

By: Thompson, Woolley, Button, Alvarado,  
Truitt, et al.

H.B. No. 3

A BILL TO BE ENTITLED

AN ACT

relating to the imposition of a sentence of life without parole on  
certain defendants who commit certain sexual offenses.

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

SECTION 1. Section 5(d), Article 42.12, Code of Criminal  
Procedure, is amended to read as follows:

(d) In all other cases the judge may grant deferred  
adjudication unless:

(1) the defendant is charged with an offense:

(A) under Sections 49.04-49.08, Penal Code; or

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

(2) the defendant:

(A) is charged with an offense under Section  
21.11, 22.011, or 22.021, Penal Code, regardless of the age of the  
victim, or a felony described by Section 13B(b) of this article; and

(B) has previously been placed on community  
supervision for any offense under Paragraph (A) of this  
subdivision; or

(3) the defendant is charged with an offense under:

(A) Section 21.02, Penal Code;

1           (B) Section 22.011, Penal Code, that is  
2 punishable under Section 12.42(c)(4), Penal Code; or

3           (C) [~~(B)~~] Section 22.021, Penal Code, that is  
4 punishable under Subsection (f) of that section or under Section  
5 12.42(c)(3) or (4), Penal Code.

6           SECTION 2. Section 508.145(d), Government Code, is amended  
7 to read as follows:

8           (d)(1) An inmate serving a sentence for an offense described  
9 by Section 3g(a)(1)(A), (C), (D), (E), (F), (G), (H), (I), (J), or  
10 (K), Article 42.12, Code of Criminal Procedure, or for an offense  
11 for which the judgment contains an affirmative finding under  
12 Section 3g(a)(2) of that article, is not eligible for release on  
13 parole until the inmate's actual calendar time served, without  
14 consideration of good conduct time, equals one-half of the sentence  
15 or 30 calendar years, whichever is less, but in no event is the  
16 inmate eligible for release on parole in less than two calendar  
17 years.

18           (2) Notwithstanding Subdivision (1), an inmate  
19 serving a sentence for an offense described by Section 3g(a)(1)(E)  
20 or (H), Article 42.12, Code of Criminal Procedure, is not eligible  
21 for release on parole if the inmate is serving a sentence for an  
22 offense for which punishment was enhanced under Section  
23 12.42(c)(4), Penal Code.

24           SECTION 3. Sections 12.42(b) and (d), Penal Code, are  
25 amended to read as follows:

26           (b) Except as provided by Subsection (c)(2) or (c)(4), if it  
27 is shown on the trial of a second-degree felony that the defendant

1 has been once before convicted of a felony, on conviction he shall  
2 be punished for a first-degree felony.

3 (d) Except as provided by Subsection (c)(2) or (c)(4), if it  
4 is shown on the trial of a felony offense other than a state jail  
5 felony punishable under Section 12.35(a) that the defendant has  
6 previously been finally convicted of two felony offenses, and the  
7 second previous felony conviction is for an offense that occurred  
8 subsequent to the first previous conviction having become final, on  
9 conviction he shall be punished by imprisonment in the Texas  
10 Department of Criminal Justice for life, or for any term of not more  
11 than 99 years or less than 25 years.

12 SECTION 4. Section 12.42(c)(4), Penal Code, is amended to  
13 read as follows:

14 (4) (A) Except as provided by Paragraph (B) and  
15 notwithstanding [~~Notwithstanding~~] Subdivision (1) or (2), a  
16 defendant shall be punished by imprisonment in the Texas Department  
17 of Criminal Justice for life without parole if it is shown on the  
18 trial of an offense under Section 21.02, 22.011, or 22.021 that the  
19 defendant has previously been finally convicted of:

20 (i) [~~(A)~~] an offense under Section 21.02,  
21 22.011, or 22.021; or

22 (ii) [~~(B)~~] an offense that was committed  
23 under the laws of another state and that contains elements that are  
24 substantially similar to the elements of an offense under Section  
25 21.02, 22.011, or 22.021.

26 (B) A defendant may not be punished as described  
27 by this subdivision as a result of any conviction of an offense

1 under Section 22.011, Penal Code, for which an affirmative finding  
2 was entered under Article 42.017, Code of Criminal Procedure.

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

11           SECTION 6. This Act takes effect September 1, 2011.