

1 AN ACT

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

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

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

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

9 (1) the defendant is charged with an offense:

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

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

16 (2) the defendant:

17 (A) is charged with an offense under Section
18 21.11, 22.011, or 22.021, Penal Code, regardless of the age of the
19 victim, or a felony described by Section 13B(b) of this article; and

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

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

24 (A) Section 21.02, Penal Code; or

1 (B) Section 22.021, Penal Code, that is
2 punishable under Subsection (f) of that section or under Section
3 12.42(c)(3) or (4), Penal Code.

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

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

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

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

24 (b) Except as provided by Subsection (c)(2) or (c)(4), if it
25 is shown on the trial of a second-degree felony that the defendant
26 has been once before convicted of a felony, on conviction he shall
27 be punished for a first-degree felony.

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

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

12 (4) Notwithstanding Subdivision (1) or (2), a
13 defendant shall be punished by imprisonment in the Texas Department
14 of Criminal Justice for life without parole if it is shown on the
15 trial of an offense under Section 21.02 or 22.021 that the defendant
16 has previously been finally convicted of:

17 (A) an offense under Section 21.02 or 22.021; or

18 (B) an offense that was committed under the laws
19 of another state and that contains elements that are substantially
20 similar to the elements of an offense under Section 21.02 or 22.021.

21 SECTION 5. 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 governed by the law in effect on the date the offense was committed,
25 and the former law is continued in effect for that purpose. For
26 purposes of this section, an offense was committed before the
27 effective date of this Act if any element of the offense occurred

1 before that date.

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

President of the Senate

Speaker of the House

I certify that H.B. No. 3 was passed by the House on April 21, 2011, by the following vote: Yeas 144, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 3 on May 26, 2011, by the following vote: Yeas 140, Nays 2, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 3 was passed by the Senate, with amendments, on May 24, 2011, by the following vote: Yeas 30, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor