

1-1 By: Huffman S.B. No. 23
1-2 (In the Senate - Filed March 9, 2023; March 9, 2023, read
1-3 first time and referred to Committee on State Affairs;
1-4 March 30, 2023, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 11, Nays 0; March 30, 2023,
1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			
1-18	X			
1-19	X			

1-20 COMMITTEE SUBSTITUTE FOR S.B. No. 23 By: Hughes

1-21 A BILL TO BE ENTITLED
1-22 AN ACT

1-23 relating to increasing the minimum term of imprisonment and
1-24 changing the eligibility for community supervision and parole for
1-25 certain felony offenses in which a firearm is used or exhibited and
1-26 to certain consequences on conviction of certain offenses.

1-27 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-28 SECTION 1. Subchapter D, Chapter 12, Penal Code, is amended
1-29 by adding Section 12.502 to read as follows:

1-30 Sec. 12.502. PENALTY FOR CERTAIN FELONY OFFENSES COMMITTED
1-31 WITH FIREARM. (a) The minimum term of imprisonment for a first,
1-32 second, or third degree felony listed in Article 42A.054(a), Code
1-33 of Criminal Procedure, is increased to 10 years if an affirmative
1-34 finding has been entered in the judgment in the case under Article
1-35 42A.054(d), Code of Criminal Procedure.

1-36 (b) Subsection (a) does not apply to a felony offense for
1-37 which the punishment otherwise required by law includes a minimum
1-38 term of imprisonment that exceeds 10 years.

1-39 SECTION 2. Article 42.08, Code of Criminal Procedure, is
1-40 amended by adding Subsection (b-1) to read as follows:

1-41 (b-1) A judge sentencing a defendant convicted of an offense
1-42 that was committed while on community supervision granted under
1-43 Article 42A.055 and for which the minimum term of imprisonment was
1-44 increased under Section 12.502, Penal Code, shall order the
1-45 sentence for the offense to commence immediately on completion of
1-46 the sentence for the offense for which the defendant was placed on
1-47 community supervision.

1-48 SECTION 3. Article 42A.055, Code of Criminal Procedure, is
1-49 amended by adding Subsection (c-1) to read as follows:

1-50 (c-1) If the jury recommends to the judge that the judge
1-51 place the defendant on community supervision for an offense for
1-52 which the minimum term of imprisonment for the offense is increased
1-53 under Section 12.502, Penal Code, the judge shall place the
1-54 defendant on community supervision for a period of 10 years.

1-55 SECTION 4. Article 42A.102(b), Code of Criminal Procedure,
1-56 is amended to read as follows:

1-57 (b) In all other cases, the judge may grant deferred
1-58 adjudication community supervision unless:

1-59 (1) the defendant is charged with an offense:

1-60 (A) under Section 20A.02, 20A.03, 49.045, 49.05,

2-1 49.065, 49.07, or 49.08, Penal Code;
2-2 (B) under Section 49.04 or 49.06, Penal Code,
2-3 and, at the time of the offense:
2-4 (i) the defendant held a commercial
2-5 driver's license or a commercial learner's permit; or
2-6 (ii) the defendant's alcohol concentration,
2-7 as defined by Section 49.01, Penal Code, was 0.15 or more;
2-8 (C) for which punishment may be increased under
2-9 Section 49.09, Penal Code;
2-10 (D) for which punishment may be increased under
2-11 Section 481.134(c), (d), (e), or (f), Health and Safety Code, if it
2-12 is shown that the defendant has been previously convicted of an
2-13 offense for which punishment was increased under any one of those
2-14 subsections; ~~[or]~~
2-15 (E) that is punishable as a first, second, or
2-16 third degree felony listed in Article 42A.054(a), if the judge
2-17 finds that a firearm was used or exhibited during the commission of
2-18 the offense or during the immediate flight from the commission of
2-19 the offense; or
2-20 (F) under Section 481.1123, Health and Safety
2-21 Code, that is punishable under Subsection (d), (e), or (f) of that
2-22 section;
2-23 (2) the defendant:
2-24 (A) is charged with an offense under Section
2-25 21.11, 22.011, 22.021, 43.04, or 43.05, Penal Code, regardless of
2-26 the age of the victim, or a felony described by Article 42A.453(b),
2-27 other than a felony described by Subdivision (1)(A) or (3)(B) of
2-28 this subsection; and
2-29 (B) has previously been placed on community
2-30 supervision for an offense under Paragraph (A);
2-31 (3) the defendant is charged with an offense under:
2-32 (A) Section 21.02, Penal Code; or
2-33 (B) Section 22.021, Penal Code, that is
2-34 punishable under Subsection (f) of that section or under Section
2-35 12.42(c)(3) or (4), Penal Code; or
2-36 (4) the defendant is charged with an offense under
2-37 Section 19.02, Penal Code, except that the judge may grant deferred
2-38 adjudication community supervision on determining that the
2-39 defendant did not cause the death of the deceased, did not intend to
2-40 kill the deceased or another, and did not anticipate that a human
2-41 life would be taken.
2-42 SECTION 5. Section 508.145(d)(2), Government Code, is
2-43 amended to read as follows:
2-44 (2) An inmate described by Subdivision (1) is not
2-45 eligible for release on parole until the inmate's actual calendar
2-46 time served, without consideration of good conduct time, equals
2-47 one-half of the sentence or 30 calendar years, whichever is less,
2-48 but in no event is the inmate eligible for release on parole in less
2-49 than:
2-50 (A) 10 calendar years, for an inmate serving a
2-51 sentence for an offense for which the minimum term of imprisonment
2-52 was increased under Section 12.502, Penal Code; or
2-53 (B) two calendar years, for an inmate serving a
2-54 sentence for any other offense to which this subsection applies.
2-55 SECTION 6. The change in law made by this Act applies only
2-56 to an offense committed on or after the effective date of this Act.
2-57 An offense committed before the effective date of this Act is
2-58 governed by the law in effect on the date the offense was committed,
2-59 and the former law is continued in effect for that purpose. For
2-60 purposes of this section, an offense was committed before the
2-61 effective date of this Act if any element of the offense occurred
2-62 before that date.
2-63 SECTION 7. This Act takes effect September 1, 2023.

2-64

* * * * *