

By: Burnam

H.B. No. 2417

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the procedures applicable to state jail felony  
3 community supervision and to the punishment prescribed for certain  
4 state jail felonies.

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

6 SECTION 1. Section 15(a), Article 42.12, Code of Criminal  
7 Procedure, is amended to read as follows:

8 (a)(1) Except as provided by Subdivision (2), on [On]  
9 conviction of a state jail felony [~~under Section 481.115(b),~~  
10 ~~481.1151(b)(1), 481.116(b), 481.1161(b)(3), 481.121(b)(3), or~~  
11 ~~481.129(g)(1), Health and Safety Code, that is]~~ punished under  
12 Section 12.35(a), Penal Code, the judge shall suspend the  
13 imposition of the sentence and place the defendant on community  
14 supervision.

15 (2) On conviction of a state jail felony punished  
16 under Section 12.35(a), Penal Code, the judge may suspend the  
17 imposition of the sentence and place the defendant on community  
18 supervision or may order the sentence to be executed if [ , unless]  
19 the defendant:

20 (A) was convicted of an offense involving the  
21 possession of a controlled substance under:

22 (i) [has previously been convicted of a  
23 felony, other than a felony punished under Section 12.44(a), Penal  
24 Code, or unless the conviction resulted from an adjudication of the

1 ~~guilt of a defendant previously placed on deferred adjudication~~  
2 ~~community supervision for the offense, in which event the judge may~~  
3 ~~suspend the imposition of the sentence and place the defendant on~~  
4 ~~community supervision or may order the sentence to be~~  
5 ~~executed. The provisions of this subdivision requiring the judge~~  
6 ~~to suspend the imposition of the sentence and place the defendant on~~  
7 ~~community supervision do not apply to a defendant who:~~

8           ~~[(A) under]~~ Section 481.1151(b)(1), Health and  
9 Safety Code, and the defendant possessed more than five abuse units  
10 of the controlled substance;

11           (ii) ~~[(B) under]~~ Section 481.1161(b)(3),  
12 Health and Safety Code, and the defendant possessed more than one  
13 pound, by aggregate weight, including adulterants or dilutants, of  
14 the controlled substance; or

15           (iii) ~~[(C) under]~~ Section 481.121(b)(3),  
16 Health and Safety Code, and the defendant possessed more than one  
17 pound of marihuana;

18           (B) has been previously convicted of:

19           (i) any felony other than a state jail  
20 felony; or

21           (ii) any misdemeanor under Title 5 or 6,  
22 Penal Code;

23           (C) has been previously convicted on two or more  
24 occasions of a state jail felony, other than a felony punished under  
25 Section 12.44(a), Penal Code; or

26           (D) was previously placed on deferred  
27 adjudication community supervision for the offense and is convicted

1 following an adjudication of guilt.

2 ~~[(2) On conviction of a state jail felony punished~~  
3 ~~under Section 12.35(a), Penal Code, other than a state jail felony~~  
4 ~~listed in Subdivision (1), the judge may suspend the imposition of~~  
5 ~~the sentence and place the defendant on community supervision or~~  
6 ~~may order the sentence to be executed.]~~

7 (3) The judge may suspend in whole or in part the  
8 imposition of any fine imposed on conviction.

9 (4) For the purposes of this subsection, a defendant  
10 has been previously convicted of an offense if the defendant was  
11 adjudged guilty of the offense or entered a plea of guilty or nolo  
12 contendere in return for a grant of deferred adjudication,  
13 regardless of whether the sentence for the offense was ever imposed  
14 or whether the sentence was probated and the defendant was  
15 subsequently discharged from community supervision.

16 SECTION 2. Section 12.425, Penal Code, is amended by adding  
17 Subsection (b-1) to read as follows:

18 (b-1) If it is shown on the trial of a state jail felony  
19 punishable under Section 12.35(a) that the defendant has previously  
20 been finally convicted of three state jail felonies for which the  
21 defendant was placed on community supervision, other than a state  
22 jail felony punished under Section 12.44(a), on conviction the  
23 defendant may be punished for a felony of the second degree.

24 SECTION 3. The change in law made by this Act applies only  
25 to an offense committed on or after the effective date of this Act.  
26 An offense committed before the effective date of this Act is  
27 governed by the law in effect when the offense was committed, and

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

5 SECTION 4. This Act takes effect September 1, 2013.