

## **BILL ANALYSIS**

S.B. 75  
By: Shapiro  
Criminal Jurisprudence  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

In 1997, S.B. 46 created a "two strikes and you're out" penalty for habitual sex offenders whose victims were under the age of 18, requiring an automatic 35-year sentence without the possibility of parole upon the second offense against a child. This bill had an unintended consequence by creating a chronological requirement where an offense is committed based upon the order of committed sexual offenses.

As proposed, S.B. 75 eliminates any chronological effect so that any two offenses in any order will qualify the offender for the habitual sex offender penalty.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

Senate Bill 75 amends the Penal Code to provide that a defendant is required to be punished by imprisonment in the institutional division for life if the defendant is convicted of an offense under Section 21.11(a)(1), Penal Code.

The bill provides that except as provided by Section 12.42(c)(2), Penal Code, if it is shown on the trial of a state jail felony punishable under Section 12.35(c), Penal Code, or on the trial of a third-degree felony that the defendant has been once before convicted of a felony, on conviction he shall be punished for a second-degree felony. The bill also states that except as provided by Section 12.42(c)(2), Penal Code, if it is shown on the trial of a second-degree felony that the defendant has been once before convicted of a felony, on conviction he shall be punished for a first-degree felony. S.B. 75 also provides that except as provided by Section 12.42(c)(2), Penal Code, if it is shown on the trial of a felony offense other than a state jail felony punishable under Section 12.35(a), Penal Code, that the defendant has previously been finally convicted of two felony offenses, and the second previous felony conviction is for an offense that occurred subsequent to the first previous conviction having become final, on conviction he shall be punished by imprisonment in the institutional division of the Texas Department of Criminal Justice for life, or for any term of not more than 99 years or less than 25 years.

Makes application of this Act prospective.

### **EFFECTIVE DATE**

September 1, 2007.