

SUBJECT: Amending record of state jail felony to reflect class A misdemeanor

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 6 ayes — Moody, Hunter, Canales, Gervin-Hawkins, Lang, Wilson

0 nays

1 absent — Hefner

WITNESSES: For — Haley Holik, Texas Public Policy Foundation; (*Registered, but did not testify*: Nicholas Hudson, American Civil Liberties Union of Texas; Traci Berry, Goodwill Central Texas; Greg Hansch, National Alliance on Mental Illness (NAMI) Texas; William Mills, Sheriff Association of Texas; Lori Henning, Texas Association of Goodwills; Shea Place, Texas Criminal Defense Lawyers Association; Douglas Smith, Texas Criminal Justice Coalition; Joseph Green, Travis County Commissioners Court)

Against — None

DIGEST: HB 722 would authorize judges who had placed defendants on probation for a state jail felony to amend the conviction record to reflect a conviction for a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000) instead of a state-jail felony (180 days to two years in a state jail and an optional fine of up to \$10,000) under certain circumstances.

The change could be made after a probationer completed two-thirds of his or her probation period. The prosecutor would have to provide written consent prior to sentencing. When using current procedures to reduce or terminate probation early, a judge could amend the record if the offense was not burglary, burglary of a vehicle, violation of certain rights of persons in custody, improper sexual activity with someone in custody, driving while intoxicated with a child passenger, failure to comply with sex offender registration requirements, an offense involving family violence, or an offense under Title 5 of the Penal Code, which are crimes

against persons.

In addition, probationers would be required to have fulfilled the conditions of community supervision and filed with the court and prosecutor a written motion with certain information. Judges would have to hold a hearing and find that amending the record was in the best interest of justice.

A judge could not amend a record to modify the name of the state-jail felony offense. A defendant whose record had been amended would not be considered to have been convicted of a felony with respect to the modified offense.

The bill would take effect September 1, 2017, and would apply only to offenses committed on or after that date.