

By: Weber, Carter, et al.

H.B. No. 1121

A BILL TO BE ENTITLED

AN ACT

relating to the prosecution and punishment of certain offenses involving trafficking of persons.

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

ARTICLE 1. OFFENSES INVOLVING TRAFFICKING OF PERSONS; ELIGIBILITY FOR COMMUNITY SUPERVISION, PAROLE, OR MANDATORY SUPERVISION

SECTION 1.01. Chapter 20A, Penal Code, is amended by adding Section 20A.04 to read as follows:

Sec. 20A.04. CONTINUOUS TRAFFICKING OF PERSONS. (a) A person commits an offense if, during a period that is 30 or more days in duration, the person engages two or more times in conduct that constitutes an offense under Section 20A.02.

(b) If a jury is the trier of fact, members of the jury are not required to agree unanimously on which specific conduct engaged in by the defendant constituted an offense under Section 20A.02 or on which exact date the defendant engaged in that conduct. The jury must agree unanimously that the defendant, during a period that is 30 or more days in duration, engaged in conduct that constituted an offense under Section 20A.02.

(c) If the victim of an offense under Subsection (a) is the same victim as a victim of an offense under Section 20A.02, a defendant may not be convicted of the offense under Section 20A.02 in the same criminal action as the offense under Subsection (a), unless the offense under Section 20A.02:

1 (1) is charged in the alternative;

2 (2) occurred outside the period in which the offense
3 alleged under Subsection (a) was committed; or

4 (3) is considered by the trier of fact to be a lesser
5 included offense of the offense alleged under Subsection (a).

6 (d) A defendant may not be charged with more than one count
7 under Subsection (a) if all of the conduct that constitutes an
8 offense under Section 20A.02 is alleged to have been committed
9 against the same victim.

10 (e) An offense under this section is a felony of the first
11 degree, punishable by imprisonment in the Texas Department of
12 Criminal Justice for life or for any term of not more than 99 years
13 or less than 25 years.

14 SECTION 1.02. Section 3g(a), Article 42.12, Code of
15 Criminal Procedure, is amended to read as follows:

16 (a) The provisions of Section 3 of this article do not
17 apply:

18 (1) to a defendant adjudged guilty of an offense
19 under:

20 (A) Section 19.02, Penal Code (Murder);

21 (B) Section 19.03, Penal Code (Capital murder);

22 (C) Section 21.11(a)(1), Penal Code (Indecency
23 with a child);

24 (D) Section 20.04, Penal Code (Aggravated
25 kidnapping);

26 (E) Section 22.021, Penal Code (Aggravated
27 sexual assault);

1 (F) Section 29.03, Penal Code (Aggravated
2 robbery);

3 (G) Chapter 481, Health and Safety Code, for
4 which punishment is increased under:

5 (i) Section 481.140, Health and Safety
6 Code; or

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

11 (H) Section 22.011, Penal Code (Sexual assault);

12 (I) Section 22.04(a)(1), Penal Code (Injury to a
13 child, elderly individual, or disabled individual), if the offense
14 is punishable as a felony of the first degree and the victim of the
15 offense is a child;

16 (J) Section 43.25, Penal Code (Sexual
17 performance by a child); ~~or~~

18 (K) Section 15.03, Penal Code, if the offense is
19 punishable as a felony of the first degree; or

20 (L) Section 20A.02, Penal Code (Trafficking of
21 persons); or

22 (2) to a defendant when it is shown that a deadly
23 weapon as defined in Section 1.07, Penal Code, was used or exhibited
24 during the commission of a felony offense or during immediate
25 flight therefrom, and that the defendant used or exhibited the
26 deadly weapon or was a party to the offense and knew that a deadly
27 weapon would be used or exhibited. On an affirmative finding under

1 this subdivision, the trial court shall enter the finding in the
2 judgment of the court. On an affirmative finding that the deadly
3 weapon was a firearm, the court shall enter that finding in its
4 judgment.

5 SECTION 1.03. Section 4(d), Article 42.12, Code of Criminal
6 Procedure, is amended to read as follows:

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

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

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

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

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

22 (5) is convicted of an offense listed in Section
23 3g(a)(1)(C), (E), or (H), if the victim of the offense was younger
24 than 14 years of age at the time the offense was committed;

25 (6) is convicted of an offense listed in Section
26 3g(a)(1)(D), if the victim of the offense was younger than 14 years
27 of age at the time the offense was committed and the actor committed

1 the offense with the intent to violate or abuse the victim sexually;
2 (7) is convicted of an offense listed in Section
3 3g(a)(1)(J) or (L); or
4 (8) is adjudged guilty of an offense under Section
5 19.02, Penal Code.

