

By: Menendez

H.B. No. 221

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to delaying parole eligibility for an individual convicted  
3 of certain violent offenses who evades arrest and to the punishment  
4 prescribed for the offense of evading arrest or detention.

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

6 SECTION 1. Article 42.01, Code of Criminal Procedure, is  
7 amended by adding Section 9 to read as follows:

8 Sec. 9. In addition to the information described by Section  
9 1, the judgment should reflect affirmative findings entered  
10 pursuant to Article 42.0198.

11 SECTION 2. Chapter 42, Code of Criminal Procedure, is  
12 amended by adding Article 42.0198 to read as follows:

13 Art. 42.0198. FINDING REGARDING DELAY IN ARREST OF  
14 DEFENDANT. In the trial of an offense under Section 19.02, 22.011,  
15 or 22.021, Penal Code, on the motion of the attorney representing  
16 the state the judge shall make an affirmative finding of fact  
17 regarding the number of months that elapsed, if any, between the  
18 date an arrest warrant was issued for the defendant following an  
19 indictment for the offense and the date the defendant was arrested  
20 for the offense. The judge shall enter the affirmative finding in  
21 the judgment in the case.

22 SECTION 3. Section 508.145, Government Code, is amended by  
23 adding Subsection (d-1) to read as follows:

24 (d-1) Notwithstanding Subsection (d), for every 12 months

1 that elapse between the date an arrest warrant is issued for the  
2 inmate following an indictment for the offense and the date the  
3 inmate is arrested for the offense, the earliest date on which an  
4 inmate is eligible for parole is delayed by three years from the  
5 date otherwise provided by Subsection (d), if the inmate is serving  
6 a sentence for an offense under Section 19.02, 22.011, or 22.021,  
7 Penal Code.

8 SECTION 4. Section 38.04(b), Penal Code, is amended to read  
9 as follows:

10 (b) An offense under this section is a Class A [~~B~~]  
11 misdemeanor, except that the offense is:

12 (1) a state jail felony if:

13 (A) the actor has been previously convicted under  
14 this section; or

15 (B) the actor uses a vehicle while the actor is in  
16 flight and the actor has not been previously convicted under this  
17 section;

18 (2) a felony of the third degree if:

19 (A) the actor uses a vehicle while the actor is in  
20 flight and the actor has been previously convicted under this  
21 section; or

22 (B) another suffers serious bodily injury as a  
23 direct result of an attempt by the officer from whom the actor is  
24 fleeing to apprehend the actor while the actor is in flight; or

25 (3) a felony of the second degree if another suffers  
26 death as a direct result of an attempt by the officer from whom the  
27 actor is fleeing to apprehend the actor while the actor is in

1 flight.

2 SECTION 5. Section 9, Article 42.01, Code of Criminal  
3 Procedure, and Article 42.0198, Code of Criminal Procedure, as  
4 added by this Act, apply only to a judgment of conviction entered on  
5 or after the effective date of this Act.

6 SECTION 6. Section 508.145, Government Code, as amended by  
7 this Act, applies only to the parole eligibility of an inmate  
8 serving a sentence for an offense under Section 19.02, 22.011, or  
9 22.021, Penal Code, committed on or after the effective date of this  
10 Act. The parole eligibility of an inmate serving a sentence for an  
11 offense under Section 19.02, 22.011, or 22.021, Penal Code,  
12 committed before the effective date of this Act is governed by the  
13 law in effect at the time the offense was committed, and the former  
14 law is continued in effect for that purpose. For purposes of this  
15 section, an offense was committed before the effective date of this  
16 Act if any element of the offense was committed before that date.

17 SECTION 7. The change in law made by this Act applies only  
18 to an offense committed on or after the effective date of this Act.  
19 An offense committed before the effective date of this Act is  
20 covered by the law in effect when the offense was committed, and the  
21 former law is continued in effect for that purpose. For purposes of  
22 this section, an offense was committed before the effective date of  
23 this Act if any element of the offense was committed before that  
24 date.

25 SECTION 8. This Act takes effect September 1, 2009.