

House Bill 3
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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

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

(1) the defendant is charged with an offense:

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

(B) for which punishment may be 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;

(2) the defendant:

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

(B) has previously been placed on community supervision for any offense under Paragraph (A) of this subdivision; or

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

(A) Section 21.02, Penal Code;

(B) Section 22.011, Penal Code, that is punishable under Section 12.42(c)(4), Penal Code; or

(C) [~~(B)~~] Section 22.021, Penal Code, that is punishable under Subsection (f) of that section or under Section 12.42(c)(3) or (4), Penal Code.

SECTION 2. Section 508.145(d), Government Code, is amended to read as follows:

(d)(1) An inmate serving a sentence for an offense described by Section 3g(a)(1)(A), (C), (D), (E), (F), (G), (H), (I), (J), or (K), Article 42.12, Code of Criminal Procedure, or for an offense for which the judgment contains an affirmative

SENATE VERSION (CS)

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

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(1) the defendant is charged with an offense:

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

(B) for which punishment may be 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;

(2) the defendant:

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

(B) has previously been placed on community supervision for any offense under Paragraph (A) of this subdivision; or

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

(A) Section 21.02, Penal Code; or

(B) Section 22.021, Penal Code, that is punishable under Subsection (f) of that section or under Section 12.42(c)(3) or (4), Penal Code.

SECTION 2. Section 508.145(d), Government Code, is amended to read as follows:

(d)(1) An inmate serving a sentence for an offense described by Section 3g(a)(1)(A), (C), (D), (E), (F), (G), (H), (I), (J), or (K), Article 42.12, Code of Criminal Procedure, or for an offense for which the judgment contains an affirmative

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finding under Section 3g(a)(2) of that article, is not eligible for release on parole until the inmate's actual calendar time served, without consideration of good conduct time, equals one-half of the sentence or 30 calendar years, whichever is less, but in no event is the inmate eligible for release on parole in less than two calendar years.

(2) Notwithstanding Subdivision (1), an inmate serving a sentence for an offense described by Section 3g(a)(1)(E) or (H), Article 42.12, Code of Criminal Procedure, is not eligible for release on parole if the inmate is serving a sentence for an offense for which punishment was enhanced under Section 12.42(c)(4), Penal Code.

SECTION 3. Sections 12.42(b) and (d), Penal Code, are amended to read as follows:

(b) Except as provided by Subsection (c)(2) or (c)(4), if it is shown on the trial of a second-degree felony that the defendant has been once before convicted of a felony, on conviction he shall be punished for a first-degree felony.

(d) Except as provided by Subsection (c)(2) or (c)(4), if it is shown on the trial of a felony offense other than a state jail felony punishable under Section 12.35(a) that the defendant has previously been finally convicted of two felony offenses, and the second previous felony conviction is for an offense that occurred subsequent to the first previous conviction having become final, on conviction he shall be punished by imprisonment in the Texas Department of Criminal Justice for life, or for any term of not more than 99 years or less than 25 years.

SENATE VERSION (CS)

finding under Section 3g(a)(2) of that article, is not eligible for release on parole until the inmate's actual calendar time served, without consideration of good conduct time, equals one-half of the sentence or 30 calendar years, whichever is less, but in no event is the inmate eligible for release on parole in less than two calendar years.

(2) Notwithstanding Subdivision (1), an inmate serving a sentence for an offense described by Section 3g(a)(1)(E), Article 42.12, Code of Criminal Procedure, is not eligible for release on parole if the inmate is serving a sentence for an offense for which punishment was enhanced under Section 12.42(c)(4), Penal Code.

SECTION 3. Same as House version.

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

(4)(A) Except as provided by Paragraph (B) and notwithstanding ~~Notwithstanding~~ Subdivision (1) or (2), a defendant shall be punished by imprisonment in the Texas Department of Criminal Justice for life without parole if it is shown on the trial of an offense under Section 21.02, 22.011, or 22.021 that the defendant has previously been finally convicted of:

(i) ~~(A)~~ an offense under Section 21.02, 22.011, or 22.021; or
(ii) ~~(B)~~ an offense that was committed under the laws of another state and that contains elements that are substantially similar to the elements of an offense under Section 21.02, 22.011, or 22.021.

(B) A defendant may not be punished as described by this subdivision as a result of any conviction of an offense under Section 22.011, Penal Code, for which an affirmative finding was entered under Article 42.017, Code of Criminal Procedure.

SECTION 5. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 6. This Act takes effect September 1, 2011.

SENATE VERSION (CS)

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

(4) Notwithstanding Subdivision (1) or (2), a defendant shall be punished by imprisonment in the Texas Department of Criminal Justice for life without parole if it is shown on the trial of an offense under Section 21.02 or 22.021 that the defendant has previously been finally convicted of:

(A) an offense under Section 21.02 or 22.021; or
(B) an offense that was committed under the laws of another state and that contains elements that are substantially similar to the elements of an offense under Section 21.02 or 22.021.

SECTION 5. Same as House version.

SECTION 6. Same as House version.

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