6 SECTION 1.04. Section 5(d), Article 42.12, Code of Criminal
7 Procedure, is amended to read as follows:

8 (d) In all other cases the judge may grant deferred
9 adjudication unless:

10 (1) the defendant is charged with an offense:
11 (A) under Sections 49.04-49.08, Penal Code; or
12 (B) for which punishment may be increased under
13 Section 481.134(c), (d), (e), or (f), Health and Safety Code, if it
14 is shown that the defendant has been previously convicted of an
15 offense for which punishment was increased under any one of those
16 subsections;

17 (2) the defendant:
18 (A) is charged with an offense under Section
19 21.11, 22.011, or 22.021, Penal Code, regardless of the age of the
20 victim, or a felony described by Section 13B(b) of this article; and
21 (B) has previously been placed on community
22 supervision for any offense under Paragraph (A) of this
23 subdivision; or

24 (3) the defendant is charged with an offense under:
25 (A) Section 20A.02, 20A.04, or 21.02, Penal Code;
26 or
27 (B) Section 22.021, Penal Code, that is

1 punishable under Subsection (f) of that section or under Section
2 12.42(c)(3), Penal Code.

3 SECTION 1.05. Section 508.145(a), Government Code, is
4 amended to read as follows:

5 (a) An inmate is not eligible for release on parole if the
6 inmate is:

7 (1) under sentence of death;

8 (2) [~~τ~~] serving a sentence of life imprisonment
9 without parole;i

10 (3) [~~τ~~] serving a sentence for an offense under
11 Section 20A.04 or 21.02, Penal Code;i [~~τ~~] or

12 (4) -serving a sentence for an offense under Section
13 22.021, Penal Code, that is punishable under Subsection (f) of that
14 section [~~is not eligible for release on parole]~~.

15 SECTION 1.06. Section 508.149(a), Government Code, is
16 amended to read as follows:

17 (a) An inmate may not be released to mandatory supervision
18 if the inmate is serving a sentence for or has been previously
19 convicted of:

20 (1) an offense for which the judgment contains an
21 affirmative finding under Section 3g(a)(2), Article 42.12, Code of
22 Criminal Procedure;

23 (2) a first degree felony or a second degree felony
24 under Section 19.02, Penal Code;

25 (3) a capital felony under Section 19.03, Penal Code;

26 (4) a first degree felony or a second degree felony
27 under Section 20.04, Penal Code;

- 1 (5) an offense under Section 21.11, Penal Code;
2 (6) a felony under Section 22.011, Penal Code;
3 (7) a first degree felony or a second degree felony
4 under Section 22.02, Penal Code;
5 (8) a first degree felony under Section 22.021, Penal
6 Code;
7 (9) a first degree felony under Section 22.04, Penal
8 Code;
9 (10) a first degree felony under Section 28.02, Penal
10 Code;
11 (11) a second degree felony under Section 29.02, Penal
12 Code;
13 (12) a first degree felony under Section 29.03, Penal
14 Code;
15 (13) a first degree felony under Section 30.02, Penal
16 Code;
17 (14) a felony for which the punishment is increased
18 under Section 481.134 or Section 481.140, Health and Safety Code;
19 (15) an offense under Section 43.25, Penal Code;
20 (16) an offense under Section 21.02, Penal Code; ~~or~~
21 (17) a first degree felony under Section 15.03, Penal
22 Code; or
23 (18) an offense under Section 20A.02 or 20A.04, Penal
24 Code.

