By: Louderback H.B. No. 773

A BILL TO BE ENTITLED

AN ACT

relating to increasing the minimum term of imprisonment and changing the eligibility for community supervision and parole for certain felony offenses in which a firearm is used or exhibited and to certain consequences on conviction of certain offenses.

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

SECTION 1. Subchapter D, Chapter 12, Penal Code, is amended by adding Section 12.504 to read as follows:

Sec. 12.504. PENALTY FOR CERTAIN FELONY OFFENSES COMMITTED WITH FIREARM. (a) The minimum term of imprisonment for a second or third degree felony listed in Article 42A.054(a), Code of Criminal Procedure, is increased to five years if an affirmative finding has been entered in the judgment in the case under Article 42A.054(d), Code of Criminal Procedure.

(b) Subsection (a) does not apply to a felony offense for which the punishment otherwise required by law includes a minimum term of imprisonment of five years or more.

SECTION 2. Article 42.08, Code of Criminal Procedure, is amended by adding Subsection (b-2) to read as follows:

(b-2) This subsection applies only to a felony listed in Article 42A.054(a) for which the minimum term of imprisonment is or has been increased to five years or more. A judge sentencing a defendant convicted of an offense to which this subsection applies that was committed while on community supervision granted under

Article 42A.055 shall order the sentence for the offense to commence immediately on completion of the sentence for the offense for which the defendant was placed on community supervision, if an affirmative finding has been entered in the judgment of the case under Article 42A.054(d).

SECTION 3. Article 42A.055, Code of Criminal Procedure, is amended by adding Subsection (c-1) to read as follows:

(c-1) Notwithstanding Subsection (c), if the jury recommends to the judge that the judge place the defendant on community supervision for an offense for which the minimum term of imprisonment for the offense is increased under Section 12.504, Penal Code, the judge shall place the defendant on community supervision for a minimum period of five years, with the maximum period to be determined as provided by Article 42A.053(d)(2).

SECTION 4. Article 42A.102(b), Code of Criminal Procedure, is amended to read as follows:

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

(1) the defendant is charged with an offense:

(A) under Section 20A.02, 20A.03, 49.045, 49.05, 49.061, 49.065, 49.07, or 49.08, Penal Code;

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

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

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

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

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

(E) that is a second or third degree felony listed in Article 42A.054(a) or that is any felony listed in that subsection with a minimum term of imprisonment of five years or more, if the judge finds that a firearm was used or exhibited during the commission of the offense or during the immediate flight from the commission of the offense; or

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

(2) the defendant:

(A) is charged with an offense under Section 21.11, 22.011, 22.021, 43.04, or 43.05, 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) has previously been placed on community supervision for an offense under Paragraph (A);

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

(A) Section 21.02, Penal Code;

(B) Section 21.03, Penal Code; or

(C) Section 22.021, Penal Code, that is punishable under Subsection (f) of that section or under Section 12.42(c)(3) or (4), Penal Code; or

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

SECTION 5. Section 508.145(d)(2), Government Code, is amended to read as follows:

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

(A) five calendar years, for an inmate serving a sentence for an offense:

(i) for which the minimum term of imprisonment was increased under Section 12.504, Penal Code; or

(ii) for which the punishment otherwise required by law includes a minimum term of imprisonment of five years or more, if an affirmative finding has been entered in the judgment in the case under Article 42A.054(d), Code of Criminal Procedure; or

(B) two calendar years, for an inmate serving a

sentence for any other offense to which this subsection applies.

SECTION 6. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. 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. This Act takes effect September 1, 2027.