

By: Minjarez

H.B. No. 607

A BILL TO BE ENTITLED

AN ACT

relating to a court's continuing jurisdiction to handle the disposition of a felony case.

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

SECTION 1. Article [42A.202](#), Code of Criminal Procedure, is amended by amending Subsections (b), (c), (d), and (e) and adding Subsection (b-1) to read as follows:

(b) Before the expiration of the 180-day period described by Subsection (a), the judge of the court that imposed the sentence described by that subsection may, on the judge's own motion, on the motion of the attorney representing the state, or on the written motion of the defendant, subject to Subsection (b-1):

(1) withdraw the adjudication of guilt, defer further proceedings in the matter, and place the defendant on deferred adjudication community supervision in accordance with Subchapter C; or

(2) suspend further execution of the sentence and place the defendant on community supervision in accordance with Subchapter B.

(b-1) A judge may take an action under Subsection (b) only ~~[under the terms and conditions of this chapter]~~ if:

(1) in the opinion of the judge, the defendant would not benefit from further imprisonment;

(2) the defendant is otherwise eligible for community

1 supervision under this chapter; and

2 (3) the defendant had never before been incarcerated
3 in a penitentiary serving a sentence for a felony.

4 (c) When the defendant files a written motion requesting the
5 judge to take an action under Subsection (b) [~~suspend further~~
6 ~~execution of the sentence and place the defendant on community~~
7 ~~supervision~~], the defendant shall immediately deliver or cause to
8 be delivered a copy of the motion to the office of the attorney
9 representing the state.

10 (d) When the defendant or the attorney representing the
11 state files a written motion requesting the judge to take an action
12 under Subsection (b) [~~suspend further execution of the sentence and~~
13 ~~place the defendant on community supervision~~], and when requested
14 to do so by the judge, the clerk of the court shall request a copy of
15 the defendant's record while imprisoned from the Texas Department
16 of Criminal Justice or, if the defendant is confined in county jail,
17 from the sheriff. On receipt of the request, the Texas Department
18 of Criminal Justice or the sheriff shall forward a copy of the
19 record to the judge as soon as possible.

20 (e) The judge may deny the motion without holding a hearing
21 but may not grant the motion without holding a hearing and providing
22 the attorney representing the state and the defendant the
23 opportunity to present evidence on the motion. If the judge denies
24 the motion, the judge may also reduce the period of incarceration
25 required by the original sentence imposed.

26 SECTION 2. Article [42A.203](#)(a), Code of Criminal Procedure,
27 is amended to read as follows:

1 (a) Except as otherwise provided by Subsection (b), only the
2 judge who originally sentenced the defendant may take an action
3 ~~[suspend execution of the sentence and place the defendant on~~
4 ~~community supervision]~~ under Article 42A.202(b) ~~[42A.202]~~.

5 SECTION 3. Article 42A.558, Code of Criminal Procedure, is
6 amended by amending Subsections (b), (c), and (d) and adding
7 Subsection (e) to read as follows:

8 (b) The court retains jurisdiction over the defendant for
9 the period during which the defendant is confined in a state jail
10 felony facility. At any time after the 75th day after the date the
11 defendant is received into the custody of a state jail felony
12 facility, the judge may, on the judge's own motion, on the motion of
13 the attorney representing the state, or on the motion of the
14 defendant:

15 (1) withdraw the adjudication of guilt, defer further
16 proceedings in the matter, and place the defendant on deferred
17 adjudication community supervision in accordance with Subchapter
18 C; or

19 (2) [may] suspend further execution of the sentence
20 and place the defendant on community supervision in accordance with
21 ~~[under the conditions of]~~ this subchapter.

22 (c) When the defendant or the attorney representing the
23 state files a written motion requesting the judge to take an action
24 under Subsection (b) ~~[suspend further execution of the sentence and~~
25 ~~place the defendant on community supervision]~~, the clerk of the
26 court, if requested to do so by the judge, shall request a copy of
27 the defendant's record while confined from the facility director of

1 the state jail felony facility in which the defendant is confined
2 or, if the defendant is confined in county jail, from the sheriff.
3 On receipt of the request, the facility director or the sheriff
4 shall forward a copy of the record to the judge as soon as possible.

5 (d) When the defendant files a written motion requesting the
6 judge to take an action under Subsection (b) [~~suspend further~~
7 ~~execution of the sentence and place the defendant on community~~
8 ~~supervision~~], the defendant shall immediately deliver or cause to
9 be delivered a copy of the motion to the office of the attorney
10 representing the state.

11 (e) The judge may deny the motion without holding a hearing
12 but may not grant the motion without holding a hearing and providing
13 the attorney representing the state and the defendant the
14 opportunity to present evidence on the motion. If the judge denies
15 the motion, the judge may also reduce the period of incarceration
16 required by the original sentence imposed.

17 SECTION 4. The changes in law made by this Act apply only to
18 a defendant charged with or convicted of an offense committed on or
19 after the effective date of this Act. A defendant charged with or
20 convicted of an offense committed before the effective date of this
21 Act is governed by the law in effect when the offense was committed,
22 and the former law is continued in effect for that purpose. For
23 purposes of this section, an offense was committed before the
24 effective date of this Act if any element of the offense occurred
25 before that date.

26 SECTION 5. This Act takes effect September 1, 2017.