

By: Paxton

S.B. No. 2019

A BILL TO BE ENTITLED

AN ACT

relating to increasing the minimum term of imprisonment and changing the eligibility for community supervision and parole of certain persons convicted of sexual assault and aggravated sexual assault.

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

SECTION 1. Section 22.011(f), Penal Code, is amended to read as follows:

(f) An offense under this section is a felony of the second degree with a minimum term of imprisonment of 10 years, except that an offense under this section is:

(1) a felony of the first degree with a minimum term of imprisonment of 10 years if the victim was:

(A) a person whom the actor was prohibited from marrying or purporting to marry or with whom the actor was prohibited from living under the appearance of being married under Section 25.01; or

(B) a person with whom the actor was prohibited from engaging in sexual intercourse or deviate sexual intercourse under Section 25.02; or

(2) a state jail felony if the offense is committed under Subsection (a)(1) and the actor has not received express consent as described by Subsection (b)(12).

SECTION 2. Sections 22.021(e) and (f), Penal Code, are

1 amended to read as follows:

2 (e) Except as provided by Subsection (f), an [An] offense  
3 under this section is a felony of the first degree with a minimum  
4 term of imprisonment of 25 years.

5 (f) The minimum term of imprisonment for an offense under  
6 this section is increased to 50 [~~25~~] years if:

7 (1) the victim of the offense is younger than six years  
8 of age at the time the offense is committed; or

9 (2) the victim of the offense is younger than 14 years  
10 of age at the time the offense is committed and the actor commits  
11 the offense in a manner described by Subsection (a)(2)(A).

12 SECTION 3. Article [42A.056](#), Code of Criminal Procedure, is  
13 amended to read as follows:

14 Art. 42A.056. LIMITATION ON JURY-RECOMMENDED COMMUNITY  
15 SUPERVISION. A defendant is not eligible for community supervision  
16 under Article [42A.055](#) if the defendant:

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

19 (2) is convicted of a state jail felony for which  
20 suspension of the imposition of the sentence occurs automatically  
21 under Article [42A.551](#);

22 (3) is adjudged guilty of an offense under Section  
23 [19.02](#), Penal Code;

24 (4) is convicted of an offense under:

25 (A) Section [21.11](#), [~~[22.011](#), or [22.021](#)~~], Penal  
26 Code, if the victim of the offense was younger than 14 years of age  
27 at the time the offense was committed;

1                   (B) Section 22.011, Penal Code, that is  
2 punishable as a first or second degree felony; or

3                   (C) Section 22.021, Penal Code;

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

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

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

10                  (6) is convicted of an offense under Section 20A.02,  
11 20A.03, 43.04, 43.05, or 43.25, Penal Code;

12                  (7) is convicted of an offense for which punishment is  
13 increased under Section 481.134(c), (d), (e), or (f), Health and  
14 Safety Code, if it is shown that the defendant has been previously  
15 convicted of an offense for which punishment was increased under  
16 any of those subsections; or

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

20                  SECTION 4. Article 42A.102, Code of Criminal Procedure, is  
21 amended to read as follows:

22                  Art. 42A.102. ELIGIBILITY FOR DEFERRED ADJUDICATION  
23 COMMUNITY SUPERVISION. (a) Subject to Subsection (b), a judge may  
24 place on deferred adjudication community supervision a defendant  
25 charged with an offense under Section 21.11 or [7] 22.011, [~~or~~  
26 ~~22.021~~] Penal Code, regardless of the age of the victim, or a  
27 defendant charged with a felony described by Article 42A.453(b)

1 only if the judge makes a finding in open court that placing the  
2 defendant on deferred adjudication community supervision is in the  
3 best interest of the victim. The failure of the judge to make a  
4 finding under this subsection is not grounds for the defendant to  
5 set aside the plea, deferred adjudication, or any subsequent  
6 conviction or sentence.

