

By: Hochberg

H.B. No. 187

Substitute the following for H.B. No. 187:

By: Pena

C.S.H.B. No. 187

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to prohibiting jury-recommended or deferred adjudication  
3 community supervision for a defendant convicted of murder.

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

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

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

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

11 (2) is convicted of a state jail felony for which  
12 suspension of the imposition of the sentence occurs automatically  
13 under Section 15(a);

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

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

22 (5) is adjudged guilty of an offense under Section  
23 19.02, Penal Code.

24 SECTION 2. Section 5(d), Article 42.12, Code of Criminal

1 Procedure, is amended to read as follows:

2 (d) In all other cases the judge may grant deferred  
3 adjudication unless:

4 (1) the defendant is charged with an offense:

5 (A) under Section 19.02, 49.04, 49.05, 49.06,  
6 49.07, or 49.08, Penal Code; or

7 (B) for which punishment may be increased under  
8 Section 481.134(c), (d), (e), or (f), Health and Safety Code, if it  
9 is shown that the defendant has been previously convicted of an  
10 offense for which punishment was increased under any one of those  
11 subsections; or

12 (2) the defendant:

13 (A) is charged with an offense under Section  
14 21.11, 22.011, or 22.021, Penal Code, regardless of the age of the  
15 victim, or a felony described by Section 13B(b) of this article; and

16 (B) has previously been placed on community  
17 supervision for any offense under Paragraph (A) of this  
18 subdivision.

19 SECTION 3. The change in law made by this Act applies only  
20 to an offense committed on or after the effective date of this Act.  
21 An offense committed before the effective date of this Act is  
22 covered by the law in effect when the offense was committed, and the  
23 former law is continued in effect for that purpose. For purposes of  
24 this section, an offense is committed before the effective date of  
25 this Act if any element of the offense occurs before the effective  
26 date.

27 SECTION 4. This Act takes effect September 1, 2007.