

By: Longoria, Thompson of Harris, Burnam,
Hughes, Rose

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), (m), and (n) to
read as follows:

(l) A judge who places a defendant on community supervision
following conviction of a state jail felony, on agreement of the
attorney representing the state and the defendant, shall inform the
defendant of the procedure provided for an amendment of the order of
conviction under this subsection. In any case in which the
defendant is informed under this subsection, on written motion of
the defendant after completion of two-thirds of the original
community supervision period, the judge shall review the
defendant's record and consider whether to amend the record of
conviction to reflect a conviction for a Class A misdemeanor in lieu
of a state jail felony. On disposition of the case in a manner
provided by Section 20, the judge, on discharge of the defendant,
may amend the record of conviction to reflect a conviction for a
Class A misdemeanor in lieu of a state jail felony, subject to
Subsection (m), if:

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

1 (A) under Section 30.04, Section 39.04(a)(2),
2 Section 49.045, or Title 5, Penal Code;

3 (B) under Article 62.102 of this code; or

4 (C) involving family violence, as defined by
5 Section 71.004, Family Code;

6 (2) the defendant has fulfilled to the judge's
7 satisfaction all the conditions of community supervision,
8 including the payment of all required restitution, and is not
9 delinquent on the payment of any fines, costs, and fees that the
10 defendant has the ability to pay;

11 (3) the defendant files with the written motion for
12 the hearing a statement that:

13 (A) contains a summary of the defendant's
14 performance during community supervision, including compliance
15 with the conditions of community supervision; and

16 (B) asserts that the defendant meets the
17 conditions for an amendment of the record of conviction under this
18 subsection;

19 (4) the defendant at the time of filing the statement
20 with the court also provides a copy of the motion and statement to
21 the attorney representing the state; and

22 (5) at the hearing held on the motion, the judge finds
23 that an amendment of the record of conviction is in the best
24 interest of justice.

25 (m) A judge who amends a record of conviction under
26 Subsection (1) may not modify the name of the state jail felony
27 offense for which the judge placed the defendant on community

1 supervision. A defendant whose record of conviction is amended
2 under Subsection (1) is not considered to have been convicted of a
3 felony with respect to the modified offense for any purpose other
4 than the purpose described by Section 20(a)(1).

5 (n) A record of conviction that is amended under Subsection
6 (1) supersedes and takes the place of the record of conviction as it
7 existed on the original date of conviction. A judge retains
8 jurisdiction for the purposes of Subsection (1) only until the
9 expiration of the term of community supervision.

10 SECTION 2. The change in law made by this Act applies only
11 to a defendant who is placed on community supervision on or after
12 the effective date of this Act, regardless of whether the offense
13 for which the defendant is placed on community supervision is
14 committed before, on, or after that date.

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