

By: Longoria, Thompson of Harris, Burnam,
Hughes

H.B. No. 1790

Substitute the following for H.B. No. 1790:

By: Herrero

C.S.H.B. No. 1790

A BILL TO BE ENTITLED

AN ACT

relating to certain procedures for defendants who successfully
complete a period of state jail felony community supervision.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 15, Article 42.12, Code of Criminal
Procedure, is amended by adding Subsections (l) and (m) to read as
follows:

(l) A judge who places a defendant on community supervision
following conviction of a state jail felony shall inform the
defendant of the procedure provided for a modification of the order
of conviction under this subsection. On completion of two-thirds
of the original community supervision period, the judge shall
review the defendant's record and consider whether to modify the
record of conviction to reflect a conviction for a Class A
misdemeanor in lieu of a state jail felony. The judge shall dispose
of the case in the manner provided by Section 20, except that the
judge, on discharge of the defendant, shall modify the record of
conviction, subject to Subsection (m), if:

(1) the offense for which the defendant was placed on
community supervision was not an offense:

(A) under Section 39.04(a)(2), Section 49.045,
or Title 5, Penal Code;

(B) under Article 62.102 of this code; or

(C) involving family violence, as defined by

1 Section 71.004, Family Code;

2 (2) the defendant has satisfactorily fulfilled all the
3 conditions of community supervision, including the payment of all
4 required restitution, and is not delinquent on the payment of any
5 finest, costs, and fees that the defendant has the ability to pay;

6 (3) promptly after review of the defendant's record,
7 the judge provides written notice of the right to request a hearing
8 to the attorney representing the state and the defendant or, if the
9 defendant has an attorney, the defendant's attorney; and

10 (4) before the expiration of the term of community
11 supervision:

12 (A) a hearing is not requested by either party;
13 or

14 (B) a hearing is held at which the judge finds
15 that a modification of the record of conviction is in the best
16 interest of justice.

17 (m) A judge who modifies a record of conviction under
18 Subsection (1) may not modify the name of the state jail felony
19 offense for which the judge placed the defendant on community
20 supervision. A defendant whose record of conviction is modified
21 under Subsection (1) is not considered to have been convicted of a
22 felony with respect to the modified offense for any purpose other
23 than the purpose described by Section 20(a)(1).

24 SECTION 2. The change in law made by this Act applies only
25 to a defendant who is placed on community supervision on or after
26 the effective date of this Act, regardless of whether the offense
27 for which the defendant is placed on community supervision is

C.S.H.B. No. 1790

1 committed before, on, or after that date.

2 SECTION 3. This Act takes effect September 1, 2013.