

By: Haggerty

H.B. No. 1513

A BILL TO BE ENTITLED

AN ACT

relating to the exercise of judicial discretion with respect to placing certain felony offenders on community supervision and requiring a term of confinement as a condition of that supervision.

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

SECTION 1. Section 3g, Article 42.12, Code of Criminal Procedure, is amended to read as follows:

Sec. 3g. [~~LIMITATION ON~~] JUDGE ORDERED COMMUNITY SUPERVISION FOR CERTAIN FELONIES. (a) In a felony case in which the defendant is convicted of or enters a plea of guilty or nolo contendere to an offense listed in Subdivision (1) or for which the judgment contains an affirmative finding under Subdivision (2), the judge may impose a period of community supervision in accordance with Section 3. This subsection applies to [~~The provisions of Section 3 of this article do not apply~~]:

(1) a case involving [~~to a defendant adjudged guilty of~~] an offense under:

- (A) Section 19.02, Penal Code (Murder);
- (B) Section 19.03, Penal Code (Capital murder);
- (C) Section 21.11(a)(1), Penal Code (Indecency with a child);
- (D) Section 20.04, Penal Code (Aggravated kidnapping);
- (E) Section 22.021, Penal Code (Aggravated

1 sexual assault);

2 (F) Section 29.03, Penal Code (Aggravated
3 robbery);

4 (G) Chapter 481, Health and Safety Code, for
5 which punishment is increased under:

6 (i) Section 481.140, Health and Safety
7 Code; or

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

12 (H) Section 22.011, Penal Code (Sexual assault);
13 or

14 (2) a case in which the trial court makes an
15 affirmative finding [~~to a defendant when it is shown~~] that a deadly
16 weapon as defined in Section 1.07, Penal Code, was used or exhibited
17 during the commission of a felony offense or during immediate
18 flight therefrom, and that the defendant used or exhibited the
19 deadly weapon or was a party to the offense and knew that a deadly
20 weapon would be used or exhibited [~~. On an affirmative finding under~~
21 ~~this subdivision~~], in which event the trial court shall enter the
22 finding in the judgment of the court. On an affirmative finding
23 that the deadly weapon was a firearm, the court shall enter that
24 finding in the [its] judgment of the court.

25 (b) If there is an affirmative finding under Subsection
26 (a)(2) in the trial of a felony of the second degree or higher that
27 the deadly weapon used or exhibited was a firearm and the defendant

1 is granted community supervision, the court may order the defendant
2 confined in the [~~institutional division of the~~] Texas Department of
3 Criminal Justice as provided by Section 6 [~~for not less than 60 and~~
4 ~~not more than 120 days. At any time after the defendant has served~~
5 ~~60 days in the custody of the institutional division, the~~
6 ~~sentencing judge, on his own motion or on motion of the defendant,~~
7 ~~may order the defendant released to community supervision. The~~
8 ~~institutional division shall release the defendant to community~~
9 ~~supervision after he has served 120 days].~~

10 SECTION 2. The changes in law made by this Act apply only to
11 a defendant charged with an offense committed on or after the
12 effective date of this Act. A defendant charged with an offense
13 committed before the effective date of this Act is governed by the
14 law in effect when the offense was committed, and the former law is
15 continued in effect for that purpose. For purposes of this section,
16 an offense was committed before the effective date of this Act if
17 any element of the offense was committed before that date.

18 SECTION 3. This Act takes effect September 1, 2007.