

By: Clardy, Springer, Paddie,  
King of Hemphill

H.B. No. 1302

Substitute the following for H.B. No. 1302:

By: Herrero

C.S.H.B. No. 1302

A BILL TO BE ENTITLED

AN ACT

relating to the imposition of a sentence of life without parole on certain repeat sex offenders and to certain restrictions on employment for certain sex offenders.

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

SECTION 1. Article 42.015, Code of Criminal Procedure, is amended to read as follows:

Art. 42.015. FINDING OF AGE OF VICTIM. (a) In the trial of an offense under Section 20.02, 20.03, or 20.04, Penal Code, or an attempt, conspiracy, or solicitation to commit one of those offenses, the judge shall make an affirmative finding of fact and enter the affirmative finding in the judgment in the case if the judge determines that the victim or intended victim was younger than 17 years of age at the time of the offense.

(b) In the trial of a sexually violent offense, as defined by Article 62.001, the judge shall make an affirmative finding of fact and enter the affirmative finding in the judgment in the case if the judge determines that the victim or intended victim was younger than 13 years of age at the time of the offense.

SECTION 2. Section 5(e), Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(e)(1) If a judge places on community supervision under this section a defendant charged with an offense under Section 20.02, 20.03, or 20.04, Penal Code, or an attempt, conspiracy, or

1 solicitation to commit one of those offenses, the judge shall make  
2 an affirmative finding of fact and file a statement of that  
3 affirmative finding with the papers in the case if the judge  
4 determines that the victim or intended victim was younger than 17  
5 years of age at the time of the offense.

6         (2) If a judge places on community supervision under  
7 this section a defendant charged with a sexually violent offense,  
8 as defined by Article 62.001, the judge shall make an affirmative  
9 finding of fact and file a statement of that affirmative finding  
10 with the papers in the case if the judge determines that the victim  
11 or intended victim was younger than 13 years of age at the time of  
12 the offense.

13         SECTION 3. Article 62.053(a), Code of Criminal Procedure,  
14 is amended to read as follows:

15         (a) Before a person who will be subject to registration  
16 under this chapter is due to be released from a penal institution,  
17 the Texas Department of Criminal Justice or the Texas Juvenile  
18 Justice Department [~~Youth Commission~~] shall determine the person's  
19 level of risk to the community using the sex offender screening tool  
20 developed or selected under Article 62.007 and assign to the person  
21 a numeric risk level of one, two, or three. Before releasing the  
22 person, an official of the penal institution shall:

23                 (1) inform the person that:

24                         (A) not later than the later of the seventh day  
25 after the date on which the person is released or after the date on  
26 which the person moves from a previous residence to a new residence  
27 in this state or not later than the first date the applicable local

1 law enforcement authority by policy allows the person to register  
2 or verify registration, the person must register or verify  
3 registration with the local law enforcement authority in the  
4 municipality or county in which the person intends to reside;

5 (B) not later than the seventh day after the date  
6 on which the person is released or the date on which the person  
7 moves from a previous residence to a new residence in this state,  
8 the person must, if the person has not moved to an intended  
9 residence, report to the applicable entity or entities as required  
10 by Article 62.051(h) or (j) or 62.055(e);

11 (C) not later than the seventh day before the  
12 date on which the person moves to a new residence in this state or  
13 another state, the person must report in person to the local law  
14 enforcement authority designated as the person's primary  
15 registration authority by the department and to the juvenile  
16 probation officer, community supervision and corrections  
17 department officer, or parole officer supervising the person;

18 (D) not later than the 10th day after the date on  
19 which the person arrives in another state in which the person  
20 intends to reside, the person must register with the law  
21 enforcement agency that is identified by the department as the  
22 agency designated by that state to receive registration  
23 information, if the other state has a registration requirement for  
24 sex offenders;

25 (E) not later than the 30th day after the date on  
26 which the person is released, the person must apply to the  
27 department in person for the issuance of an original or renewal

1 driver's license or personal identification certificate and a  
2 failure to apply to the department as required by this paragraph  
3 results in the automatic revocation of any driver's license or  
4 personal identification certificate issued by the department to the  
5 person; ~~and~~

6 (F) the person must notify appropriate entities  
7 of any change in status as described by Article 62.057; and

8 (G) certain types of employment are prohibited  
9 under Article 62.063 for a person with a reportable conviction or  
10 adjudication for a sexually violent offense involving a victim  
11 younger than 13 years of age occurring on or after September 1,  
12 2013;

13 (2) require the person to sign a written statement  
14 that the person was informed of the person's duties as described by  
15 Subdivision (1) or Subsection (g) or, if the person refuses to sign  
16 the statement, certify that the person was so informed;

17 (3) obtain the address or, if applicable, a detailed  
18 description of each geographical location where the person expects  
19 to reside on the person's release and other registration  
20 information, including a photograph and complete set of  
21 fingerprints; and

22 (4) complete the registration form for the person.

23 SECTION 4. Article 62.058, Code of Criminal Procedure, is  
24 amended by adding Subsection (f) to read as follows:

25 (f) A local law enforcement authority that provides to a  
26 person subject to the prohibitions described by Article 62.063 a  
27 registration form for verification as required by this chapter

1 shall include with the form a statement summarizing the types of  
2 employment that are prohibited for that person.

3 SECTION 5. Subchapter B, Chapter 62, Code of Criminal  
4 Procedure, is amended by adding Article 62.063 to read as follows:

5 Art. 62.063. PROHIBITED EMPLOYMENT. (a) In this section:

6 (1) "Amusement ride" has the meaning assigned by  
7 Section 2151.002, Occupations Code.

