

By: Riddle

H.B. No. 718

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the applicability of certain laws to certain sex
3 offenders.

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

5 SECTION 1. Section 4(b), Article 37.07, Code of Criminal
6 Procedure, is amended to read as follows:

7 (b) In the penalty phase of the trial of a felony case in
8 which the punishment is to be assessed by the jury rather than the
9 court, if the offense is punishable as a felony of the first degree,
10 if a prior conviction has been alleged for enhancement of
11 punishment as provided by Section 12.42(b), (c)(1) [~~or (2)~~], or
12 (d), Penal Code, or if the offense is a felony not designated as a
13 capital felony or a felony of the first, second, or third degree and
14 the maximum term of imprisonment that may be imposed for the offense
15 is longer than 60 years, unless the offense of which the jury has
16 found the defendant guilty is an offense that is punishable under
17 Section 21.02(h), Penal Code, or is listed in Section 3g(a)(1),
18 Article 42.12, [~~of this code~~] or the judgment contains an
19 affirmative finding under Section 3g(a)(2), Article 42.12, [~~of this~~
20 ~~code~~], the court shall charge the jury in writing as follows:

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

1 who exhibits good behavior, diligence in carrying out prison work
2 assignments, and attempts at rehabilitation. If a prisoner
3 engages in misconduct, prison authorities may also take away all or
4 part of 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 or 15 years,
12 whichever is less. Eligibility for parole does not guarantee that
13 parole will be granted.

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

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

24 SECTION 2. Section 4(d), Article 42.12, Code of Criminal
25 Procedure, as amended by Chapters 593 (H.B. 8) and 1205 (H.B. 1678),
26 Acts of the 80th Legislature, Regular Session, 2007, is reenacted
27 and amended to read as follows:

1 (d) A defendant is not eligible for community supervision
2 under this section if the defendant:

3 (1) is sentenced to a term of imprisonment that
4 exceeds 10 years;

5 (2) is convicted of a state jail felony for which
6 suspension of the imposition of the sentence occurs automatically
7 under Section 15(a);

8 (3) does not file a sworn motion under Subsection (e)
9 of this section or for whom the jury does not enter in the verdict a
10 finding that the information contained in the motion is true;

11 (4) is convicted of an offense for which punishment is
12 increased under Section 481.134(c), (d), (e), or (f), Health and
13 Safety Code, if it is shown that the defendant has been previously
14 convicted of an offense for which punishment was increased under
15 any one of those subsections;

16 (5) is convicted of an offense listed in:

17 (A) Section 3g(a)(1)(E) [3g(a)(1)(C), (E), or
18 (H)], if the victim of the offense was younger than 14 years of age
19 at the time the offense was committed; or

20 (B) Section 3g(a)(1)(H), if the victim of the
21 offense was younger than 17 years of age at the time the offense was
22 committed;

23 (6) is convicted of an offense listed in Section
24 3g(a)(1)(D), if the victim of the offense was younger than 17 [~~14~~]
25 years of age at the time the offense was committed and the actor
26 committed the offense with the intent to violate or abuse the victim
27 sexually; [~~or~~]

1 (7) is convicted of an offense listed in Section
2 3g(a)(1)(C) or (J); or

3 (8) [~~3g(a)(1)(I)~~] is adjudged guilty of an offense
4 under Section 19.02, Penal Code.

5 SECTION 3. Section 508.046, Government Code, is amended to
6 read as follows:

7 Sec. 508.046. EXTRAORDINARY VOTE REQUIRED. To release on
8 parole an inmate who was convicted of an offense under Section
9 [~~21.027~~] 21.11(a)(1)[~~7~~] or 22.021, Penal Code, or who is required
10 under Section 508.145(c) to serve 35 calendar years before becoming
11 eligible for release on parole, all members of the board must vote
12 on the release on parole of the inmate, and at least two-thirds of
13 the members must vote in favor of the release on parole. A member
14 of the board may not vote on the release unless the member first
15 receives a copy of a written report from the department on the
16 probability that the inmate would commit an offense after being
17 released on parole.

18 SECTION 4. Section 508.187(a), Government Code, is amended
19 to read as follows:

20 (a) This section applies only to a releasee serving a
21 sentence for an offense under:

22 (1) Section 43.25 or 43.26, Penal Code;

23 (2) Section [~~21.027~~] 21.11, 22.011, 22.021, or 25.02,
24 Penal Code;

25 (3) Section 20.04(a)(4), Penal Code, if the releasee
26 committed the offense with the intent to violate or abuse the victim
27 sexually; or

1 (4) Section 30.02, Penal Code, punishable under
2 Subsection (d) of that section, if the releasee committed the
3 offense with the intent to commit a felony listed in Subdivision (2)
4 or (3).

5 SECTION 5. Section 508.189(a), Government Code, is amended
6 to read as follows:

7 (a) A parole panel shall require as a condition of parole or
8 mandatory supervision that a releasee convicted of an offense under
9 Section [~~21.02,~~ 21.08, 21.11, 22.011, 22.021, 25.02, 43.25, or
10 43.26, Penal Code, pay to the division a parole supervision fee of
11 \$5 each month during the period of parole supervision.

12 SECTION 6. Section 38.05(d), Penal Code, is amended to read
13 as follows:

14 (d) An offense under this section is a felony of the third
15 degree if the person who is harbored, concealed, provided with a
16 means of avoiding arrest or effecting escape, or warned of
17 discovery or apprehension is under arrest for, charged with, or
18 convicted of a felony, including an offense under Article [~~Section~~
19 62.102, Code of Criminal Procedure, or is in custody or detention
20 for, is alleged in a petition to have engaged in, or has been
21 adjudicated as having engaged in delinquent conduct that violates a
22 penal law of the grade of felony, including an offense under Article
23 [~~Section~~] 62.102, Code of Criminal Procedure, and the person
24 charged under this section knew that the person they harbored,
25 concealed, provided with a means of avoiding arrest or effecting
26 escape, or warned of discovery or apprehension is under arrest for,
27 charged with, or convicted of a felony, or is in custody or

1 detention for, is alleged in a petition to have engaged in, or has
2 been adjudicated as having engaged in delinquent conduct that
3 violates a penal law of the grade of felony.

4 SECTION 7. Section 508.117(g)(2-a), Government Code, is
5 repealed.

6 SECTION 8. The change in law made by this Act in reenacting
7 and amending Section 4(d), Article 42.12, Code of Criminal
8 Procedure, applies only to an offense committed on or after the
9 effective date of this Act. An offense committed before the
10 effective date of this Act is covered by the law in effect when the
11 offense was committed, and the former law is continued in effect for
12 that purpose. For purposes of this section, an offense was
13 committed before the effective date of this Act if any element of
14 the offense occurred before that date.

15 SECTION 9. This Act takes effect September 1, 2009.