

1-1 By: Huffman S.B. No. 1803  
 1-2 (In the Senate - Filed March 7, 2019; March 18, 2019, read  
 1-3 first time and referred to Committee on State Affairs;  
 1-4 April 17, 2019, reported adversely, with favorable Committee  
 1-5 Substitute by the following vote: Yeas 9, Nays 0; April 17, 2019,  
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1803 By: Nelson

1-19 A BILL TO BE ENTITLED  
 1-20 AN ACT

1-21 relating to changing the eligibility of persons charged with  
 1-22 certain offenses to receive community supervision, including  
 1-23 deferred adjudication community supervision.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Article 42A.054(a), Code of Criminal Procedure,  
 1-26 is amended to read as follows:

1-27 (a) Article 42A.053 does not apply to a defendant adjudged  
 1-28 guilty of an offense under:

1-29 (1) Section 15.03, Penal Code, if the offense is  
 1-30 punishable as a felony of the first degree;

1-31 (2) Section 19.02, Penal Code (Murder);

1-32 (3) Section 19.03, Penal Code (Capital Murder);

1-33 (4) Section 20.04, Penal Code (Aggravated  
 1-34 Kidnapping);

1-35 (5) Section 20A.02, Penal Code (Trafficking of  
 1-36 Persons);

1-37 (6) Section 20A.03, Penal Code (Continuous  
 1-38 Trafficking of Persons);

1-39 (7) Section 21.11 [~~21.11(a)(1)~~], Penal Code  
 1-40 (Indecency with a Child);

1-41 (8) [~~7~~] Section 22.011, Penal Code (Sexual  
 1-42 Assault);

1-43 (9) [~~8~~] Section 22.021, Penal Code (Aggravated  
 1-44 Sexual Assault);

1-45 (10) [~~9~~] Section 22.04(a)(1), Penal Code (Injury to  
 1-46 a Child, Elderly Individual, or Disabled Individual), if:

1-47 (A) the offense is punishable as a felony of the  
 1-48 first degree; and

1-49 (B) the victim of the offense is a child;

1-50 (11) [~~10~~] Section 29.03, Penal Code (Aggravated  
 1-51 Robbery);

1-52 (12) [~~11~~] Section 30.02, Penal Code (Burglary), if:

1-53 (A) the offense is punishable under Subsection  
 1-54 (d) of that section; and

1-55 (B) the actor committed the offense with the  
 1-56 intent to commit a felony under Section 21.02, 21.11, 22.011,  
 1-57 22.021, or 25.02, Penal Code;

1-58 (13) Section 43.04, Penal Code (Aggravated Promotion  
 1-59 of Prostitution);

1-60 (14) [~~12~~] Section 43.05, Penal Code (Compelling

2-1 Prostitution);

2-2           (15) [~~(13)~~] Section 43.25, Penal Code (Sexual

2-3 Performance by a Child); or

2-4           (16) [~~(14)~~] Chapter 481, Health and Safety Code, for

2-5 which punishment is increased under:

2-6           (A) Section 481.140 of that code (Use of Child in

2-7 Commission of Offense); or

2-8           (B) Section 481.134(c), (d), (e), or (f) of that

2-9 code (Drug-free Zones) if it is shown that the defendant has been

2-10 previously convicted of an offense for which punishment was

2-11 increased under any of those subsections.

2-12 SECTION 2. Article 42A.056, Code of Criminal Procedure, is

2-13 amended to read as follows:

2-14 Art. 42A.056. LIMITATION ON JURY-RECOMMENDED COMMUNITY

2-15 SUPERVISION. A defendant is not eligible for community supervision

2-16 under Article 42A.055 if the defendant:

2-17           (1) is sentenced to a term of imprisonment that

2-18 exceeds 10 years;

2-19           (2) is convicted of a state jail felony for which

2-20 suspension of the imposition of the sentence occurs automatically

2-21 under Article 42A.551;

2-22           (3) is adjudged guilty of an offense under Section

2-23 19.02, Penal Code;

2-24           (4) is convicted of an offense under Section 21.11

2-25 [~~21.11(a)(1)~~], 22.011, or 22.021, Penal Code, if the victim of the

2-26 offense was younger than 14 years of age at the time the offense was

2-27 committed;

2-28           (5) is convicted of an offense under Section 20.04,

2-29 Penal Code, if:

2-30           (A) the victim of the offense was younger than 14

2-31 years of age at the time the offense was committed; and

2-32           (B) the actor committed the offense with the

2-33 intent to violate or abuse the victim sexually;

2-34           (6) is convicted of an offense under Section 20A.02,

2-35 20A.03, 43.04, 43.05, or 43.25, Penal Code; or

2-36           (7) is convicted of an offense for which punishment is

2-37 increased under Section 481.134(c), (d), (e), or (f), Health and

2-38 Safety Code, if it is shown that the defendant has been previously

2-39 convicted of an offense for which punishment was increased under

2-40 any of those subsections.

