

By: Madden

H.B. No. 3384

A BILL TO BE ENTITLED

AN ACT

relating to the penalties for repeat and habitual felony offenders.

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

SECTION 1. The heading to Section 12.42, Penal Code, is amended to read as follows:

Sec. 12.42. PENALTIES FOR REPEAT AND HABITUAL FELONY OFFENDERS ON TRIAL FOR FIRST, SECOND, OR THIRD DEGREE FELONY.

SECTION 2. Sections 12.42(a) and (b), Penal Code, are amended to read as follows:

(a) [~~(1) If it is shown on the trial of a state jail felony punishable under Section 12.35(a) that the defendant has previously been finally convicted of two state jail felonies, on conviction the defendant shall be punished for a third-degree felony.~~

~~(2) If it is shown on the trial of a state jail felony punishable under Section 12.35(a) that the defendant has previously been finally convicted of two felonies, and the second previous felony conviction is for an offense that occurred subsequent to the first previous conviction having become final, on conviction the defendant shall be punished for a second-degree felony.~~

~~(3)~~ Except as provided by Subsection (c)(2), if it is shown on the trial of a [~~state jail felony punishable under Section 12.35(c) or on the trial of a third-degree~~] felony of the third degree that the defendant has previously been finally [~~once before~~] convicted of a felony other than a state jail felony

1 punishable under Section 12.35(a), on conviction the defendant [~~he~~]
2 shall be punished for a [~~second-degree~~] felony of the second
3 degree.

4 (b) Except as provided by Subsection (c)(2), if it is shown
5 on the trial of a [~~second-degree~~] felony of the second degree that
6 the defendant has previously been finally [~~once before~~] convicted
7 of a felony other than a state jail felony punishable under Section
8 12.35(a), on conviction the defendant [~~he~~] shall be punished for a
9 [~~first-degree~~] felony of the first degree.

10 SECTION 3. Section 12.42(c), Penal Code, is amended by
11 amending Subdivision (1) and adding Subdivision (5) to read as
12 follows:

13 (1) If it is shown on the trial of a [~~first-degree~~]
14 felony of the first degree that the defendant has previously been
15 finally [~~once before~~] convicted of a felony other than a state jail
16 felony punishable under Section 12.35(a), on conviction the
17 defendant [~~he~~] shall be punished by imprisonment in the Texas
18 Department of Criminal Justice for life, or for any term of not more
19 than 99 years or less than 15 years. In addition to imprisonment,
20 an individual may be punished by a fine not to exceed \$10,000.

21 (5) A previous conviction for a state jail felony
22 punishable under Section 12.35(a) may not be used for enhancement
23 purposes under Subdivision (2).

24 SECTION 4. Section 12.42(d), Penal Code, is amended to read
25 as follows:

26 (d) Except as provided by Subsection (c)(2), if it is shown
27 on the trial of a felony offense other than a state jail felony

1 punishable under Section 12.35(a) that the defendant has previously
2 been finally convicted of two felony offenses, and the second
3 previous felony conviction is for an offense that occurred
4 subsequent to the first previous conviction having become final, on
5 conviction the defendant [~~he~~] shall be punished by imprisonment in
6 the Texas Department of Criminal Justice for life, or for any term
7 of not more than 99 years or less than 25 years. A previous
8 conviction for a state jail felony punishable under Section
9 12.35(a) may not be used for enhancement purposes under this
10 subsection.

11 SECTION 5. Subchapter D, Chapter 12, Penal Code, is amended
12 by adding Section 12.425 to read as follows:

13 Sec. 12.425. PENALTIES FOR REPEAT AND HABITUAL FELONY
14 OFFENDERS ON TRIAL FOR STATE JAIL FELONY. (a) If it is shown on
15 the trial of a state jail felony punishable under Section 12.35(a)
16 that the defendant has previously been finally convicted of two
17 state jail felonies punishable under Section 12.35(a), on
18 conviction the defendant shall be punished for a felony of the third
19 degree.

20 (b) If it is shown on the trial of a state jail felony
21 punishable under Section 12.35(a) that the defendant has previously
22 been finally convicted of two felonies other than a state jail
23 felony punishable under Section 12.35(a), and the second previous
24 felony conviction is for an offense that occurred subsequent to the
25 first previous conviction having become final, on conviction the
26 defendant shall be punished for a felony of the second degree.

27 (c) If it is shown on the trial of a state jail felony for

1 which punishment may be enhanced under Section 12.35(c) that the
2 defendant has previously been finally convicted of a felony other
3 than a state jail felony punishable under Section 12.35(a), on
4 conviction the defendant shall be punished for a felony of the
5 second degree.

6 SECTION 6. Section 12.42(e), Penal Code, is repealed.

7 SECTION 7. The change in law made by this Act applies only
8 to an offense committed on or after the effective date of this Act.
9 An offense committed before the effective date of this Act is
10 governed by the law in effect on the date the offense was committed,
11 and the former law is continued in effect for that purpose. For
12 purposes of this section, an offense was committed before the
13 effective date of this Act if any element of the offense occurred
14 before that date.

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