

By: Leach

H.B. No. 1762

A BILL TO BE ENTITLED

AN ACT

relating to changing the eligibility of certain persons to receive community supervision, including deferred adjudication community supervision.

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

SECTION 1. Article 42A.001, Code of Criminal Procedure, is amended by adding Subdivision (3-a) to read as follows:

(3-a) "Illegal alien" means an alien who:

(A) entered the United States without inspection or at any time or any place other than as designated by the United States attorney general; or

(B) was admitted as a nonimmigrant and, before the date of the commission of the offense, had failed to maintain the nonimmigrant status under which the alien was admitted or to which it was changed under Section 248, Immigration and Nationality Act (8 U.S.C. Section 1258), or to comply with the conditions of the alien's status.

SECTION 2. Article 42A.053(c), Code of Criminal Procedure, is amended to read as follows:

(c) A defendant is not eligible for community supervision under this article if the defendant ~~[is sentenced to serve]~~:

(1) is sentenced to serve:

(A) a term of imprisonment that exceeds 10 years;
or

1 (B) [~~(2)~~] a term of confinement under Section
2 [12.35](#), Penal Code; or
3 (2) is an illegal alien.

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

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

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

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

14 (3) is adjudged guilty of an offense under Section
15 [19.02](#), Penal Code;

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

19 (5) is convicted of an offense under Section [20.04](#),
20 Penal Code, if:

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

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

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

27 (7) is convicted of an offense for which punishment is

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

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

8 (9) is an illegal alien.

9 SECTION 4. 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 49.061, 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 (d), (e), or (f) of that
4 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; or

24 (5) the defendant is an illegal alien.

25 SECTION 5. Article 42A.551, Code of Criminal Procedure, is
26 amended by adding Subsection (h) to read as follows:

27 (h) Notwithstanding any other provision of this article, a

1 defendant is not eligible for community supervision under this
2 subchapter if the defendant is an illegal alien.

3 SECTION 6. The change in law made by this Act applies only
4 to an offense committed on or after the effective date of this Act.
5 An offense committed before the effective date of this Act is
6 governed by the law in effect on the date the offense was committed,
7 and the former law is continued in effect for that purpose. For
8 purposes of this section, an offense was committed before the
9 effective date of this Act if any element of the offense occurred
10 before that date.

11 SECTION 7. This Act takes effect September 1, 2025.