

## **BILL ANALYSIS**

C.S.H.B. 1503  
By: Canales  
Criminal Jurisprudence  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Among the purposes of current law governing the actions that a judge who discharges a defendant from community supervision is authorized or required to take is offering the defendant a second chance and a clean slate in returning to society. Interested parties assert that the law needs to be clarified and updated in order to better serve those purposes. C.S.H.B. 1503 seeks to address these issues.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 1503 amends the Code of Criminal Procedure to establish a deadline by which a judge who discharges a defendant from community supervision on successful completion of the supervision may set aside the verdict or permit the defendant to withdraw the defendant's plea and dismiss the accusation, complaint, information, or indictment against the defendant of not later than the 30th day after the date of the defendant's discharge.

C.S.H.B. 1503 establishes that a defendant for whom a judge sets aside the verdict or permits the withdrawal of the defendant's plea and dismisses the accusation, complaint, information, or indictment against the defendant is not considered to have been convicted of an offense but that such a dismissal does not release the defendant from the obligation to pay any required restitution, fines, costs, or fees ordered by the court. The bill prohibits a licensing authority from denying an application for an occupational license, from suspending, revoking, or refusing to renew an occupational license, or from taking any other disciplinary action against that defendant based on the offense of which the defendant otherwise would have been convicted or to which the defendant has pleaded guilty and prohibits that defendant from being denied a benefit or subjected to any civil disability or disqualification based on such an offense. The bill establishes that these provisions supersede any conflicting state statute enacted before September 1, 2015, that purports to deny a benefit or impose a disability or disqualification and any conflicting state statute enacted on or after September 1, 2015, unless the statute expressly provides otherwise.

### **EFFECTIVE DATE**

September 1, 2015.

## COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1503 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

### INTRODUCED

SECTION 1. Section 20, Article 42.12, Code of Criminal Procedure, is amended by amending Subsection (a) and adding Subsections (c), (d), and (e) to read as follows:

(a) At any time after the defendant has satisfactorily completed one-third of the original community supervision period or two years of community supervision, whichever is less, the period of community supervision may be reduced or terminated by the judge. On completion of one-half of the original community supervision period or two years of community supervision, whichever is more, the judge shall review the defendant's record and consider whether to reduce or terminate the period of community supervision, unless the defendant is delinquent in paying required restitution, fines, costs, or fees that the defendant has the ability to pay or the defendant has not completed court-ordered counseling or treatment. Before reducing or terminating a period of community supervision or conducting a review under this section, the judge shall notify the attorney representing the state and the defendant or, if the defendant has an attorney, the defendant's attorney. If the judge determines that the defendant has failed to satisfactorily fulfill the conditions of community supervision, the judge shall advise the defendant in writing of the requirements for satisfactorily fulfilling those conditions. Upon the satisfactory fulfillment of the conditions of community supervision, and the expiration of the period of community supervision, the judge, by order duly entered, shall amend or modify the original sentence imposed, if necessary, to conform to the community supervision period and shall discharge the defendant. If the judge discharges the defendant under this section, not later than the 30th day after the date of the defendant's discharge the judge may set aside the verdict or permit the defendant to withdraw the defendant's

### HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 20, Article 42.12, Code of Criminal Procedure, is amended by amending Subsection (a) and adding Subsections (c), (d), (e), and (f) to read as follows:

