

BILL ANALYSIS

Senate Research Center
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S.B. 153
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Criminal Justice
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

As Section 4(a), Article 42.12 (Community Supervision), Code of Criminal Procedure currently reads, if a defendant elects to be sentenced by a jury, and that jury recommends community supervision, then the judge may not override the jury's decision and order incarceration. The judge must respect the jury's decision and sentence the defendant in accordance with jury recommendations.

The same is not true when the jury recommends incarceration. In the same situation, but when a jury recommends incarceration, the judge is permitted to disregard the jury recommendation and order the defendant to be placed on community supervision.

S.B. 153 creates consistency in sentencing procedures by amending Article 42.12 to ensure that judges are following the recommendation of the jury when the defendant has elected to be sentenced by the jury, even when the jury recommendation is incarceration.

This serves two purposes. First, it respects the choice of the defendant to be sentenced by a jury of his or her peers. Second, it respects the role of the jury in those circumstances. The jury plays an important part in our judicial system, and S.B. 153 would ensure that that role is protected and respected.

As proposed, S.B. 153 amends current law relating to the authority of a judge to suspend the imposition of a sentence and place a defendant on community supervision.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 4(a), Article 42.12, Code of Criminal Procedure, to prohibit a judge from suspending the imposition of the sentence and placing the defendant on community supervision if the jury does not make that recommendation in the verdict.

SECTION 2. Makes application of the change in law made by this Act prospective.

SECTION 3. Effective date: September 1, 2011.