8 (2) "Bus" has the meaning assigned by Section 541.201,  
9 Transportation Code.

10 (b) A person subject to registration under this chapter  
11 because of a reportable conviction or adjudication for which an  
12 affirmative finding is entered under Article 42.015(b) or Section  
13 5(e)(2), Article 42.12, as appropriate, may not, for compensation:

14 (1) operate or offer to operate a bus;

15 (2) provide or offer to provide a passenger taxicab or  
16 limousine transportation service;

17 (3) provide or offer to provide any type of service in  
18 the residence of another person; or

19 (4) operate or offer to operate any amusement ride.

20 SECTION 6. Sections 12.42(b) and (d), Penal Code, as  
21 amended by Chapters 834 (H.B. 3384) and 1119 (H.B. 3), Acts of the  
22 82nd Legislature, Regular Session, 2011, are reenacted to read as  
23 follows:

24 (b) Except as provided by Subsection (c)(2) or (c)(4), if it  
25 is shown on the trial of a felony of the second degree that the  
26 defendant has previously been finally convicted of a felony other  
27 than a state jail felony punishable under Section 12.35(a), on

conviction the defendant shall be punished for a felony of the first degree.

(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 the defendant 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. A previous conviction for a state jail felony punishable under Section 12.35(a) may not be used for enhancement purposes under this subsection.

SECTION 7. Section 12.42(c)(4), Penal Code, as amended by Chapters 122 (H.B. 3000) and 1119 (H.B. 3), Acts of the 82nd Legislature, Regular Session, 2011, is reenacted and amended to read as follows:

(4) Notwithstanding Subdivision (1) or (2), and except as provided by Subdivision (3) for the trial of an offense under Section 22.021 as described by that subdivision, 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 20A.03 or of a sexually violent offense [~~21.02 or 22.021~~] that the defendant has previously been finally convicted of:

(A) an offense under Section 20A.03 or of a sexually violent offense [~~21.02 or 22.021~~]; or

1 (B) an offense that was committed under the laws  
2 of another state and that contains elements that are substantially  
3 similar to the elements of an offense under Section 20A.03 or of a  
4 sexually violent offense [~~21.02 or 22.021~~].

5 SECTION 8. Section 12.42, Penal Code, is amended by adding  
6 Subsection (h) to read as follows:

7 (h) In this section, "sexually violent offense" means:

8 (1) an offense under Section 21.02 (Continuous sexual  
9 abuse of young child or children) or 22.021 (Aggravated sexual  
10 assault); or

11 (2) any of the following offenses committed by a  
12 person 17 years of age or older against a child younger than 13  
13 years of age:

14 (A) an offense under Section 20A.02(a)(7) or (8)  
15 (Sex trafficking of a child), 21.11(a)(1) (Indecency with a child),  
16 22.011 (Sexual assault), or 43.25 (Sexual performance by a child);

17 (B) an offense under Section 20.04(a)(4)  
18 (Aggravated kidnapping), if the defendant committed the offense  
19 with intent to violate or abuse the victim sexually;

20 (C) an offense under Section 30.02 (Burglary), if  
21 the offense is punishable under Subsection (d) of that section and  
22 the defendant committed the offense with intent to commit an  
23 offense under Section 21.11(a)(2) (Indecency with a child), 25.02  
24 (Prohibited sexual conduct), or a felony listed in Paragraph (A) or  
25 (B) of this subdivision; or

26 (D) an offense under the laws of another state,  
27 federal law, the laws of a foreign country, or the Uniform Code of

1 Military Justice, if the offense contains elements that are  
2 substantially similar to the elements of an offense listed under  
3 Paragraph (A), (B), or (C).

4       SECTION 9. (a)(1) The change in law made by this Act in  
5 adding Article 62.063, Code of Criminal Procedure, applies only to  
6 a person who is required to register under Chapter 62, Code of  
7 Criminal Procedure, on the basis of a conviction or adjudication  
8 for an offense described by that article and for which an  
9 affirmative finding under Article 42.015(b) or Section 5(e)(2),  
10 Article 42.12, Code of Criminal Procedure, as added by this Act, is  
11 made on or after the effective date of this Act.

12       (2) Article 42.015(b), Code of Criminal Procedure, and  
13 Section 5(e)(2), Code of Criminal Procedure, as added by this Act,  
14 apply, as appropriate, only to a trial commenced on or after the  
15 effective date of this Act or an order of deferred adjudication  
16 entered on or after the effective date of this Act.

17       (3) A person who is required to register under Chapter  
18 62, Code of Criminal Procedure, solely on the basis of a conviction  
19 or adjudication that occurs before the effective date of this Act is  
20 governed by the law in effect when the conviction or adjudication  
21 occurred, and the former law is continued in effect for that  
22 purpose.

23       (b) The change in law made by this Act in amending Section  
24 12.42, Penal Code, applies only to an offense committed on or after  
25 the effective date of this Act. An offense committed before the  
26 effective date of this Act is governed by the law in effect on the  
27 date the offense was committed, and the former law is continued in



1 effect for that purpose. For purposes of this section, an offense  
2 was committed before the effective date of this Act if any element  
3 of the offense occurred before that date.

4       SECTION 10. To the extent of any conflict, this Act prevails  
5 over another Act of the 83rd Legislature, Regular Session, 2013,  
6 relating to nonsubstantive additions to and corrections in enacted  
7 codes.

8       SECTION 11. This Act takes effect September 1, 2013.