

By: Hochberg

H.B. No. 187

A BILL TO BE ENTITLED

1 AN ACT

2 relating to prohibiting jury-recommended or deferred adjudication
3 community supervision for a defendant convicted of murder.

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

5 SECTION 1. Section 4(d), Article 42.12, Code of Criminal
6 Procedure, is amended to read as follows:

7 (d) A defendant is not eligible for community supervision
8 under this section if the defendant:

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

11 (2) is sentenced to serve a term of confinement under
12 Section 12.35, Penal Code;

13 (3) does not file a sworn motion under Subsection (e)
14 of this section or for whom the jury does not enter in the verdict a
15 finding that the information contained in the motion is true; ~~or~~

16 (4) is adjudged guilty of an offense for which
17 punishment is increased under Section 481.134(c), (d), (e), or (f),
18 Health and Safety Code, if it is shown that the defendant has been
19 previously convicted of an offense for which punishment was
20 increased under any one of those subsections; or

21 (5) is adjudged guilty of an offense under Section
22 19.02, Penal Code.

23 SECTION 2. Section 5(d), Article 42.12, Code of Criminal
24 Procedure, is amended to read as follows:

1 (d) In all other cases the judge may grant deferred
2 adjudication unless:

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

4 (A) under Section 19.02, 49.04, 49.05, 49.06,
5 49.07, or 49.08, Penal Code; or

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

11 (2) the defendant:

12 (A) is charged with an offense under Section
13 21.11, 22.011, or 22.021, Penal Code, regardless of the age of the
14 victim, or a felony described by Section 13B(b) of this article; and

15 (B) has previously been placed on community
16 supervision for any offense under Paragraph (A) of this
17 subdivision.

18 SECTION 3. The change in law made by this Act applies only
19 to an offense committed on or after the effective date of this Act.
20 An offense committed before the effective date of this Act is
21 covered by the law in effect when the offense was committed, and the
22 former law is continued in effect for that purpose. For purposes of
23 this section, an offense is committed before the effective date of
24 this Act if any element of the offense occurs before the effective
25 date.

26 SECTION 4. This Act takes effect September 1, 2007.