

By: Shapiro

S.B. No. 75

A BILL TO BE ENTITLED

1 AN ACT

2 relating to penalties for certain repeat and habitual felony sex  
3 offenders.

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

5 SECTION 1. Section 12.42(a)(3), Penal Code, is amended to  
6 read as follows:

7 (3) Except as provided by Subsection (c)(2), if [~~if~~]  
8 it is shown on the trial of a state jail felony punishable under  
9 Section 12.35(c) or on the trial of a third-degree felony that the  
10 defendant has been once before convicted of a felony, on conviction  
11 he shall be punished for a second-degree felony.

12 SECTION 2. Section 12.42(b), Penal Code, is amended to read  
13 as follows:

14 (b) Except as provided by Subsection (c)(2), if [~~if~~] it is  
15 shown on the trial of a second-degree felony that the defendant has  
16 been once before convicted of a felony, on conviction he shall be  
17 punished for a first-degree felony.

18 SECTION 3. Section 12.42(c)(2), Penal Code, is amended to  
19 read as follows:

20 (2) A defendant shall be punished by imprisonment in  
21 the institutional division for life if:

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

23 (i) under Section 21.11, 22.021, or 22.011,

24 Penal Code;

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

4 (iii) under Section 30.02, Penal Code,  
5 punishable under Subsection (d) of that section, if the defendant  
6 committed the offense with the intent to commit a felony described  
7 by Subparagraph (i) or (ii) or a felony under Section 21.11 or  
8 22.011, Penal Code; and

9 (B) the defendant has been previously convicted  
10 of an offense:

11 (i) under Section 43.25 or 43.26, Penal  
12 Code, or an offense under Section 43.23, Penal Code, punishable  
13 under Subsection (h) of that section;

14 (ii) under Section 21.11, 22.011, 22.021,  
15 or 25.02, Penal Code;

16 (iii) under Section 20.04(a)(4), Penal  
17 Code, if the defendant committed the offense with the intent to  
18 violate or abuse the victim sexually;

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

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

26 SECTION 4. Section 12.42(d), Penal Code, is amended to read  
27 as follows:

1           (d) Except as provided by Subsection (c)(2), if [~~If~~] it is  
2 shown on the trial of a felony offense other than a state jail  
3 felony punishable under Section 12.35(a) that the defendant has  
4 previously been finally convicted of two felony offenses, and the  
5 second previous felony conviction is for an offense that occurred  
6 subsequent to the first previous conviction having become final, on  
7 conviction he shall be punished by imprisonment in the  
8 institutional division of the Texas Department of Criminal Justice  
9 for life, or for any term of not more than 99 years or less than 25  
10 years.

11           SECTION 5. The change in law made by this Act applies only  
12 to an offense committed on or after September 1, 2007. An offense  
13 committed before September 1, 2007, is governed by the law in effect  
14 when the offense was committed, and the former law is continued in  
15 effect for that purpose. For the purposes of this section, an  
16 offense was committed before September 1, 2007, if any element of  
17 the offense was committed before that date.

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