

BILL ANALYSIS

Senate Research Center
80R863 KCR-D

S.B. 75
By: Shapiro
Criminal Justice
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In 1997, S.B. 46 created a "two strikes and you're out" penalty for habitual sex offenders whose victims were under the age of 18, requiring an automatic 35-year sentence without the possibility of parole upon the second offense against a child. This bill had an unintended consequence by creating a chronological requirement where an offense is committed based upon the order of committed sexual offenses.

As proposed, S.B. 75 eliminates any chronological effect so that any two offenses in any order will qualify the offender for the habitual sex offender penalty.

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 12.42(a)(3), Penal Code, as follows:

(3) Requires a person to be punished for a second-degree felony if it is shown on the trial of a state jail felony punishable under Section 12.35(c) or on the trial of a third-degree felony that the defendant has previously been convicted of a felony, except as provided by Subsection(c)(2).

SECTION 2. Amends Section 12.42(b), Penal Code, as follows:

(b) Requires a person to be punished for a first-degree felony if it is shown on the trial of a second-degree felony that the defendant has previously been convicted of a felony, except as provided by Subsection(c)(2).

SECTION 3. Amends Section 12.42(c)(2), Penal Code, as follows:

(2)(A)(i) Adds Section 21.11(Indecency With a Child) to the list of offenses for which a defendant can be punished by imprisonment for life.

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

(d) Requires imprisonment for life or from 25 to 99 years in the institutional division of the Texas Department of Criminal Justice if it is shown in trial of a felony offense other than a state jail felony punishable under Section 12.35(a) that the defendant has previously been convicted of two felony offenses, and the second previous felony conviction is for an offense that occurred subsequent to the first previous conviction has become final, except as provided by Subsection (c)(2).

SECTION 5. Makes application of this Act prospective to September 1, 2007.

SECTION 6. Effective date: September 1, 2007.