

By: Huffman, Parker

S.B. No. 23

A BILL TO BE ENTITLED

AN ACT

relating to increasing the minimum term of imprisonment and changing the eligibility for community supervision and parole for certain felony offenses in which a firearm is used or exhibited and to certain consequences on conviction of certain offenses.

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

SECTION 1. Subchapter D, Chapter 12, Penal Code, is amended by adding Section 12.502 to read as follows:

Sec. 12.502. PENALTY FOR CERTAIN FELONY OFFENSES COMMITTED WITH FIREARM. (a) The minimum term of imprisonment for a first, second, or third degree felony listed in Article 42A.054(a), Code of Criminal Procedure, is increased to 10 years if an affirmative finding has been entered in the judgment in the case under Article 42A.054(d), Code of Criminal Procedure.

(b) Subsection (a) does not apply to a felony offense for which the punishment otherwise required by law includes a minimum term of imprisonment that exceeds 10 years.

SECTION 2. Article 42.08, Code of Criminal Procedure, is amended by adding Subsection (b-1) to read as follows:

(b-1) A judge sentencing a defendant convicted of an offense that was committed while on community supervision granted under Article 42A.055 and for which the minimum term of imprisonment was increased under Section 12.502, Penal Code, shall order the sentence for the offense to commence immediately on completion of

1 the sentence for the offense for which the defendant was placed on  
2 community supervision.

3 SECTION 3. Article 42A.055, Code of Criminal Procedure, is  
4 amended by adding Subsection (c-1) to read as follows:

5 (c-1) If the jury recommends to the judge that the judge  
6 place the defendant on community supervision for an offense for  
7 which the minimum term of imprisonment for the offense is increased  
8 under Section 12.502, Penal Code, the judge shall place the  
9 defendant on community supervision for a period of 10 years.

10 SECTION 4. Article 42A.102(b), Code of Criminal Procedure,  
11 is amended to read as follows:

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

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

15 (A) under Section 20A.02, 20A.03, 49.045, 49.05,  
16 49.065, 49.07, or 49.08, Penal Code;

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

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

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

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

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

1 offense for which punishment was increased under any one of those  
2 subsections; ~~or~~

3 (E) that is punishable as a first, second, or  
4 third degree felony listed in Article 42A.054(a), if the judge  
5 finds that a firearm was used or exhibited during the commission of  
6 the offense or during the immediate flight from the commission of  
7 the offense; or

8 (F) under Section 481.1123, Health and Safety  
9 Code, that is punishable under Subsection (d), (e), or (f) of that  
10 section;

11 (2) the defendant:

12 (A) is charged with an offense under Section  
13 21.11, 22.011, 22.021, 43.04, or 43.05, Penal Code, regardless of  
14 the age of the victim, or a felony described by Article 42A.453(b),  
15 other than a felony described by Subdivision (1)(A) or (3)(B) of  
16 this subsection; and

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

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

20 (A) Section 21.02, Penal Code; or

21 (B) Section 22.021, Penal Code, that is  
22 punishable under Subsection (f) of that section or under Section  
23 12.42(c)(3) or (4), Penal Code; or

24 (4) the defendant is charged with an offense under  
25 Section 19.02, Penal Code, except that the judge may grant deferred  
26 adjudication community supervision on determining that the  
27 defendant did not cause the death of the deceased, did not intend to

1 kill the deceased or another, and did not anticipate that a human  
2 life would be taken.

3 SECTION 5. Section 508.145(d)(2), Government Code, is  
4 amended to read as follows:

5 (2) An inmate described by Subdivision (1) is not  
6 eligible for release on parole until the inmate's actual calendar  
7 time served, without consideration of good conduct time, equals  
8 one-half of the sentence or 30 calendar years, whichever is less,  
9 but in no event is the inmate eligible for release on parole in less  
10 than:

11 (A) 10 calendar years, for an inmate serving a  
12 sentence for an offense for which the minimum term of imprisonment  
13 was increased under Section 12.502, Penal Code; or

14 (B) two calendar years, for an inmate serving a  
15 sentence for any other offense to which this subsection applies.

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

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