

By: Birdwell

S.B. No. 1587

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. Sections [12.425\(b\)](#) and (c), Penal Code, are  
21 amended to read as follows:

22 (b) If it is shown on the trial of a state jail felony  
23 punishable under Section [12.35\(a\)](#) that the defendant has previously  
24 been finally convicted of two felonies other than a state jail  
25 felony punishable under Section [12.35\(a\)](#) or [12.43\(b-1\)](#), and the  
26 second previous felony conviction is for an offense that occurred  
27 subsequent to the first previous conviction having become final, on

1 conviction the defendant shall be punished for a felony of the  
2 second degree.

3 (c) If it is shown on the trial of a state jail felony for  
4 which punishment may be enhanced under Section 12.35(c) that the  
5 defendant has previously been finally convicted of a felony other  
6 than a state jail felony punishable under Section 12.35(a) or  
7 12.43(b-1), on conviction the defendant shall be punished for a  
8 felony of the second degree.

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

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

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

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

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

25 (2) each of the previous offenses was committed in the  
26 10-year period preceding the date of commission of the instant  
27 offense.

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

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

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

9 (2) order the sentence to be executed:

10 (A) in whole; or

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

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

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