

1-1 By: Hochberg, Carter, Gallego H.B. No. 371
1-2 (Senate Sponsor - Hegar)
1-3 (In the Senate - Received from the House April 6, 2011;
1-4 April 20, 2011, read first time and referred to Committee on
1-5 Criminal Justice; May 21, 2011, reported favorably by the
1-6 following vote: Yeas 6, Nays 0; May 21, 2011, sent to printer.)

1-7 A BILL TO BE ENTITLED
1-8 AN ACT

1-9 relating to prohibiting deferred adjudication community
1-10 supervision for certain defendants convicted of murder.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 5(d), Article 42.12, Code of Criminal
1-13 Procedure, is amended to read as follows:

1-14 (d) In all other cases the judge may grant deferred
1-15 adjudication unless:

1-16 (1) the defendant is charged with an offense:

1-17 (A) under Sections 49.04-49.08, Penal Code; or

1-18 (B) for which punishment may be increased under
1-19 Section 481.134(c), (d), (e), or (f), Health and Safety Code, if it
1-20 is shown that the defendant has been previously convicted of an
1-21 offense for which punishment was increased under any one of those
1-22 subsections;

1-23 (2) the defendant:

1-24 (A) is charged with an offense under Section
1-25 21.11, 22.011, or 22.021, Penal Code, regardless of the age of the
1-26 victim, or a felony described by Section 13B(b) of this article; and

1-27 (B) has previously been placed on community
1-28 supervision for any offense under Paragraph (A) of this
1-29 subdivision; ~~or~~

1-30 (3) the defendant is charged with an offense under:

1-31 (A) Section 21.02, Penal Code; or

1-32 (B) Section 22.021, Penal Code, that is
1-33 punishable under Subsection (f) of that section or under Section
1-34 12.42(c)(3), Penal Code; or

1-35 (4) the defendant is charged with an offense under
1-36 Section 19.02, Penal Code, except that the judge may grant deferred
1-37 adjudication on determining that the defendant did not cause the
1-38 death of the deceased, did not intend to kill the deceased or
1-39 another, and did not anticipate that a human life would be taken.

1-40 SECTION 2. The change in law made by this Act applies only
1-41 to an offense committed on or after the effective date of this Act.
1-42 An offense committed before the effective date of this Act is
1-43 covered by the law in effect when the offense was committed, and the
1-44 former law is continued in effect for that purpose. For purposes of
1-45 this section, an offense was committed before the effective date of
1-46 this Act if any element of the offense occurred before that date.

1-47 SECTION 3. This Act takes effect September 1, 2011.

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