25 ARTICLE 2. ADDITIONAL CIVIL AND CRIMINAL CONSEQUENCES OF
26 TRAFFICKING

27 SECTION 2.01. Section 33.013(b), Civil Practice and

1 Remedies Code, is amended to read as follows:

2 (b) Notwithstanding Subsection (a), each liable defendant
3 is, in addition to his liability under Subsection (a), jointly and
4 severally liable for the damages recoverable by the claimant under
5 Section 33.012 with respect to a cause of action if:

6 (1) the percentage of responsibility attributed to the
7 defendant with respect to a cause of action is greater than 50
8 percent; or

9 (2) the defendant, with the specific intent to do harm
10 to others, acted in concert with another person to engage in the
11 conduct described in the following provisions of the Penal Code and
12 in so doing proximately caused the damages legally recoverable by
13 the claimant:

14 (A) Section 19.02 (murder);

15 (B) Section 19.03 (capital murder);

16 (C) Section 20.04 (aggravated kidnapping);

17 (D) Section 22.02 (aggravated assault);

18 (E) Section 22.011 (sexual assault);

19 (F) Section 22.021 (aggravated sexual assault);

20 (G) Section 22.04 (injury to a child, elderly
21 individual, or disabled individual);

22 (H) Section 32.21 (forgery);

23 (I) Section 32.43 (commercial bribery);

24 (J) Section 32.45 (misapplication of fiduciary
25 property or property of financial institution);

26 (K) Section 32.46 (securing execution of
27 document by deception);

1 (L) Section 32.47 (fraudulent destruction,
2 removal, or concealment of writing);

3 (M) conduct described in Chapter 31 the
4 punishment level for which is a felony of the third degree or
5 higher; ~~[or]~~

6 (N) Section 21.02 (continuous sexual abuse of
7 young child or children);

8 (O) Section 20A.02 (trafficking of persons); or

9 (P) Section 20A.04 (continuous trafficking of
10 persons).

11 SECTION 2.02. Section 125.0015(a), Civil Practice and
12 Remedies Code, is amended to read as follows:

13 (a) A person who maintains a place to which persons
14 habitually go for the following purposes and who knowingly
15 tolerates the activity and furthermore fails to make reasonable
16 attempts to abate the activity maintains a common nuisance:

17 (1) discharge of a firearm in a public place as
18 prohibited by the Penal Code;

19 (2) reckless discharge of a firearm as prohibited by
20 the Penal Code;

21 (3) engaging in organized criminal activity as a
22 member of a combination as prohibited by the Penal Code;

23 (4) delivery, possession, manufacture, or use of a
24 controlled substance in violation of Chapter 481, Health and Safety
25 Code;

26 (5) gambling, gambling promotion, or communicating
27 gambling information as prohibited by the Penal Code;

1 (6) prostitution, promotion of prostitution, or
2 aggravated promotion of prostitution as prohibited by the Penal
3 Code;

4 (7) compelling prostitution as prohibited by the Penal
5 Code;

6 (8) commercial manufacture, commercial distribution,
7 or commercial exhibition of obscene material as prohibited by the
8 Penal Code;

9 (9) aggravated assault as described by Section 22.02,
10 Penal Code;

11 (10) sexual assault as described by Section 22.011,
12 Penal Code;

13 (11) aggravated sexual assault as described by Section
14 22.021, Penal Code;

15 (12) robbery as described by Section 29.02, Penal
16 Code;

17 (13) aggravated robbery as described by Section 29.03,
18 Penal Code;

19 (14) unlawfully carrying a weapon as described by
20 Section 46.02, Penal Code;

21 (15) murder as described by Section 19.02, Penal Code;

22 (16) capital murder as described by Section 19.03,
23 Penal Code;

24 (17) continuous sexual abuse of young child or
25 children as described by Section 21.02, Penal Code; [~~or~~]

26 (18) massage therapy or other massage services in
27 violation of Chapter 455, Occupations Code;

1 (19) trafficking of persons as described by Section
2 20A.02, Penal Code; or

3 (20) continuous trafficking of persons as described by
4 Section 20A.04, Penal Code.

5 SECTION 2.03. Article 17.03(b), Code of Criminal Procedure,
6 is amended to read as follows:

7 (b) Only the court before whom the case is pending may
8 release on personal bond a defendant who:

9 (1) is charged with an offense under the following
10 sections of the Penal Code:

11 (A) Section 19.03 (Capital Murder);

12 (B) Section 20.04 (Aggravated Kidnapping);

13 (C) Section 22.021 (Aggravated Sexual Assault);

14 (D) Section 22.03 (Deadly Assault on Law
15 Enforcement or Corrections Officer, Member or Employee of Board of
16 Pardons and Paroles, or Court Participant);

17 (E) Section 22.04 (Injury to a Child, Elderly
18 Individual, or Disabled Individual);

