

1-1 By: Menendez (Senate Sponsor - Whitmire) H.B. No. 221
1-2 (In the Senate - Received from the House May 8, 2009;
1-3 May 8, 2009, read first time and referred to Committee on Criminal
1-4 Justice; May 22, 2009, reported favorably by the following vote:
1-5 Yeas 6, Nays 0; May 22, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to delaying parole eligibility for an individual convicted
1-9 of certain violent offenses who evades arrest and to the punishment
1-10 prescribed for the offense of evading arrest or detention.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Article 42.01, Code of Criminal Procedure, is
1-13 amended by adding Section 9 to read as follows:

1-14 Sec. 9. In addition to the information described by Section
1-15 1, the judgment should reflect affirmative findings entered
1-16 pursuant to Article 42.0198.

1-17 SECTION 2. Chapter 42, Code of Criminal Procedure, is
1-18 amended by adding Article 42.0198 to read as follows:

1-19 Art. 42.0198. FINDING REGARDING DELAY IN ARREST OF
1-20 DEFENDANT. In the trial of an offense under Section 19.02, 22.011,
1-21 or 22.021, Penal Code, on the motion of the attorney representing
1-22 the state the judge shall make an affirmative finding of fact
1-23 regarding the number of months that elapsed, if any, between the
1-24 date an arrest warrant was issued for the defendant following an
1-25 indictment for the offense and the date the defendant was arrested
1-26 for the offense. The judge shall enter the affirmative finding in
1-27 the judgment in the case.

1-28 SECTION 3. Section 508.145, Government Code, is amended by
1-29 adding Subsection (d-1) to read as follows:

1-30 (d-1) Notwithstanding Subsection (d), for every 12 months
1-31 that elapse between the date an arrest warrant is issued for the
1-32 inmate following an indictment for the offense and the date the
1-33 inmate is arrested for the offense, the earliest date on which an
1-34 inmate is eligible for parole is delayed by three years from the
1-35 date otherwise provided by Subsection (d), if the inmate is serving
1-36 a sentence for an offense under Section 19.02, 22.011, or 22.021,
1-37 Penal Code.

1-38 SECTION 4. Section 38.04(b), Penal Code, is amended to read
1-39 as follows:

1-40 (b) An offense under this section is a Class A [~~B~~]
1-41 misdemeanor, except that the offense is:

1-42 (1) a state jail felony if:

1-43 (A) the actor has been previously convicted under
1-44 this section; or

1-45 (B) the actor uses a vehicle while the actor is in
1-46 flight and the actor has not been previously convicted under this
1-47 section;

1-48 (2) a felony of the third degree if:

1-49 (A) the actor uses a vehicle while the actor is in
1-50 flight and the actor has been previously convicted under this
1-51 section; or

1-52 (B) another suffers serious bodily injury as a
1-53 direct result of an attempt by the officer from whom the actor is
1-54 fleeing to apprehend the actor while the actor is in flight; or

1-55 (3) a felony of the second degree if another suffers
1-56 death as a direct result of an attempt by the officer from whom the
1-57 actor is fleeing to apprehend the actor while the actor is in
1-58 flight.

1-59 SECTION 5. Section 9, Article 42.01, Code of Criminal
1-60 Procedure, and Article 42.0198, Code of Criminal Procedure, as
1-61 added by this Act, apply only to a judgment of conviction entered on
1-62 or after the effective date of this Act.

1-63 SECTION 6. Section 508.145, Government Code, as amended by
1-64 this Act, applies only to the parole eligibility of an inmate

2-1 serving a sentence for an offense under Section 19.02, 22.011, or
2-2 22.021, Penal Code, committed on or after the effective date of this
2-3 Act. The parole eligibility of an inmate serving a sentence for an
2-4 offense under Section 19.02, 22.011, or 22.021, Penal Code,
2-5 committed before the effective date of this Act is governed by the
2-6 law in effect at the time the offense was committed, and the former
2-7 law is continued in effect for that purpose. For purposes of this
2-8 section, an offense was committed before the effective date of this
2-9 Act if any element of the offense was committed before that date.

2-10 SECTION 7. The change in law made by this Act applies only
2-11 to an offense committed on or after the effective date of this Act.
2-12 An offense committed before the effective date of this Act is
2-13 covered by the law in effect when the offense was committed, and the
2-14 former law is continued in effect for that purpose. For purposes of
2-15 this section, an offense was committed before the effective date of
2-16 this Act if any element of the offense was committed before that
2-17 date.

2-18 SECTION 8. This Act takes effect September 1, 2009.

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