

By: Murr

H.B. No. 299

A BILL TO BE ENTITLED

AN ACT

relating to the punishment of certain controlled substance offenses committed in a drug-free zone; increasing criminal penalties.

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

SECTION 1. Section [481.134](#), Health and Safety Code, is amended by amending Subsections (b) and (c) and adding Subsection (c-1) to read as follows:

(b) An offense otherwise punishable as a state jail felony under Section [481.112](#), [481.1121](#), [481.113](#), [481.114](#), or [481.120](#) is punishable as a felony of the third degree, and an offense otherwise punishable as a felony of the second degree under any of those sections is punishable as a felony of the first degree, if it is shown at the punishment phase of the trial of the offense that the offense was committed:

(1) in, on, or within 1,000 feet of premises owned, rented, or leased by an institution of higher education [~~learning~~], the premises of a public or private youth center, or a playground; or

(2) in, on, or within 300 feet of the premises of a public swimming pool or video arcade facility.

(c) The minimum term of confinement or imprisonment for an offense otherwise punishable under Section [481.112\(d\)](#) [~~481.112(c)~~, ~~(d)~~], (e), or (f), [481.1121\(b\)\(3\)](#) [~~481.1121(b)(2)~~, ~~(3)~~], or (4), [481.113\(d\)](#) [~~481.113(c)~~, ~~(d)~~] or (e), [481.114\(d\)](#) [~~481.114(c)~~,

1 ~~(d),~~ or (e), 481.115(c), (d), (e), or (f) [~~481.115(c)-(f)~~],
2 481.1151(b)(2), (3), (4), or (5), 481.116(c), (d), or (e),
3 481.1161(b)(4), (5), or (6), 481.117(c), (d), or (e), 481.118(c),
4 (d), or (e), 481.120(b)(5) [~~481.120(b)(4), (5),~~] or (6), or
5 481.121(b)(4), (5), or (6) is increased by five years and the
6 maximum fine for the offense is doubled if it is shown on the trial
7 of the offense that the offense was committed:

8 (1) in, on, or within 1,000 feet of the premises of a
9 school, the premises of a public or private youth center, or a
10 playground; or

11 (2) on a school bus.

12 (c-1) An offense otherwise punishable under Section
13 481.112(c), 481.1121(b)(2), 481.113(c), 481.114(c), or
14 481.120(b)(4) is a felony of the first degree if it is shown on the
15 trial of the offense that the offense was committed:

16 (1) in, on, or within 1,000 feet of any real property
17 that is owned, rented, or leased to a school or school board, the
18 premises of a public or private youth center, or a playground; or

19 (2) on a school bus.

20 SECTION 2. Article 42A.054(a), Code of Criminal Procedure,
21 is amended to read as follows:

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

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

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

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

- 1 (4) Section 20.04, Penal Code (Aggravated
2 Kidnapping);
- 3 (5) Section 20A.02, Penal Code (Trafficking of
4 Persons);
- 5 (6) Section 21.11(a)(1), Penal Code (Indecency with a
6 Child);
- 7 (7) Section 22.011, Penal Code (Sexual Assault);
- 8 (8) Section 22.021, Penal Code (Aggravated Sexual
9 Assault);
- 10 (9) Section 22.04(a)(1), Penal Code (Injury to a
11 Child, Elderly Individual, or Disabled Individual), if:
- 12 (A) the offense is punishable as a felony of the
13 first degree; and
- 14 (B) the victim of the offense is a child;
- 15 (10) Section 29.03, Penal Code (Aggravated Robbery);
- 16 (11) Section 30.02, Penal Code (Burglary), if:
- 17 (A) the offense is punishable under Subsection
18 (d) of that section; and
- 19 (B) the actor committed the offense with the
20 intent to commit a felony under Section 21.02, 21.11, 22.011,
21 22.021, or 25.02, Penal Code;
- 22 (12) Section 43.05, Penal Code (Compelling
23 Prostitution);
- 24 (13) Section 43.25, Penal Code (Sexual Performance by
25 a Child); or
- 26 (14) Chapter 481, Health and Safety Code, for which
27 punishment is increased under:

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

3 (B) Section 481.134(c), (c-1), (d), (e), or (f)
4 of that code (Drug-free Zones) if it is shown that the defendant has
5 been previously convicted of an offense for which punishment was
6 increased under any of those subsections.

7 SECTION 3. Article 42A.056, Code of Criminal Procedure, is
8 amended to read as follows:

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

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

14 (2) is convicted of a state jail felony for which
15 suspension of the imposition of the sentence occurs automatically
16 under Article 42A.551;

17 (3) is adjudged guilty of an offense under Section
18 19.02, Penal Code;

19 (4) is convicted of an offense under Section
20 21.11(a)(1), 22.011, or 22.021, Penal Code, if the victim of the
21 offense was younger than 14 years of age at the time the offense was
22 committed;

23 (5) is convicted of an offense under Section 20.04,
24 Penal Code, if:

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

27 (B) the actor committed the offense with the

1 intent to violate or abuse the victim sexually;

2 (6) is convicted of an offense under Section 20A.02,
3 43.05, or 43.25, Penal Code; or

4 (7) is convicted of an offense for which punishment is
5 increased under Section 481.134(c), (c-1), (d), (e), or (f), Health
6 and Safety Code, if it is shown that the defendant has been
7 previously convicted of an offense for which punishment was
8 increased under any of those subsections.

9 SECTION 4. Article 42A.102(b), Code of Criminal Procedure,
10 is amended to read as follows:

11 (b) In all other cases, the judge may grant deferred
12 adjudication community supervision unless:

13 (1) the defendant is charged with an offense:

14 (A) under Sections 49.04-49.08, Penal Code; or

15 (B) for which punishment may be increased under
16 Section 481.134(c), (c-1), (d), (e), or (f), Health and Safety
17 Code, if it is shown that the defendant has been previously
18 convicted of an offense for which punishment was increased under
19 any one of those subsections;

20 (2) the defendant:

21 (A) is charged with an offense under Section
22 21.11, 22.011, or 22.021, Penal Code, regardless of the age of the
23 victim, or a felony described by Article 42A.453(b); and

24 (B) has previously been placed on community
25 supervision for an offense under Paragraph (A);

26 (3) the defendant is charged with an offense under:

27 (A) Section 21.02, Penal Code; or

1 (B) Section 22.021, Penal Code, that is
2 punishable under Subsection (f) of that section or under Section
3 12.42(c)(3) or (4), Penal Code; or

4 (4) the defendant is charged with an offense under
5 Section 19.02, Penal Code, except that the judge may grant deferred
6 adjudication community supervision on determining that the
7 defendant did not cause the death of the deceased, did not intend to
8 kill the deceased or another, and did not anticipate that a human
9 life would be taken.

10 SECTION 5. The change in law made by this Act applies only
11 to an offense committed on or after the effective date of this Act.
12 An offense committed before the effective date of this Act is
13 governed by the law in effect on the date the offense was committed,
14 and the former law is continued in effect for that purpose. For
15 purposes of this section, an offense was committed before the
16 effective date of this Act if any element of the offense was
17 committed before that date.

18 SECTION 6. This Act takes effect September 1, 2019.