

By: Wise

H.B. No. 61

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the eligibility of certain defendants charged with or
3 convicted of sexual offenses against children for release on
4 community supervision.

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

6 SECTION 1. Article 42.12, Code of Criminal Procedure, is
7 amended by adding Section 3h to read as follows:

8 Sec. 3h. LIMITATION ON COMMUNITY SUPERVISION FOR CERTAIN
9 SEX OFFENDERS. (a) Regardless of whether the defendant is
10 otherwise eligible for release on community supervision under this
11 article, a judge may not place on community supervision a defendant
12 charged with or convicted of an offense listed in Subsection (b),
13 and a jury may not recommend that a judge place on community
14 supervision a defendant convicted of an offense listed in
15 Subsection (b).

16 (b) This section prohibits the placement on community
17 supervision of a defendant who commits an offense under:

18 (1) Section 21.11, 22.011, 22.021, or 25.02, Penal
19 Code, if the victim of the offense was younger than 17 years of age
20 at the time the offense was committed and suffered serious bodily
21 injury or death as a result of the offense;

22 (2) Section 21.11, 22.021, or 25.02, Penal Code, if
23 the victim of the offense was younger than 12 years of age at the
24 time of the commission of the offense, unless the court determines

1 that:

2 (A) the defendant is a parent, stepparent,
3 adoptive parent, relative, legal guardian, or member or former
4 member of the victim's household;

5 (B) the defendant, if permitted to avoid
6 imprisonment, poses no future threat of harm to the victim;

7 (C) the defendant has been accepted in a mental
8 health treatment program that provides therapy relevant to the
9 defendant's offense; and

10 (D) it is in the best interest of the victim that
11 the defendant not be imprisoned; or

12 (3) Section 21.11, 22.011, 22.021, or 25.02, Penal
13 Code, if the victim of the offense was younger than 17 years of age
14 at the time of the commission of the offense, or Section
15 43.05(a)(2), 43.25, or 43.26, Penal Code, and the defendant has
16 previously been convicted of:

17 (A) an offense listed in this subdivision; or

18 (B) an offense under federal law or the law of
19 another state that contains elements that are substantially similar
20 to the elements of an offense listed in this subdivision.

21 SECTION 2. (a) The change in law made by this Act applies
22 only to an offense committed on or after the effective date of this
23 Act. For purposes of this section, an offense is committed before
24 the effective date of this Act if any element of the offense occurs
25 before the effective date.

26 (b) An offense committed before the effective date of this
27 Act is covered by the law in effect when the offense was committed,

1 and the former law is continued in effect for that purpose.

2 SECTION 3. This Act takes effect September 1, 2003.