19 (F) Section 29.03 (Aggravated Robbery);

20 (G) Section 30.02 (Burglary);

21 (H) Section 71.02 (Engaging in Organized
22 Criminal Activity); ~~[or]~~

23 (I) Section 21.02 (Continuous Sexual Abuse of
24 Young Child or Children);

25 (J) Section 20A.02 (Trafficking of Persons); or

26 (K) Section 20A.04 (Continuous Trafficking of
27 Persons);

1 (2) is charged with a felony under Chapter 481, Health
2 and Safety Code, or Section 485.033, Health and Safety Code,
3 punishable by imprisonment for a minimum term or by a maximum fine
4 that is more than a minimum term or maximum fine for a first degree
5 felony; or

6 (3) does not submit to testing for the presence of a
7 controlled substance in the defendant's body as requested by the
8 court or magistrate under Subsection (c) of this article or submits
9 to testing and the test shows evidence of the presence of a
10 controlled substance in the defendant's body.

11 SECTION 2.04. Article 17.032(a), Code of Criminal
12 Procedure, is amended to read as follows:

13 (a) In this article, "violent offense" means an offense
14 under the following sections of the Penal Code:

- 15 (1) Section 19.02 (murder);
- 16 (2) Section 19.03 (capital murder);
- 17 (3) Section 20.03 (kidnapping);
- 18 (4) Section 20.04 (aggravated kidnapping);
- 19 (5) Section 21.11 (indecent with a child);
- 20 (6) Section 22.01(a)(1) (assault);
- 21 (7) Section 22.011 (sexual assault);
- 22 (8) Section 22.02 (aggravated assault);
- 23 (9) Section 22.021 (aggravated sexual assault);
- 24 (10) Section 22.04 (injury to a child, elderly
25 individual, or disabled individual);
- 26 (11) Section 29.03 (aggravated robbery); [~~or~~]
- 27 (12) Section 21.02 (continuous sexual abuse of young

1 child or children);

2 (13) Section 20A.02 (trafficking of persons); or

3 (14) Section 20A.04 (continuous trafficking of
4 persons).

5 SECTION 2.05. Article 17.091, Code of Criminal Procedure,
6 is amended to read as follows:

7 Art. 17.091. NOTICE OF CERTAIN BAIL REDUCTIONS REQUIRED.

8 Before a judge or magistrate reduces the amount of bail set for a
9 defendant charged with an offense listed in Section 3g, Article
10 42.12, ~~or~~ an offense described by Article 62.001(5), or an
11 offense under Section 20A.04, Penal Code, the judge or magistrate
12 shall provide:

13 (1) to the attorney representing the state, reasonable
14 notice of the proposed bail reduction; and

15 (2) on request of the attorney representing the state
16 or the defendant or the defendant's counsel, an opportunity for a
17 hearing concerning the proposed bail reduction.

18 SECTION 2.06. Section 1, Article 38.071, Code of Criminal
19 Procedure, is amended to read as follows:

20 Sec. 1. This article applies only to a hearing or proceeding
21 in which the court determines that a child younger than 13 years of
22 age would be unavailable to testify in the presence of the defendant
23 about an offense defined by any of the following sections of the
24 Penal Code:

25 (1) Section 19.02 (Murder);

26 (2) Section 19.03 (Capital Murder);

27 (3) Section 19.04 (Manslaughter);

- 1 (4) Section 20.04 (Aggravated Kidnapping);
2 (5) Section 21.11 (Indecency with a Child);
3 (6) Section 22.011 (Sexual Assault);
4 (7) Section 22.02 (Aggravated Assault);
5 (8) Section 22.021 (Aggravated Sexual Assault);
6 (9) Section 22.04(e) (Injury to a Child, Elderly
7 Individual, or Disabled Individual);
8 (10) Section 22.04(f) (Injury to a Child, Elderly
9 Individual, or Disabled Individual), if the conduct is committed
10 intentionally or knowingly;
11 (11) Section 25.02 (Prohibited Sexual Conduct);
12 (12) Section 29.03 (Aggravated Robbery);
13 (13) Section 43.25 (Sexual Performance by a Child);
14 [~~or~~]
15 (14) Section 21.02 (Continuous Sexual Abuse of Young
16 Child or Children);
17 (15) Section 20A.02 (Trafficking of Persons); or
18 (16) Section 20A.04 (Continuous Trafficking of
19 Persons).

