

By: Patrick

S.B. No. 1832

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. Subsection (a), Section 3g, Article 42.12, Code  
7 of Criminal Procedure, as amended by Chapters 405 (S.B. 877) and 593  
8 (H.B. 8), Acts of the 80th Legislature, Regular Session, 2007, is  
9 reenacted 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. Subsection (d), Section 508.145, Government  
2 Code, is amended 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. Subsection (a), Section 508.149, Government  
14 Code, is amended 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.