

BILL ANALYSIS

Senate Research Center

C.S.S.B. 663
By: Whitmire
Criminal Justice
3-25-97
Committee Report (Substituted)

DIGEST

Currently, on conviction of a state jail felony, a judge is required to suspend the sentence and place the defendant on community supervision if the person is a first-offender, and a judge may require the defendant to be incarcerated as a condition of probation. This legislation makes all probation discretionary while allowing direct incarceration of a defendant, and authorizes a judge to require a defendant to be confined in a state jail during any period of the defendant's sentence, rather than only at the beginning of the community supervision period. In addition, C.S.S.B. 663 establishes the supervision of those defendants and the facilities in which they may be confined.

PURPOSE

As proposed, C.S.S.B. 663 establishes the authority of a judge to place a defendant convicted of a state jail felony on community supervision, provides for the supervision of those defendants, and sets forth the facilities in which those defendants may be confined.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 15(a), (d), (e), and (g), Article 42.12, Code of Criminal Procedure, to authorize a judge, on conviction of a state jail felony punished under Section 12.35(a), Penal Code, to suspend the imposition of the sentence and place the defendant on community supervision or order the sentence to be executed, rather than requiring a judge, under the same circumstances, to suspend the imposition of the sentence of confinement and place the defendant on community supervision, unless the defendant has been previously convicted of a felony. Authorizes a judge to impose as a condition of community supervision that a defendant submit at any time during, rather than at the beginning of, the period of community supervision to a certain term of confinement in a state jail felony facility. Prohibits a judge, in the same order, from requiring a defendant to submit to both the term of confinement authorized by this subsection and a term of confinement under Section 5 or 12 of this article. Deletes the provision regarding the conditions under which a defendant has been previously convicted of a felony. Deletes the provision prohibiting a judge from requiring a defendant from serving a period of confinement in a state jail felony facility as a modification of the defendant's community supervision. Sets forth the terms by which the facility director of a state jail felony facility is required to report to a judge who orders a defendant confined in the facility as a condition of community supervision.

SECTION 2. Amends Section 15(f)(2), Article 45.12, Code of Criminal Procedure, to provide that the court retains jurisdiction over the defendant for the period during which the defendant is confined in a state jail, rather than until the first anniversary of the date the defendant is received into the custody of a state jail.

SECTION 3. Amends Sections 15(h)(1) and (2), Article 42.12, Code of Criminal Procedure, to provide that a defendant confined in a state jail felony facility does not earn good conduct time for time served in the facility. Deletes the provision establishing that a defendant confined in a facility after revocation of community supervision does not earn good conduct time. Authorizes a judge to credit time served by the defendant in county jail for a certain period against any time a defendant is

required to serve in a facility, rather than any time a defendant is subsequently required to serve in a facility after revocation of community supervision.

SECTION 4. Amends Section 507.006, Government Code, as follows:

Sec. 507.006. New heading: USE OF FACILITY FOR OTHER INMATES. Authorizes the state jail division, notwithstanding any other provision of this subchapter and with the approval of the board, to designate one or more state jail felony facilities or discrete areas within those facilities to house inmates who are eligible for confinement in a substance abuse felony punishment facility under Section 493.009 or in a transfer facility under Section 493.009, under certain circumstances.

SECTION 5. (a) Makes application of this Act prospective regarding Sections 15(a), (f)(2), and (h)(1), Article 42.12, Code of Criminal Procedure. Makes application of this Act retroactive regarding Sections 15(d), (e), (g), and (h)(2), Article 42.12, Code of Criminal Procedure.

SECTION 6. Effective date: September 1, 1997.

SECTION 7. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.

Amends Sections 15(d), (e), and (g), Article 42.12, Code of Criminal Procedure, to delete the provisions regarding the conditions under which a defendant has been previously convicted of a felony. Deletes the provision which makes an exception to a judge's ability to modify a defendant's community supervision. Requires the facility director of a state jail felony facility to report to a judge who orders a defendant confined in the facility as a condition of community supervision.

SECTION 2.

Amends Section 15(f)(2), Article 42.12, Code of Criminal Procedure, to provide that the court retains jurisdiction over the defendant for the period during which the defendant is confined in a state jail, rather than until the first anniversary of the date the defendant is received into the custody of a state jail.

SECTION 3.

Amends Sections 15(h)(1) and (2), Article 42.12, Code of Criminal Procedure, to provide that a defendant confined in a state jail felony facility does not earn good conduct time. Deletes the provision establishing that a defendant confined in a state jail felony facility after revocation of community supervision does not earn good conduct time. Authorizes a judge to credit certain time against any time a defendant is required to serve in a state jail felony facility, rather than any time a defendant is subsequently required to serve in a state jail felony facility after revocation of community supervision.

SECTION 4.

Amends Section 507.006, Government Code, to provide a new heading entitled, "USE OF FACILITY FOR OTHER INMATES." Authorizes the state jail division, with the approval of the board, to designate one or more state jail facilities or discrete areas within those facilities to house certain inmates.

SECTION 5.

Makes application of this Act retroactive regarding Sections 15(d), (e), (g), and (h)(2), Article 42.12, Code of Criminal Procedure.