20 SECTION 2.07. Section 23.101(a), Government Code, is
21 amended to read as follows:

22 (a) The trial courts of this state shall regularly and
23 frequently set hearings and trials of pending matters, giving
24 preference to hearings and trials of the following:

- 25 (1) temporary injunctions;
26 (2) criminal actions, with the following actions given
27 preference over other criminal actions:

1 (A) criminal actions against defendants who are
2 detained in jail pending trial;

3 (B) criminal actions involving a charge that a
4 person committed an act of family violence, as defined by Section
5 71.004, Family Code;

6 (C) an offense under:

7 (i) Section 21.02 or 21.11, Penal Code;

8 (ii) Chapter 22, Penal Code, if the victim
9 of the alleged offense is younger than 17 years of age;

10 (iii) Section 25.02, Penal Code, if the
11 victim of the alleged offense is younger than 17 years of age;

12 (iv) Section 25.06, Penal Code; ~~or~~

13 (v) Section 43.25, Penal Code; or

14 (vi) Section 20A.02 or 20A.04, Penal Code;

15 and

16 (D) an offense described by Article 62.001(6)(C)
17 or (D), Code of Criminal Procedure;

18 (3) election contests and suits under the Election
19 Code;

20 (4) orders for the protection of the family under
21 Subtitle B, Title 4, Family Code;

22 (5) appeals of final rulings and decisions of the
23 division of workers' compensation of the Texas Department of
24 Insurance regarding workers' compensation claims and claims under
25 the Federal Employers' Liability Act and the Jones Act;

26 (6) appeals of final orders of the commissioner of the
27 General Land Office under Section 51.3021, Natural Resources Code;

1 (7) actions in which the claimant has been diagnosed
2 with malignant mesothelioma, other malignant asbestos-related
3 cancer, malignant silica-related cancer, or acute silicosis; and

4 (8) appeals brought under Section 42.01 or 42.015, Tax
5 Code, of orders of appraisal review boards of appraisal districts
6 established for counties with a population of less than 175,000.

7 SECTION 2.08. Section 411.1471(a), Government Code, is
8 amended to read as follows:

9 (a) This section applies to a defendant who is:

10 (1) indicted or waives indictment for a felony
11 prohibited or punishable under any of the following Penal Code
12 sections:

13 (A) Section 20.04(a)(4);

14 (B) Section 21.11;

15 (C) Section 22.011;

16 (D) Section 22.021;

17 (E) Section 25.02;

18 (F) Section 30.02(d);

19 (G) Section 43.05;

20 (H) Section 43.25;

21 (I) Section 43.26; ~~[ex]~~

22 (J) Section 21.02;

23 (K) Section 20A.02; or

24 (L) Section 20A.04;

25 (2) arrested for a felony described by Subdivision (1)
26 after having been previously convicted of or placed on deferred
27 adjudication for an offense described by Subdivision (1) or an

1 offense punishable under Section 30.02(c)(2), Penal Code; or

2 (3) convicted of an offense under Section 21.07 or
3 21.08, Penal Code.

4 SECTION 2.09. Section 12.35(c), Penal Code, is amended to
5 read as follows:

6 (c) An individual adjudged guilty of a state jail felony
7 shall be punished for a third degree felony if it is shown on the
8 trial of the offense that:

9 (1) a deadly weapon as defined by Section 1.07 was used
10 or exhibited during the commission of the offense or during
11 immediate flight following the commission of the offense, and that
12 the individual used or exhibited the deadly weapon or was a party to
13 the offense and knew that a deadly weapon would be used or
14 exhibited; or

15 (2) the individual has previously been finally
16 convicted of any felony:

17 (A) under Section 20A.04 or 21.02 or listed in
18 Section 3g(a)(1), Article 42.12, Code of Criminal Procedure; or

19 (B) for which the judgment contains an
20 affirmative finding under Section 3g(a)(2), Article 42.12, Code of
21 Criminal Procedure.

