

By: Ogden

S.B. No. 435

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the ineligibility of certain inmates for release on
3 parole or mandatory supervision.

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

5 SECTION 1. Sections 508.145(a) and (d), Government Code,
6 are amended to read as follows:

7 (a) An inmate under sentence of death, ~~[or]~~ serving a
8 sentence of life imprisonment without parole, or serving a sentence
9 for a conviction that requires the inmate to register under Chapter
10 62, Code of Criminal Procedure, is not eligible for release on
11 parole.

12 (d) Except as provided by Subsection (a), an ~~[An]~~ inmate
13 serving a sentence for an offense described by Section 3g(a)(1)(A),
14 ~~[(C),]~~ (D), ~~[(E),]~~ (F), or (G), ~~[or (H),]~~ Article 42.12, Code of
15 Criminal Procedure, or for an offense for which the judgment
16 contains an affirmative finding under Section 3g(a)(2) of that
17 article, is not eligible for release on parole until the inmate's
18 actual calendar time served, without consideration of good conduct
19 time, equals one-half of the sentence or 30 calendar years,
20 whichever is less, but in no event is the inmate eligible for
21 release on parole in less than two calendar years.

22 SECTION 2. Section 508.149(a), Government Code, is amended
23 to read as follows:

24 (a) An inmate may not be released to mandatory supervision

1 if the inmate is serving a sentence for or has been previously
2 convicted of:

3 (1) an offense for which the judgment contains an
4 affirmative finding under Section 3g(a)(2), Article 42.12, Code of
5 Criminal Procedure;

6 (2) a first degree felony or a second degree felony
7 under Section 19.02, Penal Code;

8 (3) a capital felony under Section 19.03, Penal Code;

9 (4) a first degree felony or a second degree felony
10 under Section 20.04, Penal Code;

11 (5) a second degree felony or a third degree felony
12 under Section 21.11, Penal Code;

13 (6) a second degree felony under Section 22.011, Penal
14 Code;

15 (7) a first degree felony or a second degree felony
16 under Section 22.02, Penal Code;

17 (8) a first degree felony under Section 22.021, Penal
18 Code;

19 (9) a first degree felony under Section 22.04, Penal
20 Code;

21 (10) a first degree felony under Section 28.02, Penal
22 Code;

23 (11) a second degree felony under Section 29.02, Penal
24 Code;

25 (12) a first degree felony under Section 29.03, Penal
26 Code;

27 (13) a first degree felony under Section 30.02, Penal

1 Code; [~~or~~]

2 (14) a felony for which the punishment is increased
3 under Section 481.134 or Section 481.140, Health and Safety Code;
4 or

5 (15) an offense not otherwise described by this
6 subsection the conviction of which requires the inmate to register
7 under Chapter 62, Code of Criminal Procedure.

8 SECTION 3. Sections 4(a), (b), and (c), Article 37.07, Code
9 of Criminal Procedure, are amended to read as follows:

10 (a) In the penalty phase of the trial of a felony case in
11 which the punishment is to be assessed by the jury rather than the
12 court, if the offense of which the jury has found the defendant
13 guilty is listed in Section 3g(a)(1), Article 42.12, of this code or
14 if the judgment contains an affirmative finding under Section
15 3g(a)(2), Article 42.12, of this code, unless the defendant has
16 been convicted of a capital felony or of an offense the conviction
17 of which requires the defendant to register under Chapter 62, the
18 court shall charge the jury in writing as follows:

19 "Under the law applicable in this case, the defendant, if
20 sentenced to a term of imprisonment, may earn time off the period of
21 incarceration imposed through the award of good conduct time.
22 Prison authorities may award good conduct time to a prisoner who
23 exhibits good behavior, diligence in carrying out prison work
24 assignments, and attempts at rehabilitation. If a prisoner engages
25 in misconduct, prison authorities may also take away all or part of
26 any good conduct time earned by the prisoner.

27 "It is also possible that the length of time for which the

1 defendant will be imprisoned might be reduced by the award of
2 parole.

3 "Under the law applicable in this case, if the defendant is
4 sentenced to a term of imprisonment, he will not become eligible for
5 parole until the actual time served equals one-half of the sentence
6 imposed or 30 years, whichever is less, without consideration of
7 any good conduct time he may earn. If the defendant is sentenced to
8 a term of less than four years, he must serve at least two years
9 before he is eligible for parole. Eligibility for parole does not
10 guarantee that parole will be granted.

