

By: Dukes

H.B. No. 2190

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. Article 42A.054(a), Code of Criminal Procedure,  
is amended to read as follows:

(a) Article 42A.053 does not apply to a defendant adjudged  
guilty of an offense under:

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

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

(3) Section 19.03, Penal Code (Capital Murder);

(4) Section 20.04, Penal Code (Aggravated  
Kidnapping);

(5) Section 20A.02, Penal Code (Trafficking of  
Persons);

(6) Section 21.11(a)(1), Penal Code (Indecency with a  
Child);

(7) Section 22.011, Penal Code (Sexual Assault);

(8) Section 22.021, Penal Code (Aggravated Sexual  
Assault);

(9) Section 22.04(a)(1) or (2) or (a-1)(1) or (2),  
Penal Code (Injury to a Child, Elderly Individual, or Disabled  
Individual), if:

(A) the offense is punishable as a felony of the first degree; and

(B) the victim of the offense is a child;

(10) Section 29.03, Penal Code (Aggravated Robbery);

(11) Section 30.02, Penal Code (Burglary), if:

(A) the offense is punishable under Subsection (d) of that section; and

(B) the actor committed the offense with the intent to commit a felony under Section 21.02, 21.11, 22.011, 22.021, or 25.02, Penal Code;

(12) Section 43.05, Penal Code (Compelling Prostitution);

(13) Section 43.25, Penal Code (Sexual Performance by a Child); or

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

(A) Section 481.140 of that code (Use of Child in Commission of Offense); or

(B) Section 481.134(c), (d), (e), or (f) of that code (Drug-free Zones) if it is shown that the defendant has been previously convicted of an offense for which punishment was increased under any of those subsections.

SECTION 2. Article 42A.056, Code of Criminal Procedure, is amended to read as follows:

Art. 42A.056. LIMITATION ON JURY-RECOMMENDED COMMUNITY SUPERVISION. A defendant is not eligible for community supervision under Article 42A.055 if the defendant:

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

3           (2) is convicted of a state jail felony for which  
4 suspension of the imposition of the sentence occurs automatically  
5 under Article [42A.551](#);

6           (3) is adjudged guilty of an offense under Section  
7 [19.02](#), Penal Code;

8           (4) is convicted of an offense under Section  
9 [21.11\(a\)\(1\)](#), [22.011](#), or [22.021](#), Penal Code, if the victim of the  
10 offense was younger than 14 years of age at the time the offense was  
11 committed;

12           (5) is convicted of an offense under Section [20.04](#),  
13 Penal Code, if:

14               (A) the victim of the offense was younger than 14  
15 years of age at the time the offense was committed; and

16               (B) the actor committed the offense with the  
17 intent to violate or abuse the victim sexually;

18           (6) is convicted of an offense under Section [20A.02](#),  
19 [43.05](#), or [43.25](#), Penal Code; ~~[or]~~

20           (7) is convicted of an offense for which punishment is  
21 increased under Section [481.134\(c\)](#), (d), (e), or (f), Health and  
22 Safety Code, if it is shown that the defendant has been previously  
23 convicted of an offense for which punishment was increased under  
24 any of those subsections; or

25           (8) is convicted of an offense under Section  
26 [22.04\(a\)\(1\)](#) or (2) or (a-1)(1) or (2), Penal Code, if:

27               (A) the offense is punishable as a felony of the

1 first degree; and

2 (B) the victim of the offense is a child.

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

6 (e) Except as provided by Subsection (e-1), an [An] offense  
7 under Subsection (a)(1) or (2) or (a-1)(1) or (2) is a felony of the  
8 first degree if [when] the conduct was [is] committed intentionally  
9 or knowingly. If [when] the conduct was [is] engaged in  
10 recklessly, the offense is a felony of the second degree.

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

15 (1) the conduct was committed intentionally or  
16 knowingly; and

17 (2) the victim of the offense was a child at the time  
18 of the offense.

19 SECTION 4. The changes in law made by this Act apply only to  
20 an offense committed on or after the effective date of this Act. An  
21 offense committed before the effective date of this Act is governed  
22 by the law in effect on the date the offense was committed, and the  
23 former law is continued in effect for that purpose. For purposes of  
24 this section, an offense was committed before the effective date of  
25 this Act if any element of the offense occurred before that date.

26 SECTION 5. This Act takes effect September 1, 2017.