

By: Paddie

H.B. No. 1123

A BILL TO BE ENTITLED

1 AN ACT

2 relating to increasing the punishment for the offense of possession
3 or promotion of child pornography; changing the eligibility for
4 community 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);

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

19 (N) Section 30.02, Penal Code (Burglary), if the
20 offense is punishable under Subsection (d) of that section and the
21 actor committed the offense with the intent to commit a felony under
22 Section 21.02, 21.11, 22.011, 22.021, or 25.02, Penal Code; or

23 (O) Section 43.26, Penal Code (Possession or
24 promotion of child pornography); or

25 (2) to a defendant when it is shown that a deadly
26 weapon as defined in Section 1.07, Penal Code, was used or exhibited
27 during the commission of a felony offense or during immediate

1 flight therefrom, and that the defendant used or exhibited the
2 deadly weapon or was a party to the offense and knew that a deadly
3 weapon would be used or exhibited. On an affirmative finding under
4 this subdivision, the trial court shall enter the finding in the
5 judgment of the court. On an affirmative finding that the deadly
6 weapon was a firearm, the court shall enter that finding in its
7 judgment.

8 SECTION 2. Sections 43.26(d) and (g), Penal Code, are
9 amended to read as follows:

10 (d) An offense under Subsection (a) is a felony of the
11 second [~~third~~] degree.

12 (g) An offense under Subsection (e) is a felony of the first
13 [~~second~~] degree.

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

22 SECTION 4. This Act takes effect September 1, 2015.