

2008

AN ACT

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relating to penalties for certain repeat and habitual felony sex offenders.

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

SECTION 1. Subdivision (3), Subsection (a), Section 12.42, Penal Code, is amended to read as follows:

(3) Except as provided by Subsection (c)(2), if [~~If~~] it is shown on the trial of a state jail felony punishable under Section 12.35(c) or on the trial of a third-degree felony that the defendant has been once before convicted of a felony, on conviction he shall be punished for a second-degree felony.

SECTION 2. Subsection (b), Section 12.42, Penal Code, is amended to read as follows:

(b) Except as provided by Subsection (c)(2), if [~~If~~] it is shown on the trial of a second-degree felony that the defendant has been once before convicted of a felony, on conviction he shall be punished for a first-degree felony.

SECTION 3. Subdivision (2), Subsection (c), Section 12.42, Penal Code, is amended to read as follows:

(2) A defendant shall be punished by imprisonment in the institutional division for life if:

(A) the defendant is convicted of an offense:

(1) under Section 21.11(a)(1), 22.021, or 22.011, Penal Code;

1 (ii) under Section 20.04(a)(4), Penal Code,
2 if the defendant committed the offense with the intent to violate or
3 abuse the victim sexually; or

4 (iii) under Section 30.02, Penal Code,
5 punishable under Subsection (d) of that section, if the defendant
6 committed the offense with the intent to commit a felony described
7 by Subparagraph (i) or (ii) or a felony under Section 21.11 or
8 22.011, Penal Code; and

9 (B) the defendant has been previously convicted
10 of an offense:

11 (1) under Section 43.25 or 43.26, Penal
12 Code, or an offense under Section 43.23, Penal Code, punishable
13 under Subsection (h) of that section;

14 (ii) under Section 21.11, 22.011, 22.021,
15 or 25.02, Penal Code;

16 (iii) under Section 20.04(a)(4), Penal
17 Code, if the defendant committed the offense with the intent to
18 violate or abuse the victim sexually;

19 (iv) under Section 30.02, Penal Code,
20 punishable under Subsection (d) of that section, if the defendant
21 committed the offense with the intent to commit a felony described
22 by Subparagraph (ii) or (iii); or

23 (v) under the laws of another state
24 containing elements that are substantially similar to the elements
25 of an offense listed in Subparagraph (i), (ii), (iii), or (iv).

26 SECTION 4. Subsection (d), Section 12.42, Penal Code, is
27 amended to read as follows:

1 (d) Except as provided by Subsection (c)(2), if [~~if~~] it is
2 shown on the trial of a felony offense other than a state jail
3 felony punishable under Section 12.35(a) that the defendant has
4 previously been finally convicted of two felony offenses, and the
5 second previous felony conviction is for an offense that occurred
6 subsequent to the first previous conviction having become final, on
7 conviction he shall be punished by imprisonment in the
8 institutional division of the Texas Department of Criminal Justice
9 for life, or for any term of not more than 99 years or less than 25
10 years.

11 SECTION 5. The change in law made by this Act applies only
12 to an offense committed on or after September 1, 2007. An offense
13 committed before September 1, 2007, is governed by the law in effect
14 when the offense was committed, and the former law is continued in
15 effect for that purpose. For the purposes of this section, an
16 offense was committed before September 1, 2007, if any element of
17 the offense was committed before that date.

18 SECTION 6. This Act takes effect September 1, 2007.

S.B. No. 75

David Dewhurst
President of the Senate

Jim Caddick
Speaker of the House

I hereby certify that S.B. No. 75 passed the Senate on March 29, 2007, by the following vote: Yeas 30, Nays 0.

Latsy Spaw
Secretary of the Senate

I hereby certify that S.B. No. 75 passed the House on May 15, 2007, by the following vote: Yeas 142, Nays 0, one present not voting.

Robert Haney
Chief Clerk of the House

Approved:

15 JUN 07

Date

Rick Perry
Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE

3 PM O'CLOCK

JUN 15 2007

Roger Williams
Secretary of State