

- SUBJECT:** Enhancing penalties for certain repeat misdemeanor offenders
- COMMITTEE:** Criminal Jurisprudence — committee substitute recommended
- VOTE:** 7 ayes — Collier, K. Bell, Cason, Cook, A. Johnson, Murr, Vasut
2 nays — Crockett, Hinojosa
- WITNESSES:** For — David Cook, Fort Worth Police Officers Association; Brian Harris, Harris County Pct. 5 Constable; (*Registered, but did not testify:* Jennifer Szimanski, CLEAT; Frederick Frazier, Dallas Police Association/State FOP; James Parnell, Dallas Police Association; Quint Balkcom, Game Warden Peace Officer's Association; George Craig, Houston Police Department; Ray Hunt, Houston Police Officers' Union; Jimmy Rodriguez, San Antonio Police Officers Association; Brian Hawthorne, Sheriffs' Association of Texas; John Wilkerson, Texas Municipal Police Association)

Against — Theresa Laumann, Texas Criminal Justice Coalition; (*Registered, but did not testify:* Amanda List, Texas Appleseed; Shea Place, Texas Criminal Defense Lawyers Association; Emily Gerrick, Texas Fair Defense Project)

On — Jason Clark, Texas Department of Criminal Justice
- BACKGROUND:** Penal Code sec. 12.43 establishes penalties for repeat and habitual misdemeanor offenses. Generally, class A misdemeanors carry a punishment of up to one year in jail and/or a maximum fine of \$4,000. Under the repeat offender provisions, an individual convicted of a class A misdemeanor who has been previously convicted of a class A misdemeanor or any degree of felony is required to be punished by a fine of up to \$4,000, confinement in jail for a term of 90 days to one year, or both.
- DIGEST:** CSHB 1509 would revise provisions that increase punishments for repeat misdemeanor offenses by increasing a class A misdemeanor to a state-jail

felony (180 days to two years in a state jail and an optional fine of up to \$10,000) if it was committed by individuals with certain previous offenses.

An offense that is a class A misdemeanor would be increased to a state jail felony if:

- the defendant had previously been convicted four or more times of a class A misdemeanor or any higher category of offense;
- at least one of these convictions was a felony;
- each misdemeanor conviction was for an offense that occurred subsequent to the previous conviction; and
- each of the previous offenses was committed in the 10 years before the date of the current offense.

The bill would establish when the state jail felonies arising out of provisions of the bill could be used to enhance punishments for other offenses. While offenses arising out of the bill would not be allowed to increase some punishments, they would be allowed to count as a previous state jail felony that can allow another state jail felony to be enhanced to a third-degree felony (two to 10 years in prison and an optional fine of up to \$10,000).

State jail felonies that would result from the bill would be included with other state jail felonies for which judges are authorized to suspend sentences and place defendants on probation or served in whole or in part on community supervision. State jail felonies for certain drug offenses that would result from the bill would be included among other drug offenses for which judges are required to place defendants on community supervision.

The bill would take effect September 1, 2021, and would apply to offenses committed on or after that date.

SUPPORTERS CSHB 1509 would help reduce crime and improve public safety by

SAY: targeting a small group of individuals who commit repeat misdemeanor offenses for periods of confinement in the state system so these offenders could benefit from rehabilitation and treatment programs.

Some individuals commit multiple misdemeanor offenses and are convicted, serve time, and soon return to the local jail. Current punishments, including terms in county jails, have not been effective at reducing recidivism of these offenders. The bill would address this revolving door by allowing certain individuals with multiple repeat offenses to receive a sentence in a state jail so they could benefit from programs such as drug addiction, anger management, literacy, and job skills. These programs and services could help stop the cycle of crime before it increased to a more serious level and resulted in longer terms of incarceration.

The bill would be highly targeted to a small number of repeat misdemeanor offenders who have not been rehabilitated under current law. The enhanced penalties would not be triggered until a fifth conviction within 10 years, one of which would have to be a felony. Judges would retain the discretion they have at sentencing to determine the length of a sentence and in some cases to place an individual on community supervision.

CRITICS SAY: CSHB 1509 would move the criminal justice system in the wrong direction by increasing incarceration of low-level offenders and emphasizing punishment over rehabilitation. Providing education, training, and other assistance outside of incarceration would be a better approach to address repeat misdemeanor offenders, especially drug offenders, and would come without the negative affects of a felony conviction and incarceration. Current law has sufficient provisions for enhanced penalties against repeat offenders.