

SUBJECT: Enhanced penalty for fourth-time disorderly conduct, public intoxication

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 6 ayes — Hinojosa, Dunnam, Garcia, Keel, Smith, Wise

0 nays

1 present, not voting — Talton

2 absent — Green, Nixon

SENATE VOTE: On final passage, April 29 — voice vote

WITNESSES: (*On House companion bill, HB 2116:*)

For — Charles Betts, Downtown Austin Alliance; Stanley L. Knee, Austin Police Department; T.J. Higginbotham, San Marcos Downtown Association and San Marcos Main Street Program; Charles P. Jackson, Houston Downtown Management District; Mack Martinez, Travis County Attorney's Office; David M. Douglas, City of Austin Attorney's Office; Lucy Buck, Texas Downtown Association

Against — None

BACKGROUND: Penal Code, sec. 42.01 makes most disorderly-conduct offenses Class C misdemeanors, punishable by a maximum fine of \$500. Sec. 49.02 makes public intoxication a Class C misdemeanor.

Class B misdemeanors are punishable by up to 180 days in jail and/or a maximum fine of \$2,000.

DIGEST: SB 430 would require that persons convicted of Class C misdemeanor disorderly conduct or public intoxication be punished by a fine of up to \$2,000 and/or a jail term of 180 days if they had been convicted of either of those offenses three or more times within the preceding two years or had been convicted three or more times of a combination of the two offenses.

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SB 430 would take effect September 1, 1999, and would apply only to offenses committed on or after that date.

**SUPPORTERS  
SAY:**

SB 430 would give cities and law enforcement authorities another tool to fight repeat offenders who commit disorderly conduct or public intoxication. These offenders, especially those who commit their crimes in downtown urban areas, affect the quality and safety of society by harassing law-abiding citizens, fighting with each other, damaging property, and creating an unsafe environment. SB 430 could result in cleaner, safer streets and in repeat offenders getting the help they need to address underlying substance-abuse problems.

Currently, these repeat offenders would continue to be punished for a Class C misdemeanor, which carries only a maximum penalty of a fine. This does nothing to alter the behavior of offenders nor to encourage them to seek help if they have a substance-abuse problem. SB 430, by allowing a more serious punishment, would encourage persons who might be committing these crimes because of substance-abuse problems to complete treatment while the offenses still were being handled as Class C misdemeanors. It also would give more options to municipal and justice courts that are using substance-abuse treatment as part of sentences.

SB 430 would not automatically punish all repeat offenders with jail time. Prosecutors could consider the offense and the limits on jail space and county and court resources when deciding whether to prosecute the offense as a repeat offense. In addition, courts would have available all the normal sentencing options, such as probation and treatment options.

SB 430 is targeted narrowly to serious, repeat offenders. To fall under the bill's provisions, a person would have to be convicted of four offenses within two years. The Legislature has made numerous changes to the 1993 Penal Code revisions when circumstances warrant.

**OPPONENTS  
SAY:**

The current balance of penalties and punishments that was adopted when the Legislature revised the Penal Code in 1993 should not be disturbed. The Legislature should not craft specific enhanced penalties applying only to two certain types of Class C misdemeanors.

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SB 430 would be appropriate only for the rare individual who repeatedly committed disorderly conduct or public intoxication and did not have a substance-abuse problem or mental impairment. The bill could result in inappropriate jail terms for the vast majority of repeat offenders who do have these problems.

NOTES:

A related bill, SB 185 by Barrientos, which would expand the deferred disposition conditions for Class C misdemeanors to include alcohol and drug testing and treatment, also is on today's calendar.