

By: Murphy

H.B. No. 1509

Substitute the following for H.B. No. 1509:

By: A. Johnson of Harris

C.S.H.B. No. 1509

A BILL TO BE ENTITLED

AN ACT

1
2 relating to enhancing the criminal penalties for certain repeat and
3 habitual offenders.

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

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

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

13 (b) Except as provided by Subsection (c)(2) or (c)(4), if it
14 is shown on the trial of a felony of the second degree that the
15 defendant has previously been finally convicted of a felony other
16 than a state jail felony punishable under Section 12.35(a) or
17 12.43(b-1), on conviction the defendant shall be punished for a
18 felony of the first degree.

19 (d) Except as provided by Subsection (c)(2) or (c)(4), if it
20 is shown on the trial of a felony offense other than a state jail
21 felony punishable under Section 12.35(a) or 12.43(b-1) that the
22 defendant has previously been finally convicted of two felony
23 offenses, and the second previous felony conviction is for an
24 offense that occurred subsequent to the first previous conviction

1 having become final, on conviction the defendant shall be punished
2 by imprisonment in the Texas Department of Criminal Justice for
3 life, or for any term of not more than 99 years or less than 25
4 years. A previous conviction for a state jail felony punishable
5 under Section 12.35(a) or 12.43(b-1) may not be used for
6 enhancement purposes under this subsection.

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

9 (1) If it is shown on the trial of a felony of the first
10 degree that the defendant has previously been finally convicted of
11 a felony other than a state jail felony punishable under Section
12 12.35(a) or 12.43(b-1), on conviction the defendant shall be
13 punished by imprisonment in the Texas Department of Criminal
14 Justice for life, or for any term of not more than 99 years or less
15 than 15 years. In addition to imprisonment, an individual may be
16 punished by a fine not to exceed \$10,000.

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

20 SECTION 3. Section 12.425, Penal Code, is amended to read as
21 follows:

22 Sec. 12.425. PENALTIES FOR REPEAT AND HABITUAL FELONY
23 OFFENDERS ON TRIAL FOR STATE JAIL FELONY. (a) If it is shown on
24 the trial of a state jail felony punishable under Section 12.35(a)
25 or 12.43(b-1) that the defendant has previously been finally
26 convicted of two state jail felonies punishable under Section
27 12.35(a) or 12.43(b-1), on conviction the defendant shall be

1 punished for a felony of the third degree.

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

10 (c) If it is shown on the trial of a state jail felony for
11 which punishment may be enhanced under Section 12.35(c) that the
12 defendant has previously been finally convicted of a felony other
13 than a state jail felony punishable under Section 12.35(a) or
14 12.43(b-1), on conviction the defendant shall be punished for a
15 felony of the second degree.

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

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

- 24 (1) a fine not to exceed \$4,000;
- 25 (2) confinement in jail for any term of not more than
26 one year or less than 90 days; or
- 27 (3) both such fine and confinement.

1 (b) If it is shown on the trial of a Class B misdemeanor that
2 the defendant has been previously [~~before~~] convicted of a [~~Class A~~
3 ~~or~~] Class B misdemeanor or any higher category of offense [~~degree of~~
4 ~~felony~~], on conviction the defendant [~~he~~] shall be punished by:

5 (1) a fine not to exceed \$2,000;

6 (2) confinement in jail for any term of not more than
7 180 days or less than 30 days; or

8 (3) both such fine and confinement.

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

11 (1) the defendant has previously been finally
12 convicted four or more times of a Class A misdemeanor or any higher
13 category of offense;

14 (2) at least one of the convictions described by
15 Subdivision (1) was of a felony;

16 (3) each conviction described by Subdivision (1) was
17 for an offense that occurred subsequent to the previous conviction
18 having become final; and

19 (4) each of the previous offenses was committed in the
20 10-year period preceding the date of commission of the instant
21 offense.

22 SECTION 5. Articles [42A.551](#)(a) and (d), Code of Criminal
23 Procedure, are amended to read as follows:

24 (a) Except as otherwise provided by Subsection (b) or (c),
25 on conviction of a state jail felony under Section [481.115](#)(b),
26 [481.1151](#)(b)(1), [481.116](#)(b), [481.1161](#)(b)(3), [481.121](#)(b)(3), or
27 [481.129](#)(g)(1), Health and Safety Code, that is punished under

1 Section [12.35\(a\)](#), Penal Code, or on conviction of an offense under
2 Section [481.1161\(b\)\(2\)](#) or [481.121\(b\)\(2\)](#), Health and Safety Code,
3 punished as a state jail felony under Section [12.43\(b-1\)](#), Penal
4 Code, the judge shall suspend the imposition of the sentence and
5 place the defendant on community supervision.

6 (d) On conviction of a state jail felony punished under
7 Section [12.35\(a\)](#) or [12.43\(b-1\)](#), Penal Code, other than a state jail
8 felony listed in Subsection (a) or to which Article [42A.515](#)
9 applies, subject to Subsection (e), the judge may:

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

12 (2) order the sentence to be executed:

13 (A) in whole; or

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

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

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