

By: Murr

H.B. No. 239

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the punishment for certain controlled substance
3 offenses committed in a drug-free zone; increasing criminal
4 penalties.

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

6 SECTION 1. Section [481.134](#), Health and Safety Code, is
7 amended by amending Subsections (b) and (c) and adding Subsection
8 (c-1) to read as follows:

9 (b) An offense otherwise punishable as a state jail felony
10 under Section [481.112](#), [481.1121](#), [481.113](#), [481.114](#), or [481.120](#) is
11 punishable as a felony of the third degree, and an offense otherwise
12 punishable as a felony of the second degree under any of those
13 sections is punishable as a felony of the first degree, if it is
14 shown at the punishment phase of the trial of the offense that the
15 offense was committed:

16 (1) in, on, or within 1,000 feet of premises owned,
17 rented, or leased by an institution of higher education [~~learning~~],
18 the premises of a public or private youth center, or a playground;
19 or

20 (2) in, on, or within 300 feet of the premises of a
21 public swimming pool or video arcade facility.

22 (c) The minimum term of confinement or imprisonment for an
23 offense otherwise punishable under Section [481.112\(d\)](#) [~~481.112(c)~~,
24 ~~(d)~~], (e), or (f), [481.1121\(b\)\(3\)](#) [~~481.1121(b)(2)~~, ~~(3)~~], or (4),

1 481.113(d) [~~481.113(c), (d),~~] or (e), 481.114(d) [~~481.114(c),~~
2 ~~(d),~~] or (e), 481.115(c), (d), (e), or (f) [~~481.115(c)-(f)~~],
3 481.1151(b)(2), (3), (4), or (5), 481.116(c), (d), or (e),
4 481.1161(b)(4), (5), or (6), 481.117(c), (d), or (e), 481.118(c),
5 (d), or (e), 481.120(b)(5) [~~481.120(b)(4), (5),~~] or (6), or
6 481.121(b)(4), (5), or (6) is increased by five years and the
7 maximum fine for the offense is doubled if it is shown on the trial
8 of the offense that the offense was committed:

9 (1) in, on, or within 1,000 feet of the premises of a
10 school, the premises of a public or private youth center, or a
11 playground; or

12 (2) on a school bus.

13 (c-1) An offense otherwise punishable under Section
14 481.112(c), 481.1121(b)(2), 481.113(c), 481.114(c), or
15 481.120(b)(4) is a felony of the first degree if it is shown on the
16 trial of the offense that the offense was committed:

17 (1) in, on, or within 1,000 feet of any real property
18 that is owned, rented, or leased to a school or school board, the
19 premises of a public or private youth center, or a playground; or

20 (2) on a school bus.

21 SECTION 2. Article 42A.054(a), Code of Criminal Procedure,
22 is amended to read as follows:

23 (a) Article 42A.053 does not apply to a defendant adjudged
24 guilty of an offense under:

25 (1) Section 15.03, Penal Code, if the offense is
26 punishable as a felony of the first degree;

27 (2) Section 19.02, Penal Code (Murder);

- 1 (3) Section 19.03, Penal Code (Capital Murder);
- 2 (4) Section 20.04, Penal Code (Aggravated
3 Kidnapping);
- 4 (5) Section 20A.02, Penal Code (Trafficking of
5 Persons);
- 6 (6) Section 20A.03, Penal Code (Continuous
7 Trafficking of Persons);
- 8 (7) Section 21.11, Penal Code (Indecency with a
9 Child);
- 10 (8) Section 22.011, Penal Code (Sexual Assault);
- 11 (9) Section 22.021, Penal Code (Aggravated Sexual
12 Assault);
- 13 (10) Section 22.04(a)(1), Penal Code (Injury to a
14 Child, Elderly Individual, or Disabled Individual), if:
 - 15 (A) the offense is punishable as a felony of the
16 first degree; and
 - 17 (B) the victim of the offense is a child;
- 18 (11) Section 29.03, Penal Code (Aggravated Robbery);
- 19 (12) Section 30.02, Penal Code (Burglary), if:
 - 20 (A) the offense is punishable under Subsection
21 (d) of that section; and
 - 22 (B) the actor committed the offense with the
23 intent to commit a felony under Section 21.02, 21.11, 22.011,
24 22.021, or 25.02, Penal Code;
- 25 (13) Section 43.04, Penal Code (Aggravated Promotion
26 of Prostitution);
- 27 (14) Section 43.05, Penal Code (Compelling

1 Prostitution);

2 (15) Section 43.25, Penal Code (Sexual Performance by
3 a Child); or

4 (16) Chapter 481, Health and Safety Code, for which
5 punishment is increased under:

6 (A) Section 481.140 of that code (Use of Child in
7 Commission of Offense); or

8 (B) Section 481.134(c), (c-1), (d), (e), or (f)
9 of that code (Drug-free Zones) if it is shown that the defendant has
10 been previously convicted of an offense for which punishment was
11 increased under any of those subsections.

