

SUBJECT: State jail revisions

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 6 ayes — Place, Talton, Dunnam, Galloway, Keel, A. Reyna
0 nays
3 absent — Farrar, Hinojosa, Nixon

WITNESSES: For — None
Against — None
On — Tom Baker, Texas Department of Criminal Justice, State Jail Division

BACKGROUND : State jail felonies are punishable by confinement in a state jail for 180 days to two years and a fine of up to \$10,000. Different punishments exist for persons convicted of state jail felonies who used deadly weapons or have committed previous felonies. If the person has not been previously convicted of a felony, judges are required to suspend the sentence of confinement and place the person on community supervision (probation) for two to five years. The term of community supervision can also be extended up to 10 years. If the defendant had previously been convicted of a felony, the judge may order the sentence executed or suspend the sentence and place the person on community supervision. Fines may be suspended in whole or in part. Judges can require persons to submit at the beginning of their community supervision to a period of confinement in a state jail or a county facility or can send state jail felons to a state jail upon revocation of their community supervision.

DIGEST: HB 2635 would change the period for which courts retain jurisdiction over persons found guilty of state jail felonies. Instead of having jurisdiction for one year after the person has been received by a state jail, courts would have jurisdiction for the entire period for which the person was confined in the state jail.
HB 2635 would require directors of state jails to report to judges at least

every 90 days on the progress of only those persons who are confined in a state jail as a condition of community supervision, not all state jail prisoners.

The bill would prohibit all state jail prisoners, not just those in a state jail after having their community supervision revoked, from earning good conduct time.

Texas Department of Criminal Justice's (TDCJ) state jail division, with approval of the TDCJ's board, would be able to designate state jails or areas within state jails for inmates eligible for confinement in a substance abuse felony punishment facility.

HB 2635 would take immediate effect if finally approved by a two-thirds record vote of the membership in each house.

**SUPPORTERS
SAY:**

HB 2635 would fine tune the state jail system created in 1993 and make needed revisions that have come to light as the system has gotten up and running. HB 2635 would have no significant impact on the programs or workload of state corrections, according to the bill's criminal justice policy impact statement.

Giving courts jurisdiction over defendants for the entire period that they are in a state jail would give judges maximum flexibility over defendants. Currently, judges have jurisdiction over persons for only their first year in a state jail. Judges should have this authority over prisoners for the entire time they are in state jail so that they can tailor punishments to each individual. For example, after a year and a half prisoners might finish education or job training courses, and a judge might want to let them out of the state jail to continue their sentence on community supervision.

The current provision requiring state jail directors to report to judges at least every 90 days about persons in the state jail was intended to allow judges to keep track of persons in state jails as a part of their community supervision. HB 2635 would ensure that directors only have to report to judges on these prisoners and not those sent to a state jail on a direct sentence or who have had their community supervision revoked. This would eliminate unnecessary paperwork but still allow jail directors to send reports on direct sentence or revocations if they desired.

State jail felonies were designed to require persons to serve their time in state jails day for day, with no good conduct time. However, some confusion exists over whether persons serving time in a state jail as “up front” time as part of their sentence could earn good conduct time. HB 2635 would clear up this confusion by clearly stating that no one in a state jail would earn good conduct time.

Allowing the state jail division to use its facilities for persons eligible for confinement in a substance abuse felony punishment facility would give the division maximum flexibility to use its space. The division oversees the substance abuse felony punishment program and should be able to use existing jail space for the program if it is available.

OPPONENTS
SAY:

It might be better for substance abuse felony punishment facilities to continue to be distinct from other correctional facilities, as they were originally envisioned.

OTHER
OPPONENTS
SAY:

HB 2635 should go farther and remove the requirement that judges suspend some state jail sentences. Judges should have complete discretion to suspend sentences or to have persons serve their sentences, as they see fit. In addition, judicial flexibility should be extended to allow judges to impose periods of confinement in state jails at any time during a person’s community supervision.

NOTES:

SB 663 by Whitmire, a similar bill that includes the provisions of HB 2635, passed the Senate on April 8 and was reported favorably, as substituted, by the House Corrections Committee on April 30.