

By: Keel

H.B. No. 1759

Substitute the following for H.B. No. 1759:

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C.S.H.B. No. 1759

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the eligibility for jury-recommended community  
3 supervision and to the conditions of community supervision for  
4 certain defendants convicted of state jail felonies.

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

6 SECTION 1. Section 4(d), Article 42.12, Code of Criminal  
7 Procedure, is amended to read as follows:

8 (d) A defendant is not eligible for community supervision  
9 under this section if the defendant:

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

12 (2) is convicted of a state jail felony for which  
13 suspension of the imposition of the sentence occurs automatically  
14 under Section 15(a) [~~sentenced to serve a term of confinement under~~  
15 Section 12.35, Penal Code];

16 (3) does not file a sworn motion under Subsection (e)  
17 of this section or for whom the jury does not enter in the verdict a  
18 finding that the information contained in the motion is true; or

19 (4) is adjudged guilty of an offense for which  
20 punishment is increased under Section 481.134(c), (d), (e), or (f),  
21 Health and Safety Code, if it is shown that the defendant has been  
22 previously convicted of an offense for which punishment was  
23 increased under any one of those subsections.

24 SECTION 2. Section 15(c)(1), Article 42.12, Code of

1 Criminal Procedure, is amended to read as follows:

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

9 SECTION 3. (a) The change in law made by this Act to Section  
10 4(d), Article 42.12, Code of Criminal Procedure, applies to a  
11 defendant who on or after the effective date of this Act files the  
12 motion required by Section 4(e), Article 42.12, Code of Criminal  
13 Procedure, for jury-recommended community supervision, regardless  
14 of whether the offense with which the defendant is charged was  
15 committed before, on, or after the effective date of this Act.

16 (b) The change in law made by this Act to Section 15(c)(1),  
17 Article 42.12, Code of Criminal Procedure, applies only to a  
18 defendant originally placed on community supervision on or after  
19 the effective date of this Act.

20 SECTION 4. This Act takes effect September 1, 2005.