

By: Toth

H.B. No. 2809

Substitute the following for H.B. No. 2809:

By: Herrero

C.S.H.B. No. 2809

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the imposition of a sentence of life without parole on
3 certain repeat sex offenders.

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

5 SECTION 1. Sections 12.42(b) and (d), Penal Code, as
6 amended by Chapters 834 (H.B. 3384) and 1119 (H.B. 3), Acts of the
7 82nd Legislature, Regular Session, 2011, are reenacted to read as
8 follows:

9 (b) Except as provided by Subsection (c)(2) or (c)(4), if it
10 is shown on the trial of a felony of the second degree that the
11 defendant has previously been finally convicted of a felony other
12 than a state jail felony punishable under Section 12.35(a), on
13 conviction the defendant shall be punished for a felony of the first
14 degree.

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

1 used for enhancement purposes under this subsection.

2 SECTION 2. Section 12.42(c)(4), Penal Code, as amended by
3 Chapters 122 (H.B. 3000) and 1119 (H.B. 3), Acts of the 82nd
4 Legislature, Regular Session, 2011, is reenacted and amended to
5 read as follows:

6 (4) Notwithstanding Subdivision (1) or (2), and except
7 as provided by Subdivision (3) for the trial of an offense under
8 Section 22.021 as described by that subdivision, a defendant shall
9 be punished by imprisonment in the Texas Department of Criminal
10 Justice for life without parole if it is shown on the trial of an
11 offense under Section 20A.03 or of a sexually violent [~~an~~] offense
12 [~~under Section 21.02 or 22.021~~] that the defendant has previously
13 been finally convicted of:

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

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

20 SECTION 3. Section 12.42, Penal Code, is amended by adding
21 Subsection (h) to read as follows:

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

23 (1) an offense under:

24 (A) Section 21.02 (continuous sexual abuse of a
25 young child or children);

26 (B) Section 22.021 (aggravated sexual assault);

27 (C) Section 20A.02(a)(3), (4), (7), or (8) (sex

1 trafficking);

2 (D) Section 21.11(a)(1) (indecenty with a
3 child);

4 (E) Section 22.011 (sexual assault); or

5 (F) Section 43.25 (sexual performance by a child)
6 under the age of 14;

7 (2) an offense under Section 20.04(a)(4) (aggravated
8 kidnapping), if the defendant committed the offense with intent to
9 violate or abuse the victim sexually;

10 (3) an offense under Section 30.02 (burglary), if the
11 offense is punishable under Subsection (d) of that section and the
12 defendant committed the offense with intent to commit an offense
13 under Section 21.11(a)(2) (indecenty with a child) or 25.02
14 (prohibited sexual conduct) or a felony listed in Subdivision (1)
15 or (2) of this subsection; or

16 (4) an offense under the laws of another state,
17 federal law, the laws of a foreign country, or the Uniform Code of
18 Military Justice, if the offense contains elements that are
19 substantially similar to the elements of an offense listed under
20 Subdivision (1), (2), or (3).

21 SECTION 4. The change in law made by this Act in amending
22 Section 12.42, Penal Code, applies only to an offense committed on
23 or after the effective date of this Act. An offense committed
24 before the effective date of this Act is governed by the law in
25 effect on the date the offense was committed, and the former law is
26 continued in effect for that purpose. For purposes of this section,
27 an offense was committed before the effective date of this Act if

1 any element of the offense occurred before that date.

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

6 SECTION 6. This Act takes effect September 1, 2013.