

By: Riddle

H.B. No. 3520

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the punishment prescribed for burglary of a vehicle and  
3 to grants of community supervision to persons who commit that  
4 offense.

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

6 SECTION 1. Section 30.04(d), Penal Code, is amended to read  
7 as follows:

8 (d) An offense under this section is a [~~Class A misdemeanor,~~  
9 ~~except that:~~

10 [~~(1) the offense is a Class A misdemeanor with~~  
11 ~~a minimum term of confinement of six months if it is shown on the~~  
12 ~~trial of the offense that the defendant has been previously~~  
13 ~~convicted of an offense under this section; and~~

14 [~~(2) the offense is a] state jail felony [~~if:~~~~

15 [~~(A) it is shown on the trial of the offense that~~  
16 ~~the defendant has been previously convicted two or more times of an~~  
17 ~~offense under this section; or~~

18 [~~(B) the vehicle or part of the vehicle broken~~  
19 ~~into or entered is a rail car].~~

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

24 (d) A defendant is not eligible for community supervision

1 under this section if the defendant:

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

4 (2) is convicted of a state jail felony for which  
5 suspension of the imposition of the sentence occurs automatically  
6 under Section 15(a) or (a-1);

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

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

15 (5) is convicted of an offense listed in Section  
16 3g(a)(1)(C), (E), or (H), if the victim of the offense was younger  
17 than 14 years of age at the time the offense was committed;

18 (6) is convicted of an offense listed in Section  
19 3g(a)(1)(D), if the victim of the offense was younger than 14 years  
20 of age at the time the offense was committed and the actor committed  
21 the offense with the intent to violate or abuse the victim sexually;  
22 [~~or~~]

23 (7) is convicted of an offense listed in Section  
24 3g(a)(1)(I); or

25 (8) is adjudged guilty of an offense under Section  
26 19.02, Penal Code.

27 SECTION 3. Section 4(f), Article 42.12, Code of Criminal

1 Procedure, is amended to read as follows:

2 (f) With respect to a defendant who is not otherwise  
3 ineligible for community supervision under this section as provided  
4 by Subsection (d), the [The] minimum period of community  
5 supervision under this section for an offense under Section 30.04,  
6 Penal Code, [~~punishable as a Class A misdemeanor with a minimum term~~  
7 ~~of confinement of six months~~] is one year.

8 SECTION 4. Section 15(a)(2), Article 42.12, Code of  
9 Criminal Procedure, is amended to read as follows:

10 (2) On conviction of a state jail felony punished  
11 under Section 12.35(a), Penal Code, other than a state jail felony  
12 listed in Subdivision (1) or Subsection (a-1), the judge may  
13 suspend the imposition of the sentence and place the defendant on  
14 community supervision or may order the sentence to be executed.

15 SECTION 5. Section 15, Article 42.12, Code of Criminal  
16 Procedure, is amended by adding Subsection (a-1) to read as  
17 follows:

18 (a-1) On conviction of an offense under Section 30.04, Penal  
19 Code, that is punished under Section 12.35(a), Penal Code, the  
20 judge shall suspend the imposition of the sentence and place the  
21 defendant on community supervision if the defendant:

22 (1) is younger than 21 years of age;

23 (2) has not been previously convicted of an offense  
24 punishable as a Class B misdemeanor or as a higher category of  
25 offense; and

26 (3) submits an oral or written request to the court to  
27 place the defendant on community supervision under this subsection.

1 SECTION 6. Section 16(b), Article 42.12, Code of Criminal  
2 Procedure, is amended to read as follows:

3 (b) The amount of community service work ordered by the  
4 judge:

5 (1) may not exceed 1,000 hours for an offense  
6 classified as a first degree felony;

7 (2) may not exceed 800 hours for an offense classified  
8 as a second degree felony;

9 (3) may not exceed 600 hours for an offense classified  
10 as a third degree felony;

11 (4) except as provided by Subdivision (5), may not  
12 exceed 400 hours for an offense classified as a state jail felony;

13 (5) may not ~~+~~  
14 [~~A~~] exceed 600 hours for an offense under  
15 Section 30.04, Penal Code [~~, classified as a Class A misdemeanor~~];

16 (6) may not ~~or~~  
17 [~~B~~] exceed 200 hours for any [~~other~~] offense  
18 classified as a Class A misdemeanor or for any other misdemeanor for  
19 which the maximum permissible confinement, if any, exceeds six  
20 months or the maximum permissible fine, if any, exceeds \$4,000; and

21 (7) [~~6~~] may not exceed 100 hours for an offense  
22 classified as a Class B misdemeanor or for any other misdemeanor for  
23 which the maximum permissible confinement, if any, does not exceed  
24 six months and the maximum permissible fine, if any, does not exceed  
25 \$4,000.

26 SECTION 7. Section 30.04(d-1), Penal Code, and Section  
27 3(h), Article 42.12, Code of Criminal Procedure, are repealed.

1           SECTION 8. The change in law made by this Act applies only  
2 to an offense committed on or after the effective date of this Act.  
3 An offense committed before the effective date of this Act is  
4 governed by the law in effect when the offense was committed, and  
5 the former law is continued in effect for that purpose. For  
6 purposes of this section, an offense was committed before the  
7 effective date of this Act if any element of the offense occurred  
8 before that date.

9           SECTION 9. To the extent of any conflict, this Act prevails  
10 over another Act of the 81st Legislature, Regular Session, 2009,  
11 relating to nonsubstantive additions to and corrections in enacted  
12 codes.

13           SECTION 10. This Act takes effect September 1, 2009.