12 SECTION 3. Article 42A.056, Code of Criminal Procedure, is
13 amended to read as follows:

14 Art. 42A.056. LIMITATION ON JURY-RECOMMENDED COMMUNITY
15 SUPERVISION. A defendant is not eligible for community supervision
16 under Article 42A.055 if the defendant:

17 (1) is sentenced to a term of imprisonment that
18 exceeds 10 years;

19 (2) is convicted of a state jail felony for which
20 suspension of the imposition of the sentence occurs automatically
21 under Article 42A.551;

22 (3) is adjudged guilty of an offense under Section
23 19.02, Penal Code;

24 (4) is convicted of an offense under Section 21.11,
25 22.011, or 22.021, Penal Code, if the victim of the offense was
26 younger than 14 years of age at the time the offense was committed;

27 (5) is convicted of an offense under Section 20.04,

1 Penal Code, if:

2 (A) the victim of the offense was younger than 14
3 years of age at the time the offense was committed; and

4 (B) the actor committed the offense with the
5 intent to violate or abuse the victim sexually;

6 (6) is convicted of an offense under Section 20A.02,
7 20A.03, 43.04, 43.05, or 43.25, Penal Code; or

8 (7) is convicted of an offense for which punishment is
9 increased under Section 481.134(c), (c-1), (d), (e), or (f), Health
10 and Safety Code, if it is shown that the defendant has been
11 previously convicted of an offense for which punishment was
12 increased under any of those subsections.

13 SECTION 4. Article 42A.102(b), Code of Criminal Procedure,
14 as amended by Chapters 1137 (H.B. 2758) and 1298 (H.B. 3582), Acts
15 of the 86th Legislature, Regular Session, 2019, is reenacted and
16 amended to read as follows:

17 (b) In all other cases, the judge may grant deferred
18 adjudication community supervision unless:

19 (1) the defendant is charged with an offense:

20 (A) under Section 20A.02, ~~[or]~~ 20A.03, ~~[or]~~
21 49.045, 49.05, 49.065, 49.07, or 49.08, Penal Code;

22 (B) under Section 49.04 or 49.06, Penal Code,
23 and, at the time of the offense:

24 (i) the defendant held a commercial
25 driver's license or a commercial learner's permit; or

26 (ii) the defendant's alcohol concentration,
27 as defined by Section 49.01, Penal Code, was 0.15 or more;

1 (C) for which punishment may be increased under
2 Section 49.09, Penal Code; or

3 (D) for which punishment may be increased under
4 Section 481.134(c), (c-1), (d), (e), or (f), Health and Safety
5 Code, if it is shown that the defendant has been previously
6 convicted of an offense for which punishment was increased under
7 any one of those subsections;

8 (2) the defendant:

9 (A) is charged with an offense under Section
10 21.11, 22.011, 22.021, 43.04, or 43.05, Penal Code, regardless of
11 the age of the victim, or a felony described by Article 42A.453(b),
12 other than a felony described by Subdivision (1)(A) or (3)(B) of
13 this subsection; and

14 (B) has previously been placed on community
15 supervision for an offense under Paragraph (A);

16 (3) the defendant is charged with an offense under:

17 (A) Section 21.02, Penal Code; or

18 (B) Section 22.021, Penal Code, that is
19 punishable under Subsection (f) of that section or under Section
20 12.42(c)(3) or (4), Penal Code; or

21 (4) the defendant is charged with an offense under
22 Section 19.02, Penal Code, except that the judge may grant deferred
23 adjudication community supervision on determining that the
24 defendant did not cause the death of the deceased, did not intend to
25 kill the deceased or another, and did not anticipate that a human
26 life would be taken.

27 SECTION 5. The change in law made by this Act applies only

1 to an offense committed on or after the effective date of this Act.
2 An offense committed before the effective date of this Act is
3 governed by the law in effect on the date the offense was committed,
4 and the former law is continued in effect for that purpose. For
5 purposes of this section, an offense was committed before the
6 effective date of this Act if any element of the offense was
7 committed before that date.

8 SECTION 6. This Act takes effect September 1, 2021.