

By: Huffman

S.B. No. 1803

A BILL TO BE ENTITLED

AN ACT

relating to changing the eligibility of persons charged with certain offenses to receive community supervision, including deferred adjudication 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 20A.03, Penal Code (Continuous Trafficking of Persons);

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

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

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

Sexual Assault);

(10) [~~(9)~~] Section 22.04(a)(1), 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;

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

(12) [~~(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;

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

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

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

(16) [~~(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

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) Subject to Subsection (b), a [A] judge
8 may place on deferred adjudication community supervision a
9 defendant charged with an offense under Section 21.11, 22.011, or
10 22.021, Penal Code, regardless of the age of the victim, or a
11 defendant charged with a felony described by Article 42A.453(b)
12 only if the judge makes a finding in open court that placing the
13 defendant on deferred adjudication community supervision is in the
14 best interest of the victim. The failure of the judge to make a
15 finding under this subsection is not grounds for the defendant to
16 set aside the plea, deferred adjudication, or any subsequent
17 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 or 20A.03 or Sections
22 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;

(2) the defendant:

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

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

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

(A) Section 21.02, Penal Code; or

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

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

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

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

(1) an offense listed in Article 42A.054(a)(2), (3), (4), ~~[(6)],~~ (7), (8), (9), (11) ~~[(10)],~~ or (16) ~~[(14)],~~ Code of 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)]~~ (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. The Texas Department of Criminal Justice is
11 required to implement a provision of this Act only if the
12 legislature appropriates money specifically for that purpose. If
13 the legislature does not appropriate money specifically for that
14 purpose, the department may, but is not required to, implement a
15 provision of this Act using other appropriations available for that
16 purpose.

17 SECTION 8. This Act takes effect September 1, 2019.