

By: Turner of Harris

H.B. No. 1199

A BILL TO BE ENTITLED

AN ACT

relating to the enhancement of punishment in criminal cases.

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

SECTION 1. Subchapter D, Chapter 12, Penal Code, is amended by adding Section 12.421 to read as follows:

Sec. 12.421. ENHANCEMENT OPTIONS. Notwithstanding Sections 12.42 and 12.43, a jury or a judge assessing punishment in a criminal case in which one or more prior convictions are alleged and shown for enhancement purposes may:

(1) assess punishment as provided by Section 12.42 or Section 12.43, as applicable; or

(2) on a unanimous determination by the jury or a written determination by the judge that the enhanced punishment would result in disproportionate or unfair punishment, assess the punishment provided for the offense for which the defendant is being tried.

SECTION 2. The change in law made by this Act applies only to the punishment for an offense committed on or after the effective date of this Act. The punishment for an offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

1 SECTION 3. This Act takes effect September 1, 2009.