22 SECTION 2.10. Section 12.42(c)(2), Penal Code, is amended
23 to read as follows:

24 (2) Notwithstanding Subdivision (1), a defendant
25 shall be punished by imprisonment in the Texas Department of
26 Criminal Justice for life if:

27 (A) the defendant is convicted of an offense:

1 (i) under Section 20A.04, 21.11(a)(1),
2 22.021, or 22.011, Penal Code;

3 (ii) under Section 20.04(a)(4), Penal Code,
4 if the defendant committed the offense with the intent to violate or
5 abuse the victim sexually; or

6 (iii) under Section 30.02, Penal Code,
7 punishable under Subsection (d) of that section, if the defendant
8 committed the offense with the intent to commit a felony described
9 by Subparagraph (i) or (ii) or a felony under Section 21.11, Penal
10 Code; and

11 (B) the defendant has been previously convicted
12 of an offense:

13 (i) under Section 43.25 or 43.26, Penal
14 Code, or an offense under Section 43.23, Penal Code, punishable
15 under Subsection (h) of that section;

16 (ii) under Section 20A.04, 21.02, 21.11,
17 22.011, 22.021, or 25.02, Penal Code;

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

21 (iv) under Section 30.02, Penal Code,
22 punishable under Subsection (d) of that section, if the defendant
23 committed the offense with the intent to commit a felony described
24 by Subparagraph (ii) or (iii); or

25 (v) under the laws of another state
26 containing elements that are substantially similar to the elements
27 of an offense listed in Subparagraph (i), (ii), (iii), or (iv).

ARTICLE 3. CONFORMING AMENDMENTS

SECTION 3.01. Sections 4(a) and (b), Article 37.07, Code of Criminal Procedure, are amended to read as follows:

(a) In the penalty phase of the trial of a felony case in which the punishment is to be assessed by the jury rather than the court, if the offense of which the jury has found the defendant guilty is listed in Section 3g(a)(1), Article 42.12, of this code or if the judgment contains an affirmative finding under Section 3g(a)(2), Article 42.12, of this code, unless the defendant has been convicted of an offense under Section 20A.04 or 21.02, Penal Code, an offense under Section 22.021, Penal Code, that is punishable under Subsection (f) of that section, or a capital felony, the court shall charge the jury in writing as follows:

"Under the law applicable in this case, the defendant, if sentenced to a term of imprisonment, may earn time off the period of incarceration imposed through the award of good conduct time. Prison authorities may award good conduct time to a prisoner who exhibits good behavior, diligence in carrying out prison work assignments, and attempts at rehabilitation. If a prisoner engages in misconduct, prison authorities may also take away all or part of any good conduct time earned by the prisoner.

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

"Under the law applicable in this case, if the defendant is sentenced to a term of imprisonment, he will not become eligible for parole until the actual time served equals one-half of the sentence

1 imposed or 30 years, whichever is less, without consideration of
2 any good conduct time he may earn. If the defendant is sentenced to
3 a term of less than four years, he must serve at least two years
4 before he is eligible for parole. Eligibility for parole does not
5 guarantee that parole will be granted.

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

11 "You may consider the existence of the parole law and good
12 conduct time. However, you are not to consider the extent to which
13 good conduct time may be awarded to or forfeited by this particular
14 defendant. You are not to consider the manner in which the parole
15 law may be applied to this particular defendant."

16 (b) In the penalty phase of the trial of a felony case in
17 which the punishment is to be assessed by the jury rather than the
18 court, if the offense is punishable as a felony of the first degree,
19 if a prior conviction has been alleged for enhancement of
20 punishment as provided by Section 12.42(b), (c)(1) or (2), or (d),
21 Penal Code, or if the offense is a felony not designated as a
22 capital felony or a felony of the first, second, or third degree and
23 the maximum term of imprisonment that may be imposed for the offense
24 is longer than 60 years, unless the offense of which the jury has
25 found the defendant guilty is an offense under Section 20A.04,
26 Penal Code, or an offense that is punishable under Section
27 21.02(h), Penal Code, or is listed in Section 3g(a)(1), Article

1 42.12, of this code or the judgment contains an affirmative finding
2 under Section 3g(a)(2), Article 42.12, of this code, the court
3 shall charge the jury in writing as follows:

4 "Under the law applicable in this case, the defendant, if
5 sentenced to a term of imprisonment, may earn time off the period of
6 incarceration imposed through the award of good conduct time.
7 Prison authorities may award good conduct time to a prisoner who
8 exhibits good behavior, diligence in carrying out prison work
9 assignments, and attempts at rehabilitation. If a prisoner engages
10 in misconduct, prison authorities may also take away all or part of
11 any good conduct time earned by the prisoner.