2-41 SECTION 3. Article 42A.102, Code of Criminal Procedure, is

2-42 amended to read as follows:

2-43 Art. 42A.102. ELIGIBILITY FOR DEFERRED ADJUDICATION

2-44 COMMUNITY SUPERVISION. (a) Subject to Subsection (b), a [A] judge

2-45 may place on deferred adjudication community supervision a

2-46 defendant charged with an offense under Section 21.11, 22.011, or

2-47 22.021, Penal Code, regardless of the age of the victim, or a

2-48 defendant charged with a felony described by Article 42A.453(b)

2-49 only if the judge makes a finding in open court that placing the

2-50 defendant on deferred adjudication community supervision is in the

2-51 best interest of the victim. The failure of the judge to make a

2-52 finding under this subsection is not grounds for the defendant to

2-53 set aside the plea, deferred adjudication, or any subsequent

2-54 conviction or sentence.

2-55           (b) In all other cases, the judge may grant deferred

2-56 adjudication community supervision unless:

2-57           (1) the defendant is charged with an offense:

2-58           (A) under Section 20A.02 or 20A.03 or Sections

2-59 49.04-49.08, Penal Code; or

2-60           (B) for which punishment may be increased under

2-61 Section 481.134(c), (d), (e), or (f), Health and Safety Code, if it

2-62 is shown that the defendant has been previously convicted of an

2-63 offense for which punishment was increased under any one of those

2-64 subsections;

2-65           (2) the defendant:

2-66           (A) is charged with an offense under Section

2-67 21.11, 22.011, or 22.021, Penal Code, regardless of the age of the

2-68 victim, or a felony described by Article 42A.453(b), other than a

2-69 felony described by Subdivision (1)(A) or (3)(B) of this

3-1 subsection; and  
 3-2 (B) has previously been placed on community  
 3-3 supervision for an offense under Paragraph (A);  
 3-4 (3) the defendant is charged with an offense under:  
 3-5 (A) Section 21.02, Penal Code; or  
 3-6 (B) Section 22.021, Penal Code, that is  
 3-7 punishable under Subsection (f) of that section or under Section  
 3-8 12.42(c)(3) or (4), Penal Code; or  
 3-9 (4) the defendant is charged with an offense under  
 3-10 Section 19.02, Penal Code, except that the judge may grant deferred  
 3-11 adjudication community supervision on determining that the  
 3-12 defendant did not cause the death of the deceased, did not intend to  
 3-13 kill the deceased or another, and did not anticipate that a human  
 3-14 life would be taken.

3-15 SECTION 4. Section 773.0614(c), Health and Safety Code, is  
 3-16 amended to read as follows:

3-17 (c) A certificate holder's certificate shall be revoked if  
 3-18 the certificate holder has been convicted of or placed on deferred  
 3-19 adjudication community supervision or deferred disposition for:

3-20 (1) an offense listed in Article 42A.054(a)(2), (3),  
 3-21 (4), [~~(6)~~] (7), (8), (9), (11) [~~(10)~~], or (16) [~~(14)~~], Code of  
 3-22 Criminal Procedure; or

3-23 (2) an offense, other than an offense described by  
 3-24 Subdivision (1), committed on or after September 1, 2009, for which  
 3-25 the person is subject to registration under Chapter 62, Code of  
 3-26 Criminal Procedure.

3-27 SECTION 5. Section 773.06141(a), Health and Safety Code, is  
 3-28 amended to read as follows:

3-29 (a) The department may suspend, revoke, or deny an emergency  
 3-30 medical services provider license on the grounds that the  
 3-31 provider's administrator of record, employee, or other  
 3-32 representative:

3-33 (1) has been convicted of, or placed on deferred  
 3-34 adjudication community supervision or deferred disposition for, an  
 3-35 offense that directly relates to the duties and responsibilities of  
 3-36 the administrator, employee, or representative, other than an  
 3-37 offense for which points are assigned under Section 708.052,  
 3-38 Transportation Code;

3-39 (2) has been convicted of or placed on deferred  
 3-40 adjudication community supervision or deferred disposition for an  
 3-41 offense, including:

3-42 (A) an offense listed in Article 42A.054(a)(2),  
 3-43 (3), (4), [~~(6)~~] (7), (8), (9), (11) [~~(10)~~], or (16) [~~(14)~~], Code of  
 3-44 Criminal Procedure; or

3-45 (B) an offense, other than an offense described  
 3-46 by Subdivision (1), for which the person is subject to registration  
 3-47 under Chapter 62, Code of Criminal Procedure; or

3-48 (3) has been convicted of Medicare or Medicaid fraud,  
 3-49 has been excluded from participation in the state Medicaid program,  
 3-50 or has a hold on payment for reimbursement under the state Medicaid  
 3-51 program under Subchapter C, Chapter 531, Government Code.

3-52 SECTION 6. The changes in law made by this Act apply only to  
 3-53 an offense committed on or after the effective date of this Act. An  
 3-54 offense committed before the effective date of this Act is governed  
 3-55 by the law in effect on the date the offense was committed, and the  
 3-56 former law is continued in effect for that purpose. For purposes of  
 3-57 this section, an offense was committed before the effective date of  
 3-58 this Act if any element of the offense occurred before that date.

3-59 SECTION 7. The Texas Department of Criminal Justice is  
 3-60 required to implement a provision of this Act only if the  
 3-61 legislature appropriates money specifically for that purpose. If  
 3-62 the legislature does not appropriate money specifically for that  
 3-63 purpose, the department may, but is not required to, implement a  
 3-64 provision of this Act using other appropriations available for that  
 3-65 purpose.

3-66 SECTION 8. This Act takes effect September 1, 2019.

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