

By: Toth

H.B. No. 2803

A BILL TO BE ENTITLED

1 AN ACT
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 state jail felony
21 involving the 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 three or
24 more occasions of a state jail felony; or

25 (D) was previously placed on deferred
26 adjudication community supervision for the offense and is convicted
27 following an adjudication of guilt.

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

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

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

10 (b-1) If it is shown on the trial of a state jail felony
11 punishable under Section 12.35(a) that the defendant has previously
12 been finally convicted of three state jail felonies for which the
13 defendant was placed on community supervision under Section
14 15(a)(1), Article 42.12, Code of Criminal Procedure, on conviction
15 the defendant may be punished for a felony of the second degree.

16 SECTION 3. The change in law made by this Act applies only
17 to an offense committed on or after the effective date of this Act.
18 An offense committed before the effective date of this Act is
19 governed by the law in effect when the offense was committed, and
20 the former law is continued in effect for that purpose. For
21 purposes of this section, an offense was committed before the
22 effective date of this Act if any element of the offense occurred
23 before that date.

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