

By: Riddle

H.B. No. 772

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the applicability of certain laws to certain sex
3 offenders.

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

5 SECTION 1. Section 4(b), Article 37.07, Code of Criminal
6 Procedure, is amended to read as follows:

7 (b) In the penalty phase of the trial of a felony case in
8 which the punishment is to be assessed by the jury rather than the
9 court, if the offense is punishable as a felony of the first degree,
10 if a prior conviction has been alleged for enhancement of
11 punishment as provided by Section 12.42(b), (c)(1) [~~or (2)~~], or
12 (d), Penal Code, or if the offense is a felony not designated as a
13 capital felony or a felony of the first, second, or third degree and
14 the maximum term of imprisonment that may be imposed for the offense
15 is longer than 60 years, unless the offense of which the jury has
16 found the defendant guilty is an offense that is punishable under
17 Section 21.02(h), Penal Code, or is listed in Section 3g(a)(1),
18 Article 42.12, [~~of this code~~] or the judgment contains an
19 affirmative finding under Section 3g(a)(2), Article 42.12, [~~of this~~
20 ~~code~~] the court shall charge the jury in writing as follows:

21 "Under the law applicable in this case, the defendant, if
22 sentenced to a term of imprisonment, may earn time off the period of
23 incarceration imposed through the award of good conduct time.
24 Prison authorities may award good conduct time to a prisoner who

1 exhibits good behavior, diligence in carrying out prison work
2 assignments, and attempts at rehabilitation. If a prisoner
3 engages in misconduct, prison authorities may also take away all or
4 part of any good conduct time earned by the prisoner.

5 "It is also possible that the length of time for which the
6 defendant will be imprisoned might be reduced by the award of
7 parole.

8 "Under the law applicable in this case, if the defendant is
9 sentenced to a term of imprisonment, he will not become eligible for
10 parole until the actual time served plus any good conduct time
11 earned equals one-fourth of the sentence imposed or 15 years,
12 whichever is less. Eligibility for parole does not guarantee that
13 parole will be granted.

14 "It cannot accurately be predicted how the parole law and
15 good conduct time might be applied to this defendant if he is
16 sentenced to a term of imprisonment, because the application of
17 these laws will depend on decisions made by prison and parole
18 authorities.

19 "You may consider the existence of the parole law and good
20 conduct time. However, you are not to consider the extent to which
21 good conduct time may be awarded to or forfeited by this particular
22 defendant. You are not to consider the manner in which the parole
23 law may be applied to this particular defendant."

24 SECTION 2. Section 508.046, Government Code, is amended to
25 read as follows:

26 Sec. 508.046. EXTRAORDINARY VOTE REQUIRED. To release on
27 parole an inmate who was convicted of an offense under Section

1 ~~[21.02,]~~ 21.11(a)(1)~~[,]~~ or 22.021, Penal Code, and is not
2 ineligible for release on parole or an inmate who is required under
3 Section 508.145(c) to serve 35 calendar years before becoming
4 eligible for release on parole, all members of the board must vote
5 on the release on parole of the inmate, and at least two-thirds of
6 the members must vote in favor of the release on parole. A member
7 of the board may not vote on the release unless the member first
8 receives a copy of a written report from the department on the
9 probability that the inmate would commit an offense after being
10 released on parole.

11 SECTION 3. Section 508.187(a), Government Code, is amended
12 to read as follows:

13 (a) This section applies only to a releasee serving a
14 sentence for an offense under:

15 (1) Section 43.25 or 43.26, Penal Code;

16 (2) Section ~~[21.02,]~~ 21.11, 22.011, 22.021, or 25.02,
17 Penal Code;

18 (3) Section 20.04(a)(4), Penal Code, if the releasee
19 committed the offense with the intent to violate or abuse the victim
20 sexually; or

21 (4) Section 30.02, Penal Code, punishable under
22 Subsection (d) of that section, if the releasee committed the
23 offense with the intent to commit a felony listed in Subdivision (2)
24 or (3).

25 SECTION 4. Section 508.189(a), Government Code, is amended
26 to read as follows:

27 (a) A parole panel shall require as a condition of parole or

1 mandatory supervision that a releasee convicted of an offense under
2 Section [~~21.02,~~] 21.08, 21.11, 22.011, 22.021, 25.02, 43.25, or
3 43.26, Penal Code, pay to the division a parole supervision fee of
4 \$5 each month during the period of parole supervision.

5 SECTION 5. Section 38.05(d), Penal Code, is amended to read
6 as follows:

7 (d) An offense under this section is a felony of the third
8 degree if the person who is harbored, concealed, provided with a
9 means of avoiding arrest or effecting escape, or warned of
10 discovery or apprehension is under arrest for, charged with, or
11 convicted of a felony, including an offense under Article [~~Section~~]
12 62.102, Code of Criminal Procedure, or is in custody or detention
13 for, is alleged in a petition to have engaged in, or has been
14 adjudicated as having engaged in delinquent conduct that violates a
15 penal law of the grade of felony, including an offense under Article
16 [~~Section~~] 62.102, Code of Criminal Procedure, and the person
17 charged under this section knew that the person they harbored,
18 concealed, provided with a means of avoiding arrest or effecting
19 escape, or warned of discovery or apprehension is under arrest for,
20 charged with, or convicted of a felony, or is in custody or
21 detention for, is alleged in a petition to have engaged in, or has
22 been adjudicated as having engaged in delinquent conduct that
23 violates a penal law of the grade of felony.

24 SECTION 6. Section 508.117(g)(2-a), Government Code, is
25 repealed.

26 SECTION 7. This Act takes effect September 1, 2011.