

By: Zerwas

H.B. No. 493

Substitute the following for H.B. No. 493:

By: Gallego

C.S.H.B. No. 493

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the eligibility for judge-ordered community
3 supervision or for release on parole or to mandatory supervision of
4 a defendant convicted of criminal solicitation of capital murder.

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

6 SECTION 1. Section 3g(a), Article 42.12, Code of Criminal
7 Procedure, as amended by Chapters 405 (S.B. 877) and 593 (H.B. 8),
8 Acts of the 80th Legislature, Regular Session, 2007, is reenacted
9 and amended to read as follows:

10 (a) The provisions of Section 3 of this article do not
11 apply:

12 (1) to a defendant adjudged guilty of an offense
13 under:

14 (A) Section 19.02, Penal Code (Murder);

15 (B) Section 19.03, Penal Code (Capital murder);

16 (C) Section 21.11(a)(1), Penal Code (Indecency
17 with a child);

18 (D) Section 20.04, Penal Code (Aggravated
19 kidnapping);

20 (E) Section 22.021, Penal Code (Aggravated
21 sexual assault);

22 (F) Section 29.03, Penal Code (Aggravated
23 robbery);

24 (G) Chapter 481, Health and Safety Code, for

1 which punishment is increased under:

2 (i) Section 481.140, Health and Safety
3 Code; or

4 (ii) Section 481.134(c), (d), (e), or (f),
5 Health and Safety Code, if it is shown that the defendant has been
6 previously convicted of an offense for which punishment was
7 increased under any of those subsections;

8 (H) Section 22.011, Penal Code (Sexual assault);
9 [~~or~~]

10 (I) Section 22.04(a)(1), Penal Code (Injury to a
11 child, elderly individual, or disabled individual), if the offense
12 is punishable as a felony of the first degree and the victim of the
13 offense is a child; [~~or~~]

14 (J) [~~(I)~~] Section 43.25, Penal Code (Sexual
15 performance by a child); or

16 (K) Section 15.03, Penal Code, if the offense is
17 punishable as a felony of the first degree; or

18 (2) to a defendant when it is shown that a deadly
19 weapon as defined in Section 1.07, Penal Code, was used or exhibited
20 during the commission of a felony offense or during immediate
21 flight therefrom, and that the defendant used or exhibited the
22 deadly weapon or was a party to the offense and knew that a deadly
23 weapon would be used or exhibited. On an affirmative finding under
24 this subdivision, the trial court shall enter the finding in the
25 judgment of the court. On an affirmative finding that the deadly
26 weapon was a firearm, the court shall enter that finding in its
27 judgment.

1 SECTION 2. Section 508.145(d), Government Code, is amended
2 to read as follows:

3 (d) An inmate serving a sentence for an offense described by
4 Section 3g(a)(1)(A), (C), (D), (E), (F), (G), (H), [~~or~~] (I), (J), or
5 (K), Article 42.12, Code of Criminal Procedure, or for an offense
6 for which the judgment contains an affirmative finding under
7 Section 3g(a)(2) of that article, is not eligible for release on
8 parole until the inmate's actual calendar time served, without
9 consideration of good conduct time, equals one-half of the sentence
10 or 30 calendar years, whichever is less, but in no event is the
11 inmate eligible for release on parole in less than two calendar
12 years.

13 SECTION 3. Section 508.149(a), Government Code, is amended
14 to read as follows:

15 (a) An inmate may not be released to mandatory supervision
16 if the inmate is serving a sentence for or has been previously
17 convicted of:

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

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

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

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

26 (5) an offense under Section 21.11, Penal Code;

27 (6) a felony under Section 22.011, Penal Code;

- 1 (7) a first degree felony or a second degree felony
2 under Section 22.02, Penal Code;
- 3 (8) a first degree felony under Section 22.021, Penal
4 Code;
- 5 (9) a first degree felony under Section 22.04, Penal
6 Code;
- 7 (10) a first degree felony under Section 28.02, Penal
8 Code;
- 9 (11) a second degree felony under Section 29.02, Penal
10 Code;
- 11 (12) a first degree felony under Section 29.03, Penal
12 Code;
- 13 (13) a first degree felony under Section 30.02, Penal
14 Code;
- 15 (14) a felony for which the punishment is increased
16 under Section 481.134 or Section 481.140, Health and Safety Code;
- 17 (15) an offense under Section 43.25, Penal Code; ~~or~~
- 18 (16) an offense under Section 21.02, Penal Code; or
- 19 (17) a first degree felony under Section 15.03, Penal
20 Code.

21 SECTION 4. The change in law made by this Act applies only
22 to an offense committed on or after the effective date of this Act.
23 An offense committed before the effective date of this Act is
24 covered by the law in effect when the offense was committed, and the
25 former law is continued in effect for that purpose. For purposes of
26 this section, an offense was committed before the effective date of
27 this Act if any element of the offense was committed before that

1 date.

2 SECTION 5. To the extent of any conflict, this Act prevails
3 over another Act of the 81st Legislature, Regular Session, 2009,
4 relating to nonsubstantive additions to and corrections in enacted
5 codes.

6 SECTION 6. This Act takes effect September 1, 2009.