

1-1 By: Keel (Senate Sponsor - Whitmire) H.B. No. 1759
1-2 (In the Senate - Received from the House April 25, 2005;
1-3 April 26, 2005, read first time and referred to Committee on
1-4 Criminal Justice; May 5, 2005, reported favorably by the following
1-5 vote: Yeas 5, Nays 0; May 5, 2005, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the eligibility for jury-recommended community
1-9 supervision and to the conditions of community supervision for
1-10 certain defendants convicted of state jail felonies.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 4(d), Article 42.12, Code of Criminal
1-13 Procedure, is amended to read as follows:

1-14 (d) A defendant is not eligible for community supervision
1-15 under this section if the defendant:

1-16 (1) is sentenced to a term of imprisonment that
1-17 exceeds 10 years;

1-18 (2) is convicted of a state jail felony for which
1-19 suspension of the imposition of the sentence occurs automatically
1-20 under Section 15(a) [~~sentenced to serve a term of confinement under~~
1-21 Section 12.35, Penal Code];

1-22 (3) does not file a sworn motion under Subsection (e)
1-23 of this section or for whom the jury does not enter in the verdict a
1-24 finding that the information contained in the motion is true; or

1-25 (4) is adjudged guilty of an offense for which
1-26 punishment is increased under Section 481.134(c), (d), (e), or (f),
1-27 Health and Safety Code, if it is shown that the defendant has been
1-28 previously convicted of an offense for which punishment was
1-29 increased under any one of those subsections.

1-30 SECTION 2. Section 15(c)(1), Article 42.12, Code of
1-31 Criminal Procedure, is amended to read as follows:

1-32 (1) A judge may impose any condition of community
1-33 supervision on a defendant that the judge could impose on a
1-34 defendant placed on supervision for an offense other than a state
1-35 jail felony~~[, except that the judge may impose on the defendant a~~
1-36 ~~condition that the defendant submit to a period of confinement in a~~
1-37 ~~county jail under Section 5 or 12 of this article only if the term~~
1-38 ~~does not exceed 90 days].~~

1-39 SECTION 3. (a) The change in law made by this Act to Section
1-40 4(d), Article 42.12, Code of Criminal Procedure, applies to a
1-41 defendant who on or after the effective date of this Act files the
1-42 motion required by Section 4(e), Article 42.12, Code of Criminal
1-43 Procedure, for jury-recommended community supervision, regardless
1-44 of whether the offense with which the defendant is charged was
1-45 committed before, on, or after the effective date of this Act.

1-46 (b) The change in law made by this Act to Section 15(c)(1),
1-47 Article 42.12, Code of Criminal Procedure, applies only to a
1-48 defendant originally placed on community supervision on or after
1-49 the effective date of this Act.

1-50 SECTION 4. This Act takes effect September 1, 2005.

1-51 * * * * *