12 "It is also possible that the length of time for which the
13 defendant will be imprisoned might be reduced by the award of
14 parole.

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

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

26 "You may consider the existence of the parole law and good
27 conduct time. However, you are not to consider the extent to which

1 good conduct time may be awarded to or forfeited by this particular
2 defendant. You are not to consider the manner in which the parole
3 law may be applied to this particular defendant."

4 SECTION 3.02. Section 499.027(b), Government Code, is
5 amended to read as follows:

6 (b) An inmate is not eligible under this subchapter to be
7 considered for release to intensive supervision parole if:

8 (1) the inmate is awaiting transfer to the
9 institutional division, or serving a sentence, for an offense for
10 which the judgment contains an affirmative finding under Section
11 3g(a)(2), Article 42.12, Code of Criminal Procedure;

12 (2) the inmate is awaiting transfer to the
13 institutional division, or serving a sentence, for an offense
14 listed in one of the following sections of the Penal Code:

15 (A) Section 19.02 (murder);

16 (B) Section 19.03 (capital murder);

17 (C) Section 19.04 (manslaughter);

18 (D) Section 20.03 (kidnapping);

19 (E) Section 20.04 (aggravated kidnapping);

20 (F) Section 21.11 (indecent with a child);

21 (G) Section 22.011 (sexual assault);

22 (H) Section 22.02 (aggravated assault);

23 (I) Section 22.021 (aggravated sexual assault);

24 (J) Section 22.04 (injury to a child or an
25 elderly individual);

26 (K) Section 25.02 (prohibited sexual conduct);

27 (L) Section 25.08 (sale or purchase of a child);

- 1 (M) Section 28.02 (arson);
2 (N) Section 29.02 (robbery);
3 (O) Section 29.03 (aggravated robbery);
4 (P) Section 30.02 (burglary), if the offense is
5 punished as a first-degree felony under that section;
6 (Q) Section 43.04 (aggravated promotion of
7 prostitution);
8 (R) Section 43.05 (compelling prostitution);
9 (S) Section 43.24 (sale, distribution, or
10 display of harmful material to minor);
11 (T) Section 43.25 (sexual performance by a
12 child);
13 (U) Section 46.10 (deadly weapon in penal
14 institution);
15 (V) Section 15.01 (criminal attempt), if the
16 offense attempted is listed in this subsection;
17 (W) Section 15.02 (criminal conspiracy), if the
18 offense that is the subject of the conspiracy is listed in this
19 subsection;
20 (X) Section 15.03 (criminal solicitation), if
21 the offense solicited is listed in this subsection; ~~or~~
22 (Y) Section 21.02 (continuous sexual abuse of
23 young child or children);
24 (Z) Section 20A.02 (trafficking of persons); or
25 (AA) Section 20A.04 (continuous trafficking of
26 persons); or
27 (3) the inmate is awaiting transfer to the

1 institutional division, or serving a sentence, for an offense under
2 Chapter 481, Health and Safety Code, punishable by a minimum term of
3 imprisonment or a maximum fine that is greater than the minimum term
4 of imprisonment or the maximum fine for a first degree felony.

5 SECTION 3.03. Section 508.151(a), Government Code, is
6 amended to read as follows:

7 (a) For the purpose of diverting inmates to halfway houses
8 under Section 508.118, a parole panel, after reviewing all
9 available pertinent information, may designate a presumptive
10 parole date for an inmate who:

11 (1) has never been convicted of an offense listed
12 under Section 3g(a)(1), Article 42.12, Code of Criminal Procedure,
13 or an offense under Section 20A.04 or 21.02, Penal Code; and

14 (2) has never had a conviction with a judgment that
15 contains an affirmative finding under Section 3g(a)(2), Article
16 42.12, Code of Criminal Procedure.

17 ARTICLE 4. TRANSITION; EFFECTIVE DATE

18 SECTION 4.01. The change in law made by this Act applies
19 only to an offense committed on or after the effective date of this
20 Act. An offense committed before the effective date of this Act is
21 governed by the law in effect on the date the offense was committed,
22 and the former law is continued in effect for that purpose. For
23 purposes of this section, an offense was committed before the
24 effective date of this Act if any element of the offense occurred
25 before that date.

26 SECTION 4.02. This Act takes effect September 1, 2011.