

By: Dukes, Leach

H.B. No. 3977

A BILL TO BE ENTITLED

AN ACT

relating to increasing the penalty for causing injury to a child;
changing the eligibility for community supervision.

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

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

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

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

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

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

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

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

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

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

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

(i) Section 481.140, Health and Safety
Code; or

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

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

6 (I) Section 22.04(a)(1) or (2) or (a-1)(1) or
7 (2), Penal Code (Injury to a child, elderly individual, or disabled
8 individual), if the offense is punishable as a felony of the first
9 degree and the victim of the offense is a child;

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

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

14 (L) Section 43.05, Penal Code (Compelling
15 prostitution);

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

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

22 (2) to a defendant when it is shown that a deadly
23 weapon as defined in Section 1.07, Penal Code, was used or exhibited
24 during the commission of a felony offense or during immediate
25 flight therefrom, and that the defendant used or exhibited the
26 deadly weapon or was a party to the offense and knew that a deadly
27 weapon would be used or exhibited. On an affirmative finding under

1 this subdivision, the trial court shall enter the finding in the
2 judgment of the court. On an affirmative finding that the deadly
3 weapon was a firearm, the court shall enter that finding in its
4 judgment.

5 SECTION 2. Section 4(d), Article 42.12, Code of Criminal
6 Procedure, is amended to read as follows:

7 (d) A defendant is not eligible for community supervision
8 under this section if the defendant:

9 (1) is sentenced to a term of imprisonment that
10 exceeds 10 years;

11 (2) is convicted of a state jail felony for which
12 suspension of the imposition of the sentence occurs automatically
13 under Section 15(a);

14 (3) does not file a sworn motion under Subsection (e)
15 of this section or for whom the jury does not enter in the verdict a
16 finding that the information contained in the motion is true;

17 (4) is convicted of an offense for which punishment is
18 increased under Section 481.134(c), (d), (e), or (f), Health and
19 Safety Code, if it is shown that the defendant has been previously
20 convicted of an offense for which punishment was increased under
21 any one of those subsections;

22 (5) is convicted of an offense listed in:

23 (A) Section 3g(a)(1)(C), (E), or (H), if the
24 victim of the offense was younger than 14 years of age at the time
25 the offense was committed; or

26 (B) Section 3g(a)(1)(I);

27 (6) is convicted of an offense listed in Section

1 3g(a)(1)(D), if the victim of the offense was younger than 14 years
2 of age at the time the offense was committed and the actor committed
3 the offense with the intent to violate or abuse the victim sexually;

4 (7) is convicted of an offense listed in Section
5 3g(a)(1)(J), (L), or (M); or

6 (8) is adjudged guilty of an offense under Section
7 19.02, Penal Code.

8 SECTION 3. Section 22.04, Penal Code, is amended by
9 amending Subsection (e) and adding Subsection (e-1) to read as
10 follows:

11 (e) Except as provided by Subsection (e-1), an ~~An~~ offense
12 under Subsection (a)(1) or (2) or (a-1)(1) or (2) is a felony of the
13 first degree if ~~when~~ the conduct was ~~is~~ committed intentionally
14 or knowingly. If ~~When~~ the conduct was ~~is~~ engaged in
15 recklessly, the offense is a felony of the second degree.

16 (e-1) An offense under Subsection (a)(1) or (2) or (a-1)(1)
17 or (2) is a felony of the first degree, punishable by imprisonment
18 in the Texas Department of Criminal Justice for any term of not more
19 than 99 years or less than 10 years, if:

20 (1) the conduct was committed intentionally or
21 knowingly; and

22 (2) the victim of the offense was a child at the time
23 of the offense.

24 SECTION 4. The changes in law made by this Act apply only to
25 an offense committed on or after the effective date of this Act. An
26 offense committed before the effective date of this Act is governed
27 by the law in effect on the date the offense was committed, and the

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

4 SECTION 5. This Act takes effect September 1, 2015.