

By: Zerwas

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 mandatory supervision of a defendant convicted  
4 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 and 593, Acts of the 80th  
8 Legislature, Regular Session, 2007, is reenacted and amended to  
9 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 508.149(a), Government Code, is amended  
2 to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1           (13) a first degree felony under Section 30.02, Penal  
2 Code;
- 3           (14) a felony for which the punishment is increased  
4 under Section 481.134 or Section 481.140, Health and Safety Code;
- 5           (15) an offense under Section 43.25, Penal Code; ~~[or]~~
- 6           (16) an offense under Section 21.02, Penal Code; or
- 7           (17) a first degree felony under Section 15.03, Penal  
8 Code.

9           SECTION 3. The change in law made by this Act applies only  
10 to an offense committed on or after the effective date of this Act.  
11 An offense committed before the effective date of this Act is  
12 covered by the law in effect when the offense was committed, and the  
13 former law is continued in effect for that purpose. For purposes of  
14 this section, an offense was committed before the effective date of  
15 this Act if any element of the offense was committed before that  
16 date.

17           SECTION 4. This Act takes effect September 1, 2009.