

By: Dukes

H.B. No. 3977

A BILL TO BE ENTITLED

1 AN ACT

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (ii) Section 481.134(c), (d), (e), or (f),

1 Health and Safety Code, if it is shown that the defendant has been
2 previously convicted of an offense for which punishment was
3 increased under any of those subsections;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (B) Section 3g(a)(I), if the victim of the
26 offense was 14 years of age or younger at the time the offense was
27 committed;

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

5 (7) is convicted of an offense listed in Section
6 3g(a)(1)(J), (L), or (M); or

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

9 SECTION 4. Section 508.145(d)(1), Government Code, is
10 amended to read as follows:

11 (1) An inmate serving a sentence for an offense
12 described by Section 3g(a)(1)(A), (C), (D), (E), (F), (G), (H),
13 [~~(I)~~] (J), (K), (L), (M), or (N), Article 42.12, Code of Criminal
14 Procedure, an offense for which the judgment contains an
15 affirmative finding under Section 3g(a)(2) of that article, an
16 offense under Section 20A.03, Penal Code, or an offense under
17 Section 71.02 or 71.023, Penal Code, is not eligible for release on
18 parole until the inmate's actual calendar time served, without
19 consideration of good conduct time, equals one-half of the sentence
20 or 30 calendar years, whichever is less, but in no event is the
21 inmate eligible for release on parole in less than two calendar
22 years.

23 SECTION 5. Section 22.04, Penal Code, is amended by
24 amending Subsection (e) and adding Subsection (e-1) to read as
25 follows:

26 (e) Except as provided by Subsection (e-1), an [~~An~~] offense
27 under Subsection (a)(1) or (2) or (a-1)(1) or (2) is a felony of the

1 first degree if [~~when~~] the conduct was [~~is~~] committed intentionally
2 or knowingly. If [~~When~~] the conduct was [~~is~~] engaged in recklessly,
3 the offense is a felony of the second degree.

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

8 (1) the conduct was committed intentionally or
9 knowingly; and

10 (2) the victim of the offense was a child at the time
11 of the offense.

12 SECTION 6. 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 on the date the offense was committed, and the
16 former law is continued in effect for that purpose. For purposes of
17 this section, an offense was committed before the effective date of
18 this Act if any element of the offense occurred before that date.

19 SECTION 7. This Act takes effect September 1, 2015.