

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1803
By: Huffman
State Affairs
4/16/2019
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 1803 revises the State's community supervision statutes to make clear that the crimes of continuous human trafficking, aggravated promotion of prostitution, and indecency with a child (no matter the child's age or the type of interaction with the child) are no longer eligible for judge-ordered, or jury-recommended, community supervision. Additionally, S.B. 1803 prohibits deferred adjudication community supervision for the crimes of human trafficking, continuous human trafficking, continuous sexual abuse of a child, aggravated sexual assault, aggravated promotion of prostitution, compelling prostitution, or sexual performance of a child. Finally, S.B. 1803 makes conforming changes to related statutes regarding licenses and certifications of emergency medical personnel. (Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 1803 amends current law relating to changing the eligibility of persons charged with certain offenses to receive community supervision, including deferred adjudication community supervision.

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 Article 42A.054(a), Code of Criminal Procedure, as follows:

(a) Provides that Article 42A.053 (Judge-Ordered Community Supervision) does not apply to a defendant adjudged guilty of an offense under:

(1)–(5) makes no changes to these subdivisions;

(6) Section 20A.03, Penal Code (Continuous Trafficking of Persons);

(7) Section 21.11, rather than Section 21.11(a)(1) (relating to engaging in sexual contact with a child or causing a child to engage in sexual contact), Penal Code (Indecency with a Child);

(8)–(12) redesignates existing Subdivisions (7)–(11) as these subdivisions and makes no further changes;

(13) Section 43.04, Penal Code (Aggravated Promotion of Prostitution); and

(14)–(16) redesignates existing Subdivisions (12)–(14) as these subdivisions and makes no further changes.

SECTION 2. Amends Article 42A.056, Code of Criminal Procedure, as follows:

Art. 42A.056. **LIMITATION ON JURY-RECOMMENDED COMMUNITY SUPERVISION.** Provides that a defendant is ineligible for community supervision under Article 42A.055 (Jury-Recommended Community Supervision) if the defendant:

(1)–(3) makes no changes to these subdivisions;

(4) is convicted of an offense under Section 21.11, 22.011, or 22.021 (Aggravated Sexual Assault), Penal Code, rather than is convicted of an offense under Section 21.11(a)(1), 22.011, or 22.021, Penal Code, if the victim of the offense was younger than 14 years of age at the time the offense was committed;

(5) makes no changes to this subdivision;

(6) is convicted of an offense under Section 20A.02 (Trafficking of Persons), 20A.03, 43.04, 43.05 (Compelling Prostitution), or 43.25 (Sexual Performance by a Child), rather than under Section 20A.02, 43.05, or 43.25, Penal Code; or

(7) makes no changes to this subdivision.

SECTION 3. Amends Article 42A.102, Code of Criminal Procedure, as follows:

Art. 42A.102. ELIGIBILITY FOR DEFERRED ADJUDICATION COMMUNITY SUPERVISION. (a) Authorizes a judge, subject to Subsection (b), to place on deferred adjudication community supervision a defendant charged with an offense under Section 21.11, 22.011, or 22.021, Penal Code, regardless of the age of the victim, or a defendant charged with a felony described by Article 42A.453(b) (relating to a defendant placed on community supervision for certain offenses), other than a felony described by Subsection (b)(1)(A) of this article, only if the judge makes a finding in open court that placing the defendant on deferred adjudication community supervision is in the best interest of the victim.

(b) Authorizes the judge in all other cases to grant deferred adjudication community supervision unless:

(1) the defendant is charged with an offense:

(A) under Section 20A.02 or 20A.03 or Sections 49.04–49.08, Penal Code, rather than under Sections 49.04–49.08, Penal Code; or

(B) makes no changes to this subdivision;

(2) the defendant:

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

(B) makes no changes to this subdivision;

(3) makes no changes to this subdivision.

SECTION 4. Amends Section 773.0614(c), Health and Safety Code, to include a conviction of or placement on deferred adjudication community supervision or deferred disposition for an offense listed in Article 42A.054(a)(2) (Murder), (3) (Capital Murder), (4) (Aggravated Kidnapping), (7) (Sexual Assault), (8) (Aggravated Sexual Assault), (9) (Injury to a Child, Elderly Individual, or Disabled Individual), (11) (Burglary), or 16, rather than Article 42A.054(a)(2), (3), (4), (6) (Indecency With a Child), (7), (8), (10) (Aggravated Robbery), or (14) (relating to increased punishment for certain drug related offenses), Code of Criminal Procedure, among the criteria for which the Department of State Health Services is required to revoke an emergency medical services provider certificate.

SECTION 5. Amends Section 773.06141(a), Health and Safety Code, to make a conforming change.

SECTION 6. Makes application of this Act prospective. Provides that for purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 7. Provides that the Texas Department of Criminal Justice (TDCJ) is required to implement a provision of this Act only if the legislature appropriates money specifically for that purpose. Authorizes, but does not require, TDCJ, if the legislature does not appropriate money specifically for that purpose, to implement a provision of this Act using other appropriations available for that purpose.

SECTION 8. Effective date: September 1, 2019.