

SUBJECT: Enhanced penalties for repeat class A, class B misdemeanor offenders

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 7 ayes — Herrero, Carter, Hughes, Leach, Moody, Schaefer, Toth

2 nays — Burnam, Canales

WITNESSES: For — Kenneth Cockrill, Houston Police Department; Ty Norling, Harris County Constable's Office Precinct 2; Andrew Romero, Austin Police Association; (*Registered, but did not testify*: Donald Baker, Austin Police Department; Fred Bosse, American Insurance Association; Mark Clark, Houston Police Officers' Union, Lon Craft, Texas Municipal Police Association; Daniel Earnest, San Antonio Police Officers Association; Frederick Frazier, The Dallas Police Association; Frank Galitski, Farmers Insurance; Robert Goerlitz, Harris County Deputies Organization; Melinda Griffith, Combined Law Enforcement Associations of Texas; James Jones, San Antonio Police Department Washington Moscoso and Jimmy Rodriguez, San Antonio Police Officer's Association; Don Tijerina, Deputy Sheriffs Association of Bexar County; Gary Tittle, Dallas Police Department; Justin Wood, Harris County District Attorney's Office; Joe Woods, Property Casualty Insurers Association. of America)

Against — (*Registered, but did not testify*: Leah Gonzalez, National Association of Social Workers; Matt Simpson, ACLU of Texas; Terri Been)

On — Shannon Edmonds, Texas District and County Attorneys Association; Marc Levin, Texas Public Policy Foundation Center for Effective Justice; (*Registered, but did not testify*: Skylor Hearn, Texas Department of Public Safety)

BACKGROUND: Penal Code, sec. 12.43 establishes penalties for repeat and habitual misdemeanor offenses. Persons convicted of class A misdemeanors who have previous convictions for class A misdemeanors or any felonies must be punished by jail terms of 90 days up to one year and a fine of up to \$4,000 or both. Persons convicted of class B misdemeanors who have a previous conviction for a class A or class B misdemeanor or a felony must be punished by a jail term ranging from 30 days to 180 days, a fine of up

to \$2,000 or both.

If an offense contains specific provisions for enhanced penalties for repeat offenses, the specific enhancement rules over the general enhancements in sec. 12.43.

DIGEST:

HB 734 would establish a punishment for person being convicted of third or subsequent class A or class B misdemeanors. Persons convicted of class A or class B misdemeanors who had two or more previous convictions for class A or class B misdemeanors, or any felony convictions, would be punished by 180 days to one year in jail and a fine of \$2,000 to \$4,000.

Persons convicted of a class A misdemeanor with *one* previous class A misdemeanor or any felony convictions, and persons convicted of a class B misdemeanor with *one* previous class A or class B misdemeanor or any felony convictions, would be punished as under current law.

The bill would take effect September 1, 2013, and would apply to offenses committed on or after that date.

SUPPORTERS  
SAY:

HB 734 would address the problem of criminals who specialize in misdemeanors knowing that there is only a small chance of being caught and convicted and that both first and repeat offenses will not be punished harshly. These career criminals prey on Texans through misdemeanor after misdemeanor.

Current law allows increased penalties after one misdemeanor but no increases after that. This means that repeat, habitual offenders continually receive minor punishments. One example would be a Houstonian well known to local police officers for breaking into thousands of cars. He was given a deferred adjudication for a 13th conviction and promptly accumulated a 14th conviction.

HB 734 would address this problem by enhancing penalties and setting jail times for those who had two or more class A or class B misdemeanors. The penalties would be reasonable given that it would be at least a third conviction for the offender. By setting a minimum jail time and fine, the bill would ensure these offenders received an appropriate punishment.

While the bill would establish a minimum jail term, courts would continue to have wide authority to craft punishments as they saw fit. For example,

probation would be an option and courts would continue to set sentences within the range of terms established by the bill.

Overall, the bill could reduce costs of the criminal justice system by deterring offenses and preventing repeat offenders from cycling through the system as often.

**OPPONENTS  
SAY:**

Current penalties for repeat misdemeanors are adequate. There are long jail terms and fines available to address repeat offenders.

By increasing the mandatory minimum jail terms for a group of misdemeanants, HB 734 would reduce judges' and juries' discretion and curtail their ability to handle each case individually to ensure that justice was served. Current law allows courts to impose punishment within a range, which is a built-in way for them to handle repeat misdemeanants.

HB 734 could increase county jail populations and costs for the counties by establishing long mandatory minimum jail terms for these repeat offenders.