

By: Fletcher

H.B. No. 221

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 a~~
11 ~~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, is amended to read as follows:

22 (d) A defendant is not eligible for community supervision
23 under this section if the defendant:

24 (1) is sentenced to a term of imprisonment that

1 exceeds 10 years;

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

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

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

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

16 (6) is convicted of an offense listed in Section
17 3g(a)(1)(D), if the victim of the offense was younger than 14 years
18 of age at the time the offense was committed and the actor committed
19 the offense with the intent to violate or abuse the victim sexually;

20 (7) is convicted of an offense listed in Section
21 3g(a)(1)(J); or

22 (8) is adjudged guilty of an offense under Section
23 19.02, Penal Code.

24 SECTION 3. Section 15(a)(2), Article 42.12, Code of
25 Criminal Procedure, is amended to read as follows:

26 (2) On conviction of a state jail felony punished
27 under Section 12.35(a), Penal Code, other than a state jail felony

1 listed in Subdivision (1) or Subsection (a-1), the judge may
2 suspend the imposition of the sentence and place the defendant on
3 community supervision or may order the sentence to be executed.

4 SECTION 4. Section 15, Article 42.12, Code of Criminal
5 Procedure, is amended by adding Subsection (a-1) to read as
6 follows:

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

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

12 (2) has not been previously convicted of an offense
13 punishable as a Class B misdemeanor or as a higher category of
14 offense; and

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

17 SECTION 5. Section 16(b), Article 42.12, Code of Criminal
18 Procedure, is amended to read as follows:

19 (b) The amount of community service work ordered by the
20 judge:

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

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

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

27 (4) may not exceed 400 hours for an offense classified

1 as a state jail felony;

2 (5) may not~~+~~

3 [~~(A) exceed 600 hours for an offense under~~
4 ~~Section 30.04, Penal Code, classified as a Class A misdemeanor; or~~

5 [~~(B)~~] exceed 200 hours for an [~~any other~~] offense
6 classified as a Class A misdemeanor or for any other misdemeanor for
7 which the maximum permissible confinement, if any, exceeds six
8 months or the maximum permissible fine, if any, exceeds \$4,000; and

9 (6) may not exceed 100 hours for an offense classified
10 as a Class B misdemeanor or for any other misdemeanor for which the
11 maximum permissible confinement, if any, does not exceed six months
12 and the maximum permissible fine, if any, does not exceed \$4,000.

13 SECTION 6. The following are repealed:

14 (1) Section 30.04(d-1), Penal Code;

15 (2) Section 3(h), Article 42.12, Code of Criminal
16 Procedure; and

17 (3) Section 4(f), Article 42.12, Code of Criminal
18 Procedure.

19 SECTION 7. The change in law made by this Act applies only
20 to an offense committed on or after the effective date of this Act.
21 An offense committed before the effective date of this Act is
22 governed by the law in effect when the offense was committed, and
23 the former law is continued in effect for that purpose. For
24 purposes of this section, an offense was committed before the
25 effective date of this Act if any element of the offense occurred
26 before that date.

27 SECTION 8. This Act takes effect September 1, 2011.