

By: Smith

H.B. No. 2742

A BILL TO BE ENTITLED

1 AN ACT
2 relating to increasing criminal penalties for the manufacture or
3 delivery of certain controlled substances; changing the
4 eligibility for community supervision, deferred adjudication
5 community supervision, or mandatory supervision.

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

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

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

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

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

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

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

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

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

21 (7) Section 21.11, Penal Code (Indecency with a
22 Child);

23 (8) Section 22.011, Penal Code (Sexual Assault);

24 (9) Section 22.021, Penal Code (Aggravated Sexual

1 Assault);

2 (10) Section 22.04(a)(1), Penal Code (Injury to a
3 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) Section 29.03, Penal Code (Aggravated Robbery);

8 (12) Section 30.02, Penal Code (Burglary), if:

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

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

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

16 (14) Section 43.05, Penal Code (Compelling
17 Prostitution);

18 (15) Section 43.25, Penal Code (Sexual Performance by
19 a Child);

20 (16) Chapter 481, Health and Safety Code, for which
21 punishment is increased under:

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

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

1 (17) Section 481.1123, Health and Safety Code
2 (Manufacture or Delivery of Substance in Penalty Group 1-B), if the
3 offense is punishable under Subsection (c), (d), (e), or (f) of that
4 section.

5 SECTION 2. Article 42A.056, Code of Criminal Procedure, is
6 amended to read as follows:

7 Art. 42A.056. LIMITATION ON JURY-RECOMMENDED COMMUNITY
8 SUPERVISION. A defendant is not eligible for community supervision
9 under Article 42A.055 if the defendant:

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

12 (2) is convicted of a state jail felony for which
13 suspension of the imposition of the sentence occurs automatically
14 under Article 42A.551;

15 (3) is adjudged guilty of an offense under Section
16 19.02, Penal Code;

17 (4) is convicted of an offense under Section 21.11,
18 22.011, or 22.021, Penal Code, if the victim of the offense was
19 younger than 14 years of age at the time the offense was committed;

20 (5) is convicted of an offense under Section 20.04,
21 Penal Code, if:

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

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

26 (6) is convicted of an offense under Section 20A.02,
27 20A.03, 43.04, 43.05, or 43.25, Penal Code;

1 (7) is convicted of an offense for which punishment is
2 increased under Section 481.134(c), (d), (e), or (f), Health and
3 Safety Code, if it is shown that the defendant has been previously
4 convicted of an offense for which punishment was increased under
5 any of those subsections; or

6 (8) is convicted of an offense under Section 481.1123,
7 Health and Safety Code, if the offense is punishable under
8 Subsection (c), (d), (e), or (f) of that section.

9 SECTION 3. Article 42A.102(b), Code of Criminal Procedure,
10 is amended to read as follows:

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

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

14 (A) under Section 20A.02, 20A.03, 49.045, 49.05,
15 49.065, 49.07, or 49.08, Penal Code;

16 (B) under Section 49.04 or 49.06, Penal Code,
17 and, at the time of the offense:

18 (i) the defendant held a commercial
19 driver's license or a commercial learner's permit; or

20 (ii) the defendant's alcohol concentration,
21 as defined by Section 49.01, Penal Code, was 0.15 or more;

22 (C) for which punishment may be increased under
23 Section 49.09, Penal Code;

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

1 subsections; or

2 (E) under Section 481.1123, Health and Safety
3 Code, that is punishable under Subsection (c), (d), (e), or (f) of
4 that section;

5 (2) the defendant:

6 (A) is charged with an offense under Section
7 21.11, 22.011, 22.021, 43.04, or 43.05, Penal Code, regardless of
8 the age of the victim, or a felony described by Article 42A.453(b),
9 other than a felony described by Subdivision (1)(A) or (3)(B) of
10 this subsection; and

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

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

14 (A) Section 21.02, Penal Code; or

15 (B) Section 22.021, Penal Code, that is
16 punishable under Subsection (f) of that section or under Section
17 12.42(c)(3) or (4), Penal Code; or

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

24 SECTION 4. Section 508.149(a), Government Code, is amended
25 to read as follows:

26 (a) An inmate may not be released to mandatory supervision
27 if the inmate is serving a sentence for or has been previously

1 convicted of:

2 (1) an offense for which the judgment contains an
3 affirmative finding under Article 42A.054(c) or (d), Code of
4 Criminal Procedure;

5 (2) a first degree felony or a second degree felony
6 under Section 19.02, Penal Code;

7 (3) a capital felony under Section 19.03, Penal Code;

8 (4) a first degree felony or a second degree felony
9 under Section 20.04, Penal Code;

10 (5) an offense under Section 21.11, Penal Code;

11 (6) a felony under Section 22.011, Penal Code;

12 (7) a first degree felony or a second degree felony
13 under Section 22.02, Penal Code;

14 (8) a first degree felony under Section 22.021, Penal
15 Code;

16 (9) a first degree felony under Section 22.04, Penal
17 Code;

18 (10) a first degree felony under Section 28.02, Penal
19 Code;

20 (11) a second degree felony under Section 29.02, Penal
21 Code;

22 (12) a first degree felony under Section 29.03, Penal
23 Code;

24 (13) a first degree felony under Section 30.02, Penal
25 Code;

26 (14) a felony for which the punishment is increased
27 under Section 481.134 or Section 481.140, Health and Safety Code;

- 1 (15) an offense under Section 43.25, Penal Code;
- 2 (16) an offense under Section 21.02, Penal Code;
- 3 (17) a first degree felony under Section 15.03, Penal
- 4 Code;
- 5 (18) an offense under Section 43.05, Penal Code;
- 6 (19) an offense under Section 20A.02, Penal Code;
- 7 (20) an offense under Section 20A.03, Penal Code;
- 8 (21) a first degree felony under Section 71.02 or
- 9 71.023, Penal Code; or
- 10 (22) an offense under Section 481.1123, Health and
- 11 Safety Code, punished under Subsection (c), (d), (e), or (f) of that
- 12 section.

13 SECTION 5. Section 481.1123(b), Health and Safety Code, is
14 amended to read as follows:

15 (b) An offense under Subsection (a) is a [~~state jail~~] felony
16 of the third degree if the amount of the controlled substance to
17 which the offense applies is, by aggregate weight, including
18 adulterants or dilutants, less than one gram.

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

27 SECTION 7. This Act takes effect September 1, 2023.