

By: Haggerty

H.B. No. 1239

A BILL TO BE ENTITLED

AN ACT

1
2 relating to judicial discretion to place a defendant convicted of a
3 state jail felony on community supervision or to reduce or
4 terminate the term of that supervision.

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

6 SECTION 1. Section 3(e), Article 42.12, Code of Criminal
7 Procedure, is amended to read as follows:

8 (e) 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[+ ~~or~~

12 [~~(2) is sentenced to serve a term of confinement under~~
13 ~~Section 12.35, Penal Code].~~

14 SECTION 2. Section 4(d), Article 42.12, Code of Criminal
15 Procedure, is amended to read as follows:

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

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

20 (2) [~~is convicted of a state jail felony for which~~
21 ~~suspension of the imposition of the sentence occurs automatically~~
22 ~~under Section 15(a),~~

23 [~~(3)~~] does not file a sworn motion under Subsection (e)
24 of this section or for whom the jury does not enter in the verdict a

1 finding that the information contained in the motion is true; or

2 (3) [~~4~~] is adjudged guilty of an offense for which
3 punishment is increased under Section 481.134(c), (d), (e), or (f),
4 Health and Safety Code, if it is shown that the defendant has been
5 previously convicted of an offense for which punishment was
6 increased under any one of those subsections.

7 SECTION 3. Section 15(a), Article 42.12, Code of Criminal
8 Procedure, is amended to read as follows:

9 (a) [~~(1) On conviction of a state jail felony under Section~~
10 ~~481.115(b), 481.1151(b)(1), 481.116(b), 481.121(b)(3), or~~
11 ~~481.129(g)(1), Health and Safety Code, that is punished under~~
12 ~~Section 12.35(a), Penal Code, the judge shall suspend the~~
13 ~~imposition of the sentence and place the defendant on community~~
14 ~~supervision, unless the defendant has previously been convicted of~~
15 ~~a felony, in which event the judge may suspend the imposition of the~~
16 ~~sentence and place the defendant on community supervision or may~~
17 ~~order the sentence to be executed. The provisions of this~~
18 ~~subdivision requiring the judge to suspend the imposition of the~~
19 ~~sentence and place the defendant on community supervision do not~~
20 ~~apply to a defendant who under Section 481.1151(b)(1), Health and~~
21 ~~Safety Code, possessed more than five abuse units of the controlled~~
22 ~~substance or under Section 481.121(b)(3), Health and Safety Code,~~
23 ~~possessed more than one pound of marihuana.~~

24 [~~2~~] On conviction of a state jail felony punished
25 under Section 12.35(a), Penal Code, [~~other than a state jail felony~~
26 ~~listed in Subdivision (1),~~] the judge may suspend the imposition of
27 the sentence and place the defendant on community supervision or

1 may order the sentence to be executed.

2 SECTION 4. Section 15(c)(2), Article 42.12, Code of
3 Criminal Procedure, is amended to read as follows:

4 (2) Except as otherwise provided by Subdivision (3), a
5 judge who places a defendant on community supervision for an
6 offense punishable as a state jail felony under Section 481.115(b),
7 481.1151(b)(1), 481.116(b), 481.121(b)(3), or 481.129(g)(1),
8 Health and Safety Code, [listed in Subsection (a)(1)] shall require
9 the defendant to comply with substance abuse treatment conditions
10 that are consistent with standards adopted by the Texas Board of
11 Criminal Justice under Section 509.015, Government Code.

12 SECTION 5. Section 20(b), Article 42.12, Code of Criminal
13 Procedure, is amended to read as follows:

14 (b) This section does not apply to a defendant convicted of
15 an offense under Sections 49.04-49.08, Penal Code, or a defendant
16 convicted of an offense for which on conviction registration as a
17 sex offender is required under Chapter 62 [~~as added by Chapter 668,~~
18 ~~Acts of the 75th Legislature, Regular Session, 1997, or a defendant~~
19 ~~convicted of an offense punishable as a state jail felony]~~.

20 SECTION 6. (a) Except as provided by Subsection (b), the
21 change in law made by this Act applies only to a defendant convicted
22 of an offense committed on or after the effective date of this Act.
23 A defendant convicted of an offense committed before the effective
24 date of this Act is covered by the law in effect when the offense was
25 committed, and the former law is continued in effect for that
26 purpose. For purposes of this section, an offense was committed
27 before the effective date of this Act if any element of the offense

1 was committed before that date.

2 (b) Section 20(b), Article 42.12, Code of Criminal
3 Procedure, as amended by this Act, applies to a defendant placed on
4 community supervision for an offense committed before, on, or after
5 the effective date of this Act.

6 SECTION 7. This Act takes effect September 1, 2007.