

SUBJECT: Probation for certain repeat disorderly conduct, public intoxication offenses

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 8 ayes — Hinojosa, Dunnam, Talton, Garcia, Green, Kitchen, Martinez Fischer, Shields

0 nays

1 absent — Keel

WITNESSES: For — None

Against — None

On — Gisela Triana

BACKGROUND: Under Code of Criminal Procedure, art. 42.12, sec. 15A, courts are required to place certain defendants convicted of class C misdemeanor (maximum fine of \$500) repeat disorderly conduct and public intoxication offenses on community supervision (probation) and, when appropriate, to order offenders to participate in alcohol or drug abuse treatment. This requirement applies if defendants have been convicted for either of those offenses or a combination of the two offenses three times and each offense was committed within two years of the current offense. However, this requirement does not apply if the defendant has been convicted under these circumstances previously.

DIGEST: CSHB 3613 would authorize courts — instead of requiring them — to place on community supervision defendants described by Code of Criminal Procedure, art. 42.12, sec. 15A, who were convicted of class C misdemeanor repeat disorderly conduct and public intoxication offenses.

The bill would take effect September 1, 2001.

SUPPORTERS SAY: CSHB 3613 would give judges more flexibility to handle repeat public intoxication and disorderly conduct offenders. While current law requires

some of these offenders to be placed on probation, this is not always an appropriate sentence.

For example, some offenders have told judges they will not attend drug or alcohol treatment programs, but current law requires judges to place these offenders on probation and order the treatment anyway. Then, when the offenders do not successfully complete the terms of probation, they must be rearrested and taken to court again, increasing the workload of the criminal justice system. HB 3613 would allow judges the discretion to decide how to handle defendants on a case-by-case basis.

The media and election process provide oversight of judges and those who misuse their power and impose inappropriate sentences could be removed by the voters.

OPPONENTS
SAY:

The current law requirement that certain repeat offenders be placed on probation ensures that judges do not impose jail time but do impose substance abuse treatment on certain offenders for low-level nuisance crimes. Many of these offenders have substance abuse problems, and probation and treatment should be the standard, uniform punishment. Current law allows harsher sentences to be imposed on these offenders if they previously have been convicted of multiple, repeat offenses.

NOTES:

The original bill would have allowed courts, upon a showing of good cause, to sentence certain repeat disorderly conduct and public intoxication offenders as repeat and habitual misdemeanor offenders.