

By: Creighton

H.B. No. 2000

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the punishment of certain repeat sex offenders for  
3 offenses committed against a child.

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

5 SECTION 1. Section 4(b), Article 37.07, Code of Criminal  
6 Procedure, is amended to read as follows:

7 (b) In the penalty phase of the trial of a felony case in  
8 which the punishment is to be assessed by the jury rather than the  
9 court, if the offense is punishable as a felony of the first degree,  
10 if a prior conviction has been alleged for enhancement of  
11 punishment as provided by Section 12.42(b), (c) (1) or (2), or (d),  
12 Penal Code, or if the offense is a felony not designated as a  
13 capital felony or a felony of the first, second, or third degree and  
14 the maximum term of imprisonment that may be imposed for the offense  
15 is longer than 60 years, unless the offense of which the jury has  
16 found the defendant guilty is listed in Section 3g(a)(1), Article  
17 42.12, of this code or the judgment contains an affirmative finding  
18 under Section 3g(a)(2), Article 42.12, of this code, the court  
19 shall charge the jury in writing as follows:

20 "Under the law applicable in this case, the defendant, if  
21 sentenced to a term of imprisonment, may earn time off the period of  
22 incarceration imposed through the award of good conduct time.  
23 Prison authorities may award good conduct time to a prisoner who  
24 exhibits good behavior, diligence in carrying out prison work

1 assignments, and attempts at rehabilitation. If a prisoner engages  
2 in misconduct, prison authorities may also take away all or part of  
3 any good conduct time earned by the prisoner.

4 "It is also possible that the length of time for which the  
5 defendant will be imprisoned might be reduced by the award of  
6 parole.

7 "Under the law applicable in this case, if the defendant is  
8 sentenced to a term of imprisonment, he will not become eligible for  
9 parole until the actual time served plus any good conduct time  
10 earned equals one-fourth of the sentence imposed or 15 years,  
11 whichever is less. Eligibility for parole does not guarantee that  
12 parole will be granted.

13 "It cannot accurately be predicted how the parole law and  
14 good conduct time might be applied to this defendant if he is  
15 sentenced to a term of imprisonment, because the application of  
16 these laws will depend on decisions made by prison and parole  
17 authorities.

18 "You may consider the existence of the parole law and good  
19 conduct time. However, you are not to consider the extent to which  
20 good conduct time may be awarded to or forfeited by this particular  
21 defendant. You are not to consider the manner in which the parole  
22 law may be applied to this particular defendant."

23 SECTION 2. Section 12.42(c), Penal Code, is amended to read  
24 as follows:

25 (c)(1) If [~~Except as provided by Subdivision (2), if~~] it is  
26 shown on the trial of a first-degree felony that the defendant has  
27 been once before convicted of a felony, on conviction he shall be

1 punished by imprisonment in the institutional division of the Texas  
2 Department of Criminal Justice for life, or for any term of not more  
3 than 99 years or less than 15 years. In addition to imprisonment,  
4 an individual may be punished by a fine not to exceed \$10,000.

5 (2) Notwithstanding Subdivision (1), a [A] defendant  
6 shall be punished by imprisonment in the institutional division for  
7 life if:

8 (A) the defendant is convicted of an offense:

9 (i) under Section 22.021 or 22.011, Penal  
10 Code;

11 (ii) under Section 20.04(a)(4), Penal Code,  
12 if the defendant committed the offense with the intent to violate or  
13 abuse the victim sexually; or

14 (iii) under Section 30.02, Penal Code,  
15 punishable under Subsection (d) of that section, if the defendant  
16 committed the offense with the intent to commit a felony described  
17 by Subparagraph (i) or (ii) or a felony under Section 21.11 or  
18 22.011, Penal Code; and

19 (B) the defendant has been previously convicted  
20 of an offense:

21 (i) under Section 43.25 or 43.26, Penal  
22 Code, or an offense under Section 43.23, Penal Code, punishable  
23 under Subsection (h) of that section;

24 (ii) under Section 21.11, 22.011, 22.021,  
25 or 25.02, Penal Code;

26 (iii) under Section 20.04(a)(4), Penal  
27 Code, if the defendant committed the offense with the intent to

1 violate or abuse the victim sexually;

2 (iv) under Section 30.02, Penal Code,  
3 punishable under Subsection (d) of that section, if the defendant  
4 committed the offense with the intent to commit a felony described  
5 by Subparagraph (ii) or (iii); or

6 (v) under the laws of another state  
7 containing elements that are substantially similar to the elements  
8 of an offense listed in Subparagraph (i), (ii), (iii), or (iv).

9 (3) Notwithstanding Subdivision (1) or (2), a  
10 defendant shall be punished by imprisonment in the Texas Department  
11 of Criminal Justice for life without parole if it is shown on the  
12 trial of an offense under Section 22.021 or an offense under Section  
13 22.011 that is punishable as a felony of the first degree that:

14 (A) the victim of the offense is younger than 14  
15 years of age at the time the offense is committed; and

16 (B) the defendant has previously been finally  
17 convicted of:

18 (i) an offense under Section 22.011 or  
19 22.021, the victim of which was younger than 14 years of age at the  
20 time that offense was committed; or

21 (ii) an offense under the laws of another  
22 state containing elements that are substantially similar to the  
23 elements of an offense described by Subparagraph (i), the victim of  
24 which was younger than 14 years of age at the time that offense was  
25 committed.

26 SECTION 3. The change in law made by this Act applies only  
27 to an offense committed on or after September 1, 2007. An offense

1 committed before September 1, 2007, is covered by the law in effect  
2 when the offense was committed, and the former law is continued in  
3 effect for that purpose. For the purposes of this subsection, an  
4 offense was committed before September 1, 2007, if any element of  
5 the offense occurred before that date.

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