

By: Hernandez

H.B. No. 2758

Substitute the following for H.B. No. 2758:

By: Neave

C.S.H.B. No. 2758

A BILL TO BE ENTITLED

1 AN ACT
2 relating to changing the eligibility of persons charged with
3 certain trafficking and prostitution offenses to receive community
4 supervision, including deferred adjudication community
5 supervision.

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

7 SECTION 1. Article 42A.054(a), Code of Criminal Procedure,
8 is amended to read as follows:

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

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

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

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

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

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

19 (6) Section 20A.03, Penal Code (Continuous
20 Trafficking of Persons);

21 (7) Section 21.11(a)(1), Penal Code (Indecency with a
22 Child);

23 (8) [~~(7)~~] Section 22.011, Penal Code (Sexual
24 Assault);

1 (9) [~~(8)~~] Section 22.021, Penal Code (Aggravated
2 Sexual Assault);

3 (10) [~~(9)~~] Section 22.04(a)(1), Penal Code (Injury to
4 a Child, Elderly Individual, or Disabled Individual), if:

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

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

8 (11) [~~(10)~~] Section 29.03, Penal Code (Aggravated
9 Robbery);

10 (12) [~~(11)~~] Section 30.02, Penal Code (Burglary), if:

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

13 (B) the actor committed the offense with the
14 intent to commit a felony under Section 21.02, 21.11, 22.011,
15 22.021, or 25.02, Penal Code;

16 (13) Section 43.03, Penal Code (Promotion of
17 Prostitution);

18 (14) Section 43.04, Penal Code (Aggravated Promotion
19 of Prostitution);

20 (15) [~~(12)~~] Section 43.05, Penal Code (Compelling
21 Prostitution);

22 (16) [~~(13)~~] Section 43.25, Penal Code (Sexual
23 Performance by a Child); or

24 (17) [~~(14)~~] Chapter 481, Health and Safety Code, for
25 which punishment is increased under:

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

1 (B) Section 481.134(c), (d), (e), or (f) of that
2 code (Drug-free Zones) 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 SECTION 2. Article 42A.056, Code of Criminal Procedure, is
6 amended to read as follows:

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

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

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

15 (3) is adjudged guilty of an offense under Section
16 19.02, Penal Code;

17 (4) is convicted of an offense under Section
18 21.11(a)(1), 22.011, or 22.021, Penal Code, if the victim of the
19 offense was younger than 14 years of age at the time the offense was
20 committed;

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

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

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

27 (6) is convicted of an offense under Section 20A.02,

1 20A.03, 43.03, 43.04, 43.05, or 43.25, Penal Code; or

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

7 SECTION 3. Article 42A.102, Code of Criminal Procedure, is
8 amended to read as follows:

9 Art. 42A.102. ELIGIBILITY FOR DEFERRED ADJUDICATION
10 COMMUNITY SUPERVISION. (a) Subject to Subsection (b), a [A] judge
11 may place on deferred adjudication community supervision a
12 defendant charged with an offense under Section 21.11, 22.011, or
13 22.021, Penal Code, regardless of the age of the victim, or a
14 defendant charged with a felony described by Article 42A.453(b)
15 only if the judge makes a finding in open court that placing the
16 defendant on deferred adjudication community supervision is in the
17 best interest of the victim. The failure of the judge to make a
18 finding under this subsection is not grounds for the defendant to
19 set aside the plea, deferred adjudication, or any subsequent
20 conviction or sentence.

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

- 23 (1) the defendant is charged with an offense:
24 (A) under Sections 49.04-49.08, Penal Code; or
25 (B) for which punishment may be increased under
26 Section 481.134(c), (d), (e), or (f), Health and Safety Code, if it
27 is shown that the defendant has been previously convicted of an

1 offense for which punishment was increased under any one of those
2 subsections;

3 (2) the defendant:

4 (A) is charged with an offense under Section
5 20A.02, 20A.03, 21.11, 22.011, ~~or~~ 22.021, 43.03, 43.04, or 43.05,
6 Penal Code, regardless of the age of the victim, or a felony
7 described by Article 42A.453(b); and

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

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

11 (A) Section 21.02, Penal Code; or

12 (B) Section 22.021, Penal Code, that is
13 punishable under Subsection (f) of that section or under Section
14 12.42(c)(3) or (4), Penal Code; or

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

21 SECTION 4. Section 773.0614(c), Health and Safety Code, is
22 amended to read as follows:

23 (c) A certificate holder's certificate shall be revoked if
24 the certificate holder has been convicted of or placed on deferred
25 adjudication community supervision or deferred disposition for:

26 (1) an offense listed in Article 42A.054(a)(2), (3),
27 (4), ~~(6),~~ (7), (8), (9), (11) ~~(10)~~, or (17) ~~(14)~~, Code of

1 Criminal Procedure; or

2 (2) an offense, other than an offense described by
3 Subdivision (1), committed on or after September 1, 2009, for which
4 the person is subject to registration under Chapter 62, Code of
5 Criminal Procedure.

6 SECTION 5. Section 773.06141(a), Health and Safety Code, is
7 amended to read as follows:

8 (a) The department may suspend, revoke, or deny an emergency
9 medical services provider license on the grounds that the
10 provider's administrator of record, employee, or other
11 representative:

12 (1) has been convicted of, or placed on deferred
13 adjudication community supervision or deferred disposition for, an
14 offense that directly relates to the duties and responsibilities of
15 the administrator, employee, or representative, other than an
16 offense for which points are assigned under Section 708.052,
17 Transportation Code;

18 (2) has been convicted of or placed on deferred
19 adjudication community supervision or deferred disposition for an
20 offense, including:

21 (A) an offense listed in Article 42A.054(a)(2),
22 (3), (4), [~~(6)~~] (7), (8), (9), (11) [~~(10)~~], or (17) [~~(14)~~], Code of
23 Criminal Procedure; or

24 (B) an offense, other than an offense described
25 by Subdivision (1), for which the person is subject to registration
26 under Chapter 62, Code of Criminal Procedure; or

27 (3) has been convicted of Medicare or Medicaid fraud,

1 has been excluded from participation in the state Medicaid program,
2 or has a hold on payment for reimbursement under the state Medicaid
3 program under Subchapter C, Chapter 531, Government Code.

4 SECTION 6. The changes in law made by this Act apply only to
5 an offense committed on or after the effective date of this Act. An
6 offense committed before the effective date of this Act is governed
7 by the law in effect on the date the offense was committed, and the
8 former law is continued in effect for that purpose. For purposes of
9 this section, an offense was committed before the effective date of
10 this Act if any element of the offense occurred before that date.

11 SECTION 7. This Act takes effect September 1, 2019.