

By: Zedler

H.B. No. 4287

A BILL TO BE ENTITLED

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

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

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

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

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

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

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

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

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

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

20 (7) Section 21.11 [~~21.11(a)(1)~~], Penal Code  
21 (Indecency with a Child);

22 (8) [~~7~~] Section 22.011, Penal Code (Sexual  
23 Assault);

24 (9) [~~8~~] Section 22.021, Penal Code (Aggravated

1 Sexual Assault);

2 (10) [~~(9)~~] Section 22.04(a)(1), Penal Code (Injury to  
3 a Child, Elderly Individual, or Disabled Individual), if:

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

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

7 (11) [~~(10)~~] Section 29.03, Penal Code (Aggravated  
8 Robbery);

9 (12) [~~(11)~~] Section 30.02, Penal Code (Burglary), if:

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

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

15 (13) Section 43.04, Penal Code (Aggravated Promotion  
16 of Prostitution);

17 (14) [~~(12)~~] Section 43.05, Penal Code (Compelling  
18 Prostitution);

19 (15) [~~(13)~~] Section 43.25, Penal Code (Sexual  
20 Performance by a Child); or

21 (16) [~~(14)~~] Chapter 481, Health and Safety Code, for  
22 which punishment is increased under:

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

25 (B) Section 481.134(c), (d), (e), or (f) of that  
26 code (Drug-free Zones) if it is shown that the defendant has been  
27 previously convicted of an offense for which punishment was

1 increased under any of those subsections.

2 SECTION 2. Article [42A.056](#), Code of Criminal Procedure, is  
3 amended to read as follows:

4 Art. 42A.056. LIMITATION ON JURY-RECOMMENDED COMMUNITY  
5 SUPERVISION. A defendant is not eligible for community supervision  
6 under Article [42A.055](#) if the defendant:

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

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

12 (3) is adjudged guilty of an offense under Section  
13 [19.02](#), Penal Code;

14 (4) is convicted of an offense under Section [21.11](#)  
15 [~~[21.11\(a\)\(1\)](#)~~], [22.011](#), or [22.021](#), Penal Code [~~, if the victim of the~~  
16 ~~offense was younger than 14 years of age at the time the offense was~~  
17 ~~committed~~];

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

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

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

24 (6) is convicted of an offense under Section [20A.02](#),  
25 [20A.03](#), [43.04](#), [43.05](#), or [43.25](#), Penal Code; or

26 (7) is convicted of an offense for which punishment is  
27 increased under Section [481.134](#)(c), (d), (e), or (f), Health and

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

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

6 Art. 42A.102. ELIGIBILITY FOR DEFERRED ADJUDICATION  
7 COMMUNITY SUPERVISION. (a) A judge may place on deferred  
8 adjudication community supervision a defendant charged with an  
9 offense under Section 21.11 or [~~r~~] 22.011, [~~or 22.021,~~] Penal Code,  
10 regardless of the age of the victim, or a defendant charged with a  
11 felony described by Article 42A.453(b), other than a felony  
12 described by Subsection (b)(1)(A) of this article, only if the  
13 judge makes a finding in open court that placing the defendant on  
14 deferred adjudication community supervision is in the best interest  
15 of the victim. The failure of the judge to make a finding under this  
16 subsection is not grounds for the defendant to set aside the plea,  
17 deferred adjudication, or any subsequent conviction or sentence.

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

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

21 (A) under Section 20A.02, 20A.03, 21.02, 22.021,  
22 43.04, 43.05, or 43.25 or Sections 49.04-49.08, Penal Code; or

23 (B) for which punishment may be increased under  
24 Section 481.134(c), (d), (e), or (f), Health and Safety Code, if it  
25 is shown that the defendant has been previously convicted of an  
26 offense for which punishment was increased under any one of those  
27 subsections;

1 (2) the defendant:

2 (A) is charged with an offense under Section  
3 21.11 or ~~[7]~~ 22.011, ~~[or 22.021]~~ Penal Code, regardless of the age  
4 of the victim, or a felony described by Article 42A.453(b), other  
5 than a felony described by Subdivision (1)(A) of this subsection;  
6 and

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

9 ~~(3) [the defendant is charged with an offense under:~~  
10 ~~[(A) Section 21.02, Penal Code; or~~  
11 ~~[(B) Section 22.021, Penal Code, that is~~  
12 ~~punishable under Subsection (f) of that section or under Section~~  
13 ~~12.42(c)(3) or (4), Penal Code; or~~

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

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

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

25 (1) an offense listed in Article 42A.054(a)(2), (3),  
26 (4), ~~[(6)]~~ (7), (8), (9), (11) ~~[(10)]~~, or (16) ~~[(14)]~~, Code of  
27 Criminal Procedure; or

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

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

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

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

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

20           (A) an offense listed in Article 42A.054(a)(2),  
21 (3), (4), [~~(6)~~] (7), (8), (9), (11) [~~(10)~~], or (16) [~~(14)~~], Code of  
22 Criminal Procedure; or

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

26           (3) has been convicted of Medicare or Medicaid fraud,  
27 has been excluded from participation in the state Medicaid program,

1 or has a hold on payment for reimbursement under the state Medicaid  
2 program under Subchapter C, Chapter 531, Government Code.

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

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