

By: Wu

H.B. No. 2842

Substitute the following for H.B. No. 2842:

By: Herrero

C.S.H.B. No. 2842

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the eligibility of certain persons convicted of
3 engaging in organized criminal activity for community supervision
4 or release on parole or to mandatory supervision.

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

6 SECTION 1. Section 3g(a), Article 42.12, Code of Criminal
7 Procedure, is amended to read as follows:

8 (a) The provisions of Section 3 of this article do not
9 apply:

10 (1) to a defendant adjudged guilty of an offense
11 under:

12 (A) Section 19.02, Penal Code (Murder);

13 (B) Section 19.03, Penal Code (Capital murder);

14 (C) Section 21.11(a)(1), Penal Code (Indecency
15 with a child);

16 (D) Section 20.04, Penal Code (Aggravated
17 kidnapping);

18 (E) Section 22.021, Penal Code (Aggravated
19 sexual assault);

20 (F) Section 29.03, Penal Code (Aggravated
21 robbery);

22 (G) Chapter 481, Health and Safety Code, for
23 which punishment is increased under:

24 (i) Section 481.140, Health and Safety

1 Code; or

2 (ii) Section 481.134(c), (d), (e), or (f),
3 Health and Safety Code, if it is shown that the defendant has been
4 previously convicted of an offense for which punishment was
5 increased under any of those subsections;

6 (H) Section 22.011, Penal Code (Sexual assault);

7 (I) Section 22.04(a)(1), Penal Code (Injury to a
8 child, elderly individual, or disabled individual), if the offense
9 is punishable as a felony of the first degree and the victim of the
10 offense is a child;

11 (J) Section 43.25, Penal Code (Sexual
12 performance by a child);

13 (K) Section 15.03, Penal Code, if the offense is
14 punishable as a felony of the first degree;

15 (L) Section 43.05, Penal Code (Compelling
16 prostitution); ~~[or]~~

17 (M) Section 20A.02, Penal Code (Trafficking of
18 persons); ~~[or]~~

19 (N) Section 71.02, Penal Code (Engaging in
20 organized criminal activity), if:

21 (i) the offense is punishable as a felony of
22 the first degree; or

23 (ii) the predicate offense committed or
24 conspired to be committed is listed in this subsection; or

25 (O) Section 71.023, Penal Code (Directing
26 activities of certain criminal street gangs); or

27 (2) to a defendant when it is shown that a deadly

1 weapon as defined in Section 1.07, Penal Code, was used or exhibited
2 during the commission of a felony offense or during immediate
3 flight therefrom, and that the defendant used or exhibited the
4 deadly weapon or was a party to the offense and knew that a deadly
5 weapon would be used or exhibited. On an affirmative finding under
6 this subdivision, the trial court shall enter the finding in the
7 judgment of the court. On an affirmative finding that the deadly
8 weapon was a firearm, the court shall enter that finding in its
9 judgment.

10 SECTION 2. Section 508.145(d)(1), Government Code, is
11 amended to read as follows:

12 (1) An inmate serving a sentence for an offense
13 described by Section 3g(a)(1)(A), (C), (D), (E), (F), (G), (H),
14 (I), (J), [~~or~~] (K), (N), or (O), Article 42.12, Code of Criminal
15 Procedure, [~~or~~] for an offense for which the judgment contains an
16 affirmative finding under Section 3g(a)(2) of that article, or for
17 an offense under Section 20A.03, Penal Code, is not eligible for
18 release on parole until the inmate's actual calendar time served,
19 without consideration of good conduct time, equals one-half of the
20 sentence or 30 calendar years, whichever is less, but in no event is
21 the inmate eligible for release on parole in less than two calendar
22 years.

23 SECTION 3. Section 508.149(a), Government Code, as amended
24 by Chapters 1 (S.B. 24) and 122 (H.B. 3000), Acts of the 82nd
25 Legislature, Regular Session, 2011, is reenacted and amended to
26 read as follows:

27 (a) An inmate may not be released to mandatory supervision

1 if the inmate is serving a sentence for or has been previously
2 convicted of:

3 (1) an offense for which the judgment contains an
4 affirmative finding under Section 3g(a)(2), Article 42.12, Code of
5 Criminal Procedure;

6 (2) a first degree felony or a second degree felony
7 under Section 19.02, Penal Code;

8 (3) a capital felony under Section 19.03, Penal Code;

9 (4) a first degree felony or a second degree felony
10 under Section 20.04, Penal Code;

11 (5) an offense under Section 21.11, Penal Code;

12 (6) a felony under Section 22.011, Penal Code;

13 (7) a first degree felony or a second degree felony
14 under Section 22.02, Penal Code;

15 (8) a first degree felony under Section 22.021, Penal
16 Code;

17 (9) a first degree felony under Section 22.04, Penal
18 Code;

19 (10) a first degree felony under Section 28.02, Penal
20 Code;

21 (11) a second degree felony under Section 29.02, Penal
22 Code;

23 (12) a first degree felony under Section 29.03, Penal
24 Code;

25 (13) a first degree felony under Section 30.02, Penal
26 Code;

27 (14) a felony for which the punishment is increased

- 1 under Section 481.134 or Section 481.140, Health and Safety Code;
- 2 (15) an offense under Section 43.25, Penal Code;
- 3 (16) an offense under Section 21.02, Penal Code;
- 4 (17) a first degree felony under Section 15.03, Penal
- 5 Code;
- 6 (18) an offense under Section 43.05, Penal Code; [~~or~~]
- 7 (19) an offense under Section 20A.02, Penal Code;
- 8 (20) [~~(18)~~] an offense under Section 20A.03, Penal
- 9 Code; or
- 10 (21) a first degree felony under Section 71.02 or
- 11 71.023, Penal Code.

12 SECTION 4. The changes in law made by this Act apply only to

13 an offense committed on or after the effective date of this Act. An

14 offense committed before the effective date of this Act is governed

15 by the law in effect when the offense was committed, and the former

16 law is continued in effect for that purpose. For purposes of this

17 section, an offense was committed before the effective date of this

18 Act if any element of the offense occurred before that date.

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