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

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

10 (A) under Section 20A.02, 20A.03, 49.045, 49.05,  
11 49.065, 49.07, or 49.08, Penal Code;

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

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

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

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

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

25 (E) under Section 481.1123, Health and Safety  
26 Code, that is punishable under Subsection (d), (e), or (f) of that  
27 section;

1 (2) the defendant:

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

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

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

10 (A) Section 21.02, Penal Code; [~~or~~]

11 (B) Section 22.011, Penal Code, that is  
12 punishable as a first or second degree felony; or

13 (C) Section 22.021, Penal Code [~~, that is~~  
14 ~~punishable under Subsection (f) of that section or under Section~~  
15 ~~12.42(c)(3) or (4), Penal Code]~~; or

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

22 SECTION 5. Article 42A.103(a), Code of Criminal Procedure,  
23 is amended to read as follows:

24 (a) In a felony case, the period of deferred adjudication  
25 community supervision may not exceed 10 years. For a defendant  
26 charged with a felony under Section 21.11 or [~~7~~] 22.011, [~~or~~  
27 ~~22.021~~] Penal Code, regardless of the age of the victim, and for a

1 defendant charged with a felony described by Article 42A.453(b),  
2 the period of deferred adjudication community supervision may not  
3 be less than five years.

4 SECTION 6. Article 42A.105(c), Code of Criminal Procedure,  
5 is amended to read as follows:

6 (c) If a judge places on deferred adjudication community  
7 supervision a defendant charged with an offense under Section 21.11  
8 [~~or 22.011~~], Penal Code, the judge shall make an affirmative  
9 finding of fact and file a statement of that affirmative finding  
10 with the papers in the case if the judge determines that:

11 (1) at the time of the offense, the defendant was not  
12 more than four years older than the victim or intended victim and  
13 the victim or intended victim was at least 15 years of age; and

14 (2) the charge to which the plea is entered under this  
15 subchapter is based solely on the ages of the defendant and the  
16 victim or intended victim at the time of the offense.

17 SECTION 7. Article 42A.258(a), Code of Criminal Procedure,  
18 is amended to read as follows:

19 (a) If the defendant is a sex offender, other than a  
20 defendant who has been convicted of, or has entered a plea of guilty  
21 or nolo contendere for, a first or second degree felony under  
22 Section 22.011, Penal Code, or an offense under Section 22.021,  
23 Penal Code, the judge shall direct a supervision officer approved  
24 by the community supervision and corrections department or the  
25 judge, or a person, program, or other agency approved by the  
26 council, to:

27 (1) evaluate the appropriateness of, and a course of

1 conduct necessary for, treatment, specialized supervision, or  
2 rehabilitation of the defendant; and

3 (2) report the results of the evaluation to the judge.

4 SECTION 8. Article 42A.303(c), Code of Criminal Procedure,  
5 is amended to read as follows:

6 (c) The judge may impose the condition of community  
7 supervision described by this article if:

8 (1) the defendant is charged with or convicted of a  
9 felony other than:

10 (A) a felony under Section 21.11 or ~~[7]~~ 22.011,  
11 ~~[or 22.021,~~] Penal Code; or

12 (B) criminal attempt of a felony under Section  
13 21.11, 22.011, or 22.021, Penal Code; and

14 (2) the judge makes an affirmative finding that:

15 (A) drug or alcohol abuse significantly  
16 contributed to the commission of the offense or violation of a  
17 condition of community supervision, as applicable; and

18 (B) the defendant is a suitable candidate for  
19 treatment, as determined by the suitability criteria established by  
20 the Texas Board of Criminal Justice under Section 493.009(b),  
21 Government Code.

22 SECTION 9. Article 42A.453(b), Code of Criminal Procedure,  
23 is amended to read as follows:

24 (b) This article applies to a defendant placed on community  
25 supervision for an offense under:

26 (1) Section 20.04(a)(4), Penal Code, if the defendant  
27 committed the offense with the intent to violate or abuse the victim

1 sexually;

2 (2) Section 20A.02, Penal Code, if the defendant:

3 (A) trafficked the victim with the intent or  
4 knowledge that the victim would engage in sexual conduct, as  
5 defined by Section 43.25, Penal Code; or

6 (B) benefited from participating in a venture  
7 that involved a trafficked victim engaging in sexual conduct, as  
8 defined by Section 43.25, Penal Code;

9 (3) Section 21.08, 21.11, [~~22.011, 22.021~~] or 25.02,  
10 Penal Code;

11 (4) Section 30.02, Penal Code, punishable under  
12 Subsection (d) of that section, if the defendant committed the  
13 offense with the intent to commit a felony listed in Subdivision (1)  
14 or (3); or

15 (5) Section 43.05(a)(2), 43.25, or 43.26, Penal Code.