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

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

21 (b) In the penalty phase of the trial of a felony case in
22 which the punishment is to be assessed by the jury rather than the
23 court, if the offense is punishable as a felony of the first degree,
24 if a prior conviction has been alleged for enhancement of
25 punishment as provided by Section 12.42(b), (c), or (d), Penal
26 Code, or if the offense is a felony not designated as a capital
27 felony or a felony of the first, second, or third degree and the

1 maximum term of imprisonment that may be imposed for the offense is
2 longer than 60 years, unless the offense of which the jury has found
3 the defendant guilty is listed in Section 3g(a)(1), Article 42.12,
4 of this code or the judgment contains an affirmative finding under
5 Section 3g(a)(2), Article 42.12, of this code, and unless the
6 defendant has been convicted of an offense the conviction of which
7 requires the defendant to register under Chapter 62, the court
8 shall charge the jury in writing as follows:

9 "Under the law applicable in this case, the defendant, if
10 sentenced to a term of imprisonment, may earn time off the period of
11 incarceration imposed through the award of good conduct time.
12 Prison authorities may award good conduct time to a prisoner who
13 exhibits good behavior, diligence in carrying out prison work
14 assignments, and attempts at rehabilitation. If a prisoner engages
15 in misconduct, prison authorities may also take away all or part of
16 any good conduct time earned by the prisoner.

17 "It is also possible that the length of time for which the
18 defendant will be imprisoned might be reduced by the award of
19 parole.

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

26 "It cannot accurately be predicted how the parole law and
27 good conduct time might be applied to this defendant if he is

1 sentenced to a term of imprisonment, because the application of
2 these laws will depend on decisions made by prison and parole
3 authorities.

4 "You may consider the existence of the parole law and good
5 conduct time. However, you are not to consider the extent to which
6 good conduct time may be awarded to or forfeited by this particular
7 defendant. You are not to consider the manner in which the parole
8 law may be applied to this particular defendant."

9 (c) In the penalty phase of the trial of a felony case in
10 which the punishment is to be assessed by the jury rather than the
11 court, if the offense is punishable as a felony of the second or
12 third degree, if a prior conviction has been alleged for
13 enhancement as provided by Section 12.42(a), Penal Code, or if the
14 offense is a felony not designated as a capital felony or a felony
15 of the first, second, or third degree and the maximum term of
16 imprisonment that may be imposed for the offense is 60 years or
17 less, unless the offense of which the jury has found the defendant
18 guilty is listed in Section 3g(a)(1), Article 42.12, of this code or
19 the judgment contains an affirmative finding under Section
20 3g(a)(2), Article 42.12, of this code, and unless the defendant has
21 been convicted of an offense the conviction of which requires the
22 defendant to register under Chapter 62, the court shall charge the
23 jury in writing as follows:

24 "Under the law applicable in this case, the defendant, if
25 sentenced to a term of imprisonment, may earn time off the period of
26 incarceration imposed through the award of good conduct time.
27 Prison authorities may award good conduct time to a prisoner who

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

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

8 "Under the law applicable in this case, if the defendant is
9 sentenced to a term of imprisonment, he will not become eligible for
10 parole until the actual time served plus any good conduct time
11 earned equals one-fourth of the sentence imposed. Eligibility for
12 parole does not guarantee that 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 4. Article 56.11(c), Code of Criminal Procedure, is
24 amended to read as follows:

25 (c) This article applies to a person convicted of an offense
26 the conviction of which requires the person to register as a sex
27 offender under Chapter 62 [~~described by Section 508.187(a),~~

1 ~~Government Code,~~] or an offense involving family violence,
2 stalking, or violation of a protective order or magistrate's order.

3 SECTION 5. Section 508.045(a), Government Code, is amended
4 to read as follows:

5 (a) Board [~~Except as provided by Section 508.046, board~~]
6 members and parole commissioners shall act in panels composed of
7 three in matters of:

- 8 (1) release on parole;
9 (2) release to mandatory supervision; and
10 (3) revocation of parole or mandatory supervision.

11 SECTION 6. Section 508.152(f), Government Code, is amended
12 to read as follows:

13 (f) An attorney representing the state in the prosecution of
14 an inmate serving a sentence for an offense described by Section
15 13B(b), Article 42.12, Code of Criminal Procedure, other than an
16 offense under Section 21.08, Penal Code, [~~Section 508.187(a)~~] shall
17 provide written comments to the department on the circumstances
18 related to the commission of the offense and other information
19 determined by the attorney to be relevant to any subsequent parole
20 decisions regarding the inmate.

21 SECTION 7. The following laws are repealed:

- 22 (1) Section 493.017(b), Government Code;
23 (2) Section 508.046, Government Code;
24 (3) Section 508.145(c), Government Code;
25 (4) Section 508.181(g), Government Code;
26 (5) Section 508.186, Government Code;
27 (6) Section 508.187, Government Code; and

1 (7) Section 508.225(c), Government Code.

2 SECTION 8. The change in law made by this Act applies only
3 to a conviction that results from an offense committed on or after
4 September 1, 2007. A conviction that results from an offense
5 committed before September 1, 2007, is covered by the law in effect
6 when the offense was committed, and the former law is continued in
7 effect for that purpose. For the purposes of this section, an
8 offense was committed before September 1, 2007, if any element of
9 the offense occurred before that date.

10 SECTION 9. This Act takes effect September 1, 2007.