 3831 authorizes a judge that imposes such confinement to impose any other condition the judge determines appropriate to be effective after the defendant completes the term of confinement.

C.S.H.B. 3831 prohibits a judge that determines a defendant has only violated conditions of community supervision related to failing to timely pay a fee or arriving late to a scheduled meeting with the defendant's supervision officer from revoking the defendant's community supervision. The prohibition does not affect the defendant's obligation to pay any fees as required as a condition of community supervision.

### **EFFECTIVE DATE**

September 1, 2019.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 3831 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 limits the applicability of the bill's provisions to a defendant on community supervision for a state jail felony or third degree felony for whom a judge makes a determination relating to certain technical violations.

The substitute, with regard to the types of defendants who are excluded from the bill's applicability, makes the following revisions:

- for a defendant excluded based on a previous conviction for certain felony offenses or sexually violent offenses, changes the applicable time period from 10 years to five years;
- excludes a defendant who committed a violation that involves failing to register as a sex offender for whom registration is required as a condition of community supervision;
- excludes a defendant who committed a violation that involves committing family

violence; and

- reduces from 90 days or more to 30 days or more the duration for which a defendant's failure to report to a supervision officer as directed under certain circumstances excludes a defendant.

The substitute limits the continuation, extension, or modification of community supervision authorized under the bill's provisions to a change in community supervision other than a modification that requires the defendant to serve a term of confinement based on the violation. The substitute expressly does not limit the authority of a judge to revoke a defendant's community supervision or to impose a term of confinement if the defendant violates four or more conditions of community supervision.

The substitute does not include a provision capping at 90 days the term of confinement in certain facilities that a judge may require a defendant to serve for an applicable technical violation. The substitute includes a provision conditioning the authority of a judge to require a defendant to serve a term of confinement in such facilities on the judge taking certain actions.

The substitute includes provisions:

- prohibiting a judge from revoking a defendant's community supervision if the defendant's only violations relate to failing to timely pay a fee or arriving late to a scheduled meeting with the defendant's supervision officer; and
- providing that the bill does not affect the defendant's obligation to pay any fees as required as a condition of community supervision.