16 SECTION 10. Article 42A.454(a), Code of Criminal Procedure,  
17 is amended to read as follows:

18 (a) This article applies only to a defendant who is required  
19 to register as a sex offender under Chapter 62, by court order or  
20 otherwise, and:

21 (1) is convicted of or receives a grant of deferred  
22 adjudication community supervision for a violation of Section  
23 21.11, [~~22.011(a)(2), 22.021(a)(1)(B)~~] 33.021, or 43.25, Penal  
24 Code;

25 (2) used the Internet or any other type of electronic  
26 device used for Internet access to commit the offense or engage in  
27 the conduct for which the person is required to register under



1 Chapter 62; or

2 (3) is assigned a numeric risk level of two or three  
3 based on an assessment conducted under Article 62.007.

4 SECTION 11. Article 42A.455, Code of Criminal Procedure, is  
5 amended to read as follows:

6 Art. 42A.455. PAYMENT TO CHILDREN'S ADVOCACY CENTER. A  
7 judge who grants community supervision to a defendant charged with  
8 or convicted of an offense under Section 21.11 [~~or 22.011(a)(2)~~],  
9 Penal Code, may require the defendant to pay a fine in an amount not  
10 to exceed \$50 to a children's advocacy center established under  
11 Subchapter E, Chapter 264, Family Code.

12 SECTION 12. Article 42A.653(a), Code of Criminal Procedure,  
13 is amended to read as follows:

14 (a) A judge who grants community supervision to a defendant  
15 convicted of an offense under Section 21.08, 21.11, 22.011,  
16 [~~22.021~~], 25.02, 43.25, or 43.26, Penal Code, shall require as a  
17 condition of community supervision that the defendant pay to the  
18 defendant's supervision officer a community supervision fine of \$5  
19 each month during the period of community supervision.

20 SECTION 13. Article 42A.752(a), Code of Criminal Procedure,  
21 is amended to read as follows:

22 (a) If after a hearing under Article 42A.751(d) a judge  
23 continues or modifies community supervision after determining that  
24 the defendant violated a condition of community supervision, the  
25 judge may impose any other conditions the judge determines are  
26 appropriate, including:

27 (1) a requirement that the defendant perform community

1 service for a number of hours specified by the court under Article  
2 42A.304, or an increase in the number of hours that the defendant  
3 has previously been required to perform under that article in an  
4 amount not to exceed double the number of hours permitted by that  
5 article;

6 (2) an extension of the period of community  
7 supervision, in the manner described by Article 42A.753;

8 (3) an increase in the defendant's fine, in the manner  
9 described by Subsection (b); or

10 (4) the placement of the defendant in a substance  
11 abuse felony punishment program operated under Section 493.009,  
12 Government Code, if:

13 (A) the defendant is convicted of a felony other  
14 than:

15 (i) a felony under Section 21.11 or [7]  
16 22.011, [~~or 22.021~~] Penal Code; or

17 (ii) criminal attempt of a felony under  
18 Section 21.11, 22.011, or 22.021, Penal Code; and

19 (B) the judge makes an affirmative finding that:

20 (i) drug or alcohol abuse significantly  
21 contributed to the commission of the offense or violation of a  
22 condition of community supervision, as applicable; and

23 (ii) the defendant is a suitable candidate  
24 for treatment, as determined by the suitability criteria  
25 established by the Texas Board of Criminal Justice under Section  
26 493.009(b), Government Code.

27 SECTION 14. Article 42A.757(a), Code of Criminal Procedure,

1 is amended to read as follows:

2 (a) If a defendant is placed on community supervision after  
3 receiving a grant of deferred adjudication community supervision  
4 for or being convicted of an offense under Section 21.11 or [7]  
5 22.011, [~~or 22.021,~~] Penal Code, at any time during the period of  
6 community supervision, the judge may extend the period of community  
7 supervision as provided by this article.

8 SECTION 15. Section 508.145(d)(2), Government Code, is  
9 amended to read as follows:

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

16 (A) 10 calendar years, for an inmate serving a  
17 sentence for an offense under Section 22.011, Penal Code;

18 (B) 25 calendar years, for an inmate serving a  
19 sentence for an offense under Section 22.021, Penal Code, except as  
20 provided by Subsection (a)(3); or

21 (C) two calendar years, for an inmate serving a  
22 sentence for any other offense to which this subsection applies.

23 SECTION 16. The change in law made by this Act applies only  
24 to an offense committed on or after the effective date of this Act.  
25 An offense committed before the effective date of this Act is  
26 governed by the law in effect on the date the offense was committed,  
27 and the former law is continued in effect for that purpose. For

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1 purposes of this section, an offense was committed before the  
2 effective date of this Act if any element of the offense occurred  
3 before that date.

4 SECTION 17. This Act takes effect September 1, 2023.