By:  Geren H.B. No. 790

A BILL TO BE ENTITLED

AN ACT

relating to enhancing the criminal penalties for certain repeat and habitual offenders.

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

SECTION 1.  Sections 12.42(a), (b), and (d), Penal Code, are amended to read as follows:

(a)  Except as provided by Subsection (c)(2), if it is shown on the trial of a felony of the third degree that the defendant has previously been finally convicted of a felony other than a state jail felony punishable under Section 12.35(a) or 12.43(b-1), on conviction the defendant shall be punished for a felony of the second degree.

(b)  Except as provided by Subsection (c)(2) or (c)(4), if it is shown on the trial of a felony of the second degree that the defendant has previously been finally convicted of a felony other than a state jail felony punishable under Section 12.35(a) or 12.43(b-1), on conviction the defendant shall be punished for a felony of the first degree.

(d)  Except as provided by Subsection (c)(2) or (c)(4), if it is shown on the trial of a felony offense other than a state jail felony punishable under Section 12.35(a) or 12.43(b-1) that the defendant has previously been finally convicted of two felony offenses, and the second previous felony conviction is for an offense that occurred subsequent to the first previous conviction having become final, on conviction the defendant shall be punished by imprisonment in the Texas Department of Criminal Justice for life, or for any term of not more than 99 years or less than 25 years. A previous conviction for a state jail felony punishable under Section 12.35(a) or 12.43(b-1) may not be used for enhancement purposes under this subsection.

SECTION 2.  Sections 12.42(c)(1) and (5), Penal Code, are amended to read as follows:

(1)  If it is shown on the trial of a felony of the first degree that the defendant has previously been finally convicted of a felony other than a state jail felony punishable under Section 12.35(a) or 12.43(b-1), on conviction the defendant shall be punished by imprisonment in the Texas Department of Criminal Justice for life, or for any term of not more than 99 years or less than 15 years. In addition to imprisonment, an individual may be punished by a fine not to exceed $10,000.

(5)  A previous conviction for a state jail felony punishable under Section 12.35(a) or 12.43(b-1) may not be used for enhancement purposes under Subdivision (2).

SECTION 3.  Sections 12.425(b) and (c), Penal Code, are amended to read as follows:

(b)  If it is shown on the trial of a state jail felony punishable under Section 12.35(a) that the defendant has previously been finally convicted of two felonies other than a state jail felony punishable under Section 12.35(a) or 12.43(b-1), and the second previous felony conviction is for an offense that occurred subsequent to the first previous conviction having become final, on conviction the defendant shall be punished for a felony of the second degree.

(c)  If it is shown on the trial of a state jail felony for which punishment may be enhanced under Section 12.35(c) that the defendant has previously been finally convicted of a felony other than a state jail felony punishable under Section 12.35(a) or 12.43(b-1), on conviction the defendant shall be punished for a felony of the second degree.

SECTION 4.  Section 12.43, Penal Code, is amended by amending Subsection (a) and adding Subsection (b-1) to read as follows:

(a)  Except as provided under Subsection (b-1), if [~~If~~] it is shown on the trial of a Class A misdemeanor that the defendant has been previously [~~before~~] convicted of a Class A misdemeanor or any degree of felony, on conviction the defendant [~~he~~] shall be punished by:

(1)  a fine not to exceed $4,000;

(2)  confinement in jail for any term of not more than one year or less than 90 days; or

(3)  both such fine and confinement.

(b-1)  An offense that is a Class A misdemeanor is a state jail felony if it is shown on the trial of the offense that:

(1)  the defendant has been previously convicted four or more times of a Class A misdemeanor or any degree of felony; and

(2)  each of the previous offenses was committed in the 10-year period preceding the date of commission of the instant offense.

SECTION 5.  Article 42A.551(d), Code of Criminal Procedure, is amended to read as follows:

(d)  On conviction of a state jail felony punished under Section 12.35(a) or 12.43(b-1), Penal Code, other than a state jail felony listed in Subsection (a), subject to Subsection (e), the judge may:

(1)  suspend the imposition of the sentence and place the defendant on community supervision; or

(2)  order the sentence to be executed:

(A)  in whole; or

(B)  in part, with a period of community supervision to begin immediately on release of the defendant from confinement.

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

SECTION 7.  This Act takes effect September 1, 2021.