

By: Thompson, Woolley, Button, Alvarado,
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H.B. No. 3

Substitute the following for H.B. No. 3:

By: Gallego

C.S.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.