HOUSE
RESEARCH
ORGANIZATION bill analysis   4/19/2021

HB 1403 (2nd reading)
A. Johnson, et al.
(CSHB 1403 by Hinojosa)

SUBJECT: Consecutive sentences for certain crimes out of same criminal episode

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 9 ayes — Collier, K. Bell, Cason, Cook, Crockett, Hinojosa, A. Johnson, Murr, Vasut

             0 nays

WITNESSES: For — Amy Derrick, Dallas County Criminal District Attorney's Office; (*Registered, but did not testify*: M. Paige Williams, for Dallas County Criminal District Attorney John Creuzot; George Craig, Houston Police Department; John Hubert, Kleberg & Kenedy Counties District Attorneys Office; John Chancellor, Texas Police Chiefs Association)

             Against — None

             On — (*Registered, but did not testify*: Thomas Parkinson)

BACKGROUND: Under Penal Code sec. 3.03(b), if an individual is found guilty of more than one offense arising out of the same criminal episode the sentences may run concurrently or, under certain circumstances, the sentences may be served consecutively. Six subsections list offenses for which sentences may be consecutive, with some of the subsections listing more than one offense. For example, sec. 3.03(b)(1) authorizes consecutive sentences for intoxication assault and intoxication manslaughter, and sec. 3.03(b)(2) allows consecutive sentences for indecency with a child, sexual assault, aggravated sexual assault, and other sex offenses.

             Penal Code sec. 3.01 defines criminal episode as the commission of two or more offenses committed pursuant to the same transaction or pursuant to two or more transactions that are connected or constitute a common scheme or plan, or as offenses that are the repeated commission of the same or similar offenses.

DIGEST: CSHB 1403 would state that any combination of offenses listed in Penal

Code sec. 3.03(b) subdivisions (1) through (6) could run consecutively.

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

SUPPORTERS
SAY:

CSHB 1403 would ensure that courts had flexibility in imposing criminal sentences by making it clear that judges could require sentences from any combination of offenses listed in Penal Code sec. 3.03(b) to be served consecutively if they arose out of the same criminal episode.

Penal Code sec. 3.03(b) has numerous subsections listing multiple offenses for which courts have the discretion to require sentences be served consecutively. There has been confusion about whether only offenses within each subsection can be required to be served consecutively or whether sentences from all the offenses in Penal Code sec. 3.03(b) could be required to be served consecutively, no matter in which subsection they are placed. CSHB 1403 would clear up this confusion by saying that any combination of offenses in sec. 3.03(b) could be served consecutively, sometimes called "stacking" sentences.

Stacking sentences may be appropriate in situations in which a defendant is convicted of multiple serious offenses, and judges should have the flexibility to use this option when appropriate. The bill would not change what offenses could be stacked, only make it clear that all the offenses listed in the statutes could be served consecutively.

The use of the stacking statutes would remain discretionary, and judges would continue to use it only when they deemed it to best fit a situation involving a criminal episode. The bill would provide judges a tool but would do nothing to encourage specific sentences. Stacked sentences, no matter which subsection of the code they come from, would continue to have to come from the same criminal episode.

CRITICS
SAY:

CSHB 1403 could encourage the addition of still more offenses to the stacking statutes and the use of overly punitive stacked sentences.