

By: Darby

H.B. No. 867

A BILL TO BE ENTITLED

AN ACT

relating to the eligibility of a person convicted of certain sex offenses for jury-recommended community supervision.

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

SECTION 1. Section 4(d), Article 42.12, Code of Criminal Procedure, is amended to read as follows:

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

(1) is sentenced to a term of imprisonment that exceeds 10 years;

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

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

(4) is convicted of an offense for which punishment is 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;

(5) is convicted of an offense listed in Section 3g(a)(1)(C), (E), or (H), if, at the time the offense was committed:

(A) the victim of the offense was younger than 14

1 years of age [~~at the time the offense was committed~~]; or

2 (B) the victim of the offense was at least 14  
3 years of age but younger than 17 years of age and the defendant was  
4 five or more years older than the victim;

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

9 (7) is convicted of an offense listed in Section  
10 3g(a)(1)(J); or

11 (8) is adjudged guilty of an offense under Section  
12 19.02, Penal Code.

13 SECTION 2. The change in law made by this Act applies only  
14 to an offense committed on or after the effective date of this Act.  
15 An offense committed before the effective date of this Act is  
16 governed by the law in effect on the date the offense was committed,  
17 and the former law is continued in effect for that purpose. For  
18 purposes of this section, an offense was committed before the  
19 effective date of this Act if any element of the offense occurred  
20 before that date.

21 SECTION 3. This Act takes effect September 1, 2011.