(a) At any time after the defendant has satisfactorily completed one-third of the original community supervision period or two years of community supervision, whichever is less, the period of community supervision may be reduced or terminated by the judge. On completion of one-half of the original community supervision period or two years of community supervision, whichever is more, the judge shall review the defendant's record and consider whether to reduce or terminate the period of community supervision, unless the defendant is delinquent in paying required restitution, fines, costs, or fees that the defendant has the ability to pay or the defendant has not completed court-ordered counseling or treatment. Before reducing or terminating a period of community supervision or conducting a review under this section, the judge shall notify the attorney representing the state and the defendant or, if the defendant has an attorney, the defendant's attorney. If the judge determines that the defendant has failed to satisfactorily fulfill the conditions of community supervision, the judge shall advise the defendant in writing of the requirements for satisfactorily fulfilling those conditions. Upon the satisfactory fulfillment of the conditions of community supervision, and the expiration of the period of community supervision, the judge, by order duly entered, shall amend or modify the original sentence imposed, if necessary, to conform to the community supervision period and shall discharge the defendant. If the judge discharges the defendant under this section, not later than the 30th day after the date of the defendant's discharge the judge may set aside the verdict or permit the defendant to withdraw the defendant's

plea[.] and shall dismiss the accusation, complaint, information or indictment against the defendant, who shall thereafter be released from all penalties and disabilities resulting from the offense or crime of which the defendant has been convicted or to which the defendant has pleaded guilty, except that:

(1) proof of the conviction or plea of guilty shall be made known to the judge should the defendant again be convicted of any criminal offense; and

(2) if the defendant is an applicant for a license or is a licensee under Chapter 42, Human Resources Code, the Health and Human Services Commission may consider the fact that the defendant previously has received community supervision under this article in issuing, renewing, denying, or revoking a license under that chapter.

(c) If the judge sets aside the verdict or permits the defendant to withdraw the defendant's plea and dismisses the accusation, complaint, information, or indictment against the defendant under Subsection (a), the defendant is not considered to have been convicted of an offense and:

(1) a licensing authority may not deny an application for an occupational license, suspend, revoke, or refuse to renew an occupational license, or take any other disciplinary action against the defendant based on the offense of which the defendant otherwise would have been convicted or to which the defendant has pleaded guilty; and

(2) the defendant may not be denied a benefit or subject to any civil disability or disqualification based on the offense of which the defendant otherwise would have been convicted or to which the defendant has pleaded guilty.

(d) Subsection (c) supersedes any conflicting state statute enacted before September 1, 2015, that purports to deny a benefit or impose a disability or disqualification.

(e) Subsection (c) supersedes any conflicting state statute enacted on or after September 1, 2015, unless the statute expressly provides otherwise.

plea[.] and shall dismiss the accusation, complaint, information or indictment against the defendant, who shall thereafter be released from all penalties and disabilities resulting from the offense or crime of which the defendant has been convicted or to which the defendant has pleaded guilty, except that:

(1) proof of the conviction or plea of guilty shall be made known to the judge should the defendant again be convicted of any criminal offense; and

(2) if the defendant is an applicant for a license or is a licensee under Chapter 42, Human Resources Code, the Health and Human Services Commission may consider the fact that the defendant previously has received community supervision under this article in issuing, renewing, denying, or revoking a license under that chapter.

(c) If the judge sets aside the verdict or permits the defendant to withdraw the defendant's plea and dismisses the accusation, complaint, information, or indictment against the defendant under Subsection (a), the defendant is not considered to have been convicted of an offense and:

(1) a licensing authority may not deny an application for an occupational license, suspend, revoke, or refuse to renew an occupational license, or take any other disciplinary action against the defendant based on the offense of which the defendant otherwise would have been convicted or to which the defendant has pleaded guilty; and

(2) the defendant may not be denied a benefit or subject to any civil disability or disqualification based on the offense of which the defendant otherwise would have been convicted or to which the defendant has pleaded guilty.

(d) Subsection (c) supersedes any conflicting state statute enacted before September 1, 2015, that purports to deny a benefit or impose a disability or disqualification.

(e) Subsection (c) supersedes any conflicting state statute enacted on or after September 1, 2015, unless the statute expressly provides otherwise.

(f) A dismissal under Subsection (a) does not release the defendant from the obligation to pay any required restitution, fines, costs, or fees ordered by the court.

SECTION 2. This Act takes effect  
September 1, 2015.

SECTION 2. Same as introduced version.