

- SUBJECT:** Authorizing a court to reduce an inmate's sentence
- COMMITTEE:** Criminal Jurisprudence — committee substitute recommended
- VOTE:** 9 ayes — Moody, Cook, Bhojani, Bowers, Darby, Harrison, Leach, C. Morales, Schatzline
0 nays
- WITNESSES:** For — (*Registered, but did not testify*: Lauren Johnson, ACLU of Texas; Terra Tucker, Alliance for Safety and Justice; Nikki Pressley, Texas Public Policy Foundation; Liinda Durnin)

Against — (*Registered, but did not testify*: David Batton, Harris County Deputies' Organization FOP 39; Ray Hunt, Houston Police Officers' Union; John Wilkerson, Texas Municipal Police Association; AJ Louderback, Texas Sheriffs Regional Alliance)
- BACKGROUND:** Concerns have been raised that current law does not allow the state to adjust an individual's sentence of imprisonment when information arises indicating that the sentence is not in the interest of justice.
- DIGEST:** CSHB 4518 would authorize a court to grant a commutation of punishment for an inmate serving a term of imprisonment on a motion of the attorney representing the state.

The motion would have to be filed by the attorney representing the state for the jurisdiction in which the inmate was convicted. The motion could be filed in any district in the county in which the inmate was convicted. Until the court granted the motion, the state's attorney could withdraw it. If the motion was withdrawn, the court would be prohibited from granting a commutation in the case.

In determining whether to grant the motion, a court could consider:
- the inmate's disciplinary record and record of rehabilitation;

- evidence that reflected whether the inmate's age, time served, or diminished physical condition had reduced the inmate's risk of committing a future offense; and
- evidence that reflected any change in the inmate's circumstances since the original sentencing indicating that the inmate's continued imprisonment was no longer in the interest of justice.

CSHB 4518 would authorize a court to, in granting relief, reduce an inmate's sentence to a term that was less than the statutory minimum for the offense that existed at the time of the offense, including by reducing the sentence to time served and ordering the inmate's immediate release.

A court could not grant such relief to an inmate serving a sentence for certain offenses, including capital murder, sexual assault, and trafficking of persons, among other offenses. Under CSHB 4518, a court also could not commute the sentence of an inmate serving a sentence for which the judgment contained an affirmative finding of use or exhibition of a deadly weapon, including a firearm.

The Texas Rules of Appellate Procedure would apply to all hearings and orders under the bill's provisions, except that the state's attorney and the inmate would not be entitled to appeal the court's decision to deny a motion of commutation.

CSHB 4518 would add the right to be informed of any motion to grant a commutation and to be informed of any related hearings or orders to the list of crime victims' rights. If a victim notified the state's attorney that the victim opposed a motion to grant commutation, the attorney would be required to inform the court of the objections.

The bill would take effect January 1, 2024, but only if the proposed constitutional amendment was approved by voters.

NOTES:

HB 4518 is the enabling legislation for HJR 172 by Cook, which is set on the Constitutional Amendments Calendar for second reading consideration today.

According to the Legislative Budget Board, CSHB 4518 could result in fewer demands upon correctional resources but the fiscal implications of the bill could not be determined due to lack of relevant data.