

AN ACT

relating to the punishment and sentencing of defendants convicted of certain offenses under the Texas Controlled Substances Act.

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

SECTION 1. Sections 15(a) and (c), Article 42.12, Code of Criminal Procedure, are amended to read as follows:

(a)(1) On conviction of a state jail felony under Section 481.115(b), 481.1151(b)(1), 481.116(b), 481.121(b)(3), or 481.129(g)(1), Health and Safety Code, that is punished under Section 12.35(a), Penal Code, the judge shall suspend the imposition of the sentence and place the defendant on community supervision, unless the defendant has previously been convicted of a felony, in which event the judge may suspend the imposition of the sentence and place the defendant on community supervision or may order the sentence to be executed. The provisions of this subdivision requiring the judge to suspend the imposition of the sentence and place the defendant on community supervision do not apply to a defendant who under Section 481.1151(b)(1), Health and Safety Code, possessed more than five abuse units of the controlled substance or under Section 481.121(b)(3), Health and Safety Code, possessed more than one pound of marihuana.

(2) On conviction of a state jail felony punished under Section 12.35(a), Penal Code, other than a state jail felony listed in Subdivision (1), the judge may suspend the imposition of

1 the sentence and place the defendant on community supervision or
2 may order the sentence to be executed.

3 (3) The judge may suspend in whole or in part the
4 imposition of any fine imposed on conviction.

5 (c)(1) A judge may impose any condition of community
6 supervision on a defendant that the judge could impose on a
7 defendant placed on supervision for an offense other than a state
8 jail felony, except that the judge may impose on the defendant a
9 condition that the defendant submit to a period of confinement in a
10 county jail under Section 5 or 12 of this article only if the term
11 does not exceed 90 days.

12 (2) Except as otherwise provided by Subdivision (3), a
13 judge who places a defendant on community supervision for an
14 offense listed in Subsection (a)(1) shall require the defendant to
15 comply with substance abuse treatment conditions that are
16 consistent with standards adopted by the Texas Board of Criminal
17 Justice under Section 509.015, Government Code.

18 (3) A judge is not required to impose conditions
19 described by Subdivision (2) if the judge makes an affirmative
20 finding that the defendant does not require imposition of the
21 conditions to successfully complete the period of community
22 supervision.

23 SECTION 2. Chapter 509, Government Code, is amended by
24 adding Section 509.015 to read as follows:

25 Sec. 509.015. TREATMENT STANDARDS FOR CERTAIN STATE JAIL
26 FELONIES. The division shall propose and the board shall adopt best
27 practices standards for substance abuse treatment conditions

1 imposed under Section 15(c)(2), Article 42.12, Code of Criminal
2 Procedure.

3 SECTION 3. Not later than October 1, 2003, the Drug Demand
4 Reduction Advisory Committee created under Chapter 461, Health and
5 Safety Code, shall inform in writing each court having jurisdiction
6 over offenses listed in Section 15(a)(1), Article 42.12, Code of
7 Criminal Procedure, as added by this Act, and the office of each
8 attorney representing the state charged with prosecuting those
9 offenses of:

10 (1) the changes in law made by this Act; and

11 (2) the availability of grants and other sources of
12 revenue to assist in providing treatment as required by conditions
13 of community supervision imposed under Section 15(c)(2), Article
14 42.12, Code of Criminal Procedure, as added by this Act.

15 SECTION 4. This Act takes effect September 1, 2003, and
16 applies to any case in which a judgment has not been entered before
17 the effective date of this Act. A case in which a judgment has been
18 entered before the effective date of this Act is covered by the law
19 in effect when the judgment is entered, and the former law is
20 continued in effect for that purpose.

H.B. No. 2668

President of the Senate

Speaker of the House

I certify that H.B. No. 2668 was passed by the House on May 2, 2003, by a non-record vote.

Chief Clerk of the House

I certify that H.B. No. 2668 was passed by the Senate on May 24, 2003, by a viva-voce vote.

Secretary of the Senate

APPROVED: _____

Date

Governor