

## **BILL ANALYSIS**

Senate Research Center  
82R20436 KEL-D

H.B. 3  
By: Thompson et al. (Huffman)  
Criminal Justice  
5/19/2011  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

It has been reported that sexual assault and aggravated sexual assault are among the crimes with the highest recidivism rates. Interested parties believe that repeat offenders of these crimes should be subject to a prison sentence of life without parole because of the heinous nature of these crimes and the high recidivism rates.

H.B. 3 addresses this concern by including these repeat offenders within the applicability of provisions relating to the imposition of a sentence of life without parole on certain defendants who commit certain sexual offenses.

H.B. 3 amends current law relating to the imposition of a sentence of life without parole on certain defendants who commit certain sexual offenses.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 5(d), Article 42.12, Code of Criminal Procedure, as follows:

(d) Authorizes a judge to grant deferred adjudication in all other cases unless:

(1)-(2) Makes no changes to these subdivisions; or

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

(A) Section 21.02 (Continuous Sexual Abuse of Young Child or Children), Penal Code;

(B) Section 22.011 (Sexual Assault), Penal Code, that is punishable under Section 12.42(c)(4) (relating to punishing a defendant by imprisonment for life without parole under certain circumstances), Penal Code; or

(C) Section 22.021 (Aggravated Sexual Assault), Penal Code, that is punishable under Subsection (f) (relating to increasing the minimum term of imprisonment to 25 years under certain circumstances) of that section or under Section 12.42(c)(3) (relating to punishing a defendant for a capital felony under certain circumstances) or (4), Penal Code.

Makes a nonsubstantive change.

SECTION 2. Amends Section 508.145(d), Government Code, as follows:

(d)(1) Creates this subdivision from existing text. Makes no further changes.

(2) Provides that, notwithstanding Subdivision (1), an inmate serving a sentence for an offense described by Section 3g(a)(1)(E) (relating to aggravated sexual assault) or (H) (relating to sexual assault), Article 42.12 (Community Supervision), Code of Criminal Procedure, is not eligible for release on parole if the inmate is serving a sentence for an offense for which punishment was enhanced under Section 12.42(c)(4), Penal Code.

SECTION 3. Amends Sections 12.42(b) and (d), Penal Code, as follows:

(b) Requires a defendant, on conviction, to be punished for a first-degree felony if it is shown on the trial of a second-degree felony that the defendant has been once before convicted of a felony, except as provided by Subsection (c)(2) (relating to requiring a defendant to be punished by imprisonment in the Texas Department of Criminal Justice (TDCJ) for life under certain circumstances) or (c)(4).

(d) Requires a defendant, on conviction, to be punished by imprisonment in TDCJ for life, or for any term of not more than 99 years or less than 25 years if it is shown on the trial of a felony offense other than a state jail felony punishable under Section 12.35(a) that the defendant has previously been finally convicted of two felony offenses, and the second previous felony conviction is for an offense that occurred subsequent to the first previous conviction having become final, except as provided by Subsection (c)(2) or (c)(4).

SECTION 4. Amends Section 12.42(c)(4), Penal Code, as follows:

(4)(A) Creates this paragraph from existing text. Requires a defendant, except as provided by Paragraph (B) and notwithstanding Subdivision (1) (relating to punishment of a defendant for a first-degree felony under certain circumstances) or (2), to be punished by imprisonment in TDCJ for life without parole if it is shown on the trial of an offense under Section 21.02, 22.011, or 22.021 that the defendant has previously been finally convicted of:

(i) an offense under Section 21.02, 22.011, or 22.021; or

(ii) an offense that was committed under the laws of another state and that contains elements that are substantially similar to the elements of an offense under Section 21.02, 22.011, or 22.021.

Makes nonsubstantive changes.

(B) Prohibits a defendant from being punished as described by this subdivision as a result of any conviction of an offense under Section 22.011, Penal Code, for which an affirmative finding was entered under Article 42.017 (Finding Regarding Age-Based Offense), Code of Criminal Procedure.

SECTION 5. Makes application of this Act prospective.

SECTION 6. Effective date: September 1, 2011.