

## **BILL ANALYSIS**

Senate Research Center

H.B. 2758  
By: Hernandez (Huffman)  
Criminal Justice  
5/6/2019  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

H.B. 2758 revises the state's community supervision statutes to make clear that certain crimes are no longer eligible for judge-ordered, or jury-recommended, community supervision, and make certain modifications to deferred adjudication community supervision.

H.B. 2758 amends current law relating to changing the eligibility of persons charged with certain trafficking and prostitution 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, Code of Criminal Procedure, by amending Subsection (a) and adding Subsection (e), as follows:

(a) Provides that Article 42A.053 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) creates this subdivision from existing Subdivision (6) and renumbers subsequent subdivisions accordingly;

(8)–(12) makes no further changes to these subdivisions;

(13) Section 43.03, Penal Code (Promotion of Prostitution);

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

(15) creates this subdivision from existing Subdivision (12) and renumbers subsequent subdivisions accordingly; or

(16) and (17) makes no further changes to these subdivisions.

(e) Authorizes a judge, notwithstanding Subsection (a), with respect to an offense committed by a defendant under Section 43.03, 43.04, or 43.05, Penal Code, to place the defendant on community supervision as permitted by Article 42A.053 (Judge-Ordered Community Supervision) if the judge makes a finding that the defendant committed the offense solely as a victim of an offense under Section 20A.02 (Trafficking of Persons), 20A.03, 43.03, 43.04, or 43.05 (Compelling Prostitution), Penal Code.

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 not eligible for community supervision under Article 42A.055 (Jury-Recommended Community Supervision) if the defendant:

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

(6) is convicted of an offense under Section 20A.02, 20A.03, 43.03, 43.04, 43.05, or 43.25 (Sexual Performance by a Child), Penal Code, 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 a defendant charged with certain offenses on deferred adjudication community supervision 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) makes no changes to this subdivision;

(2) the defendant:

(A) is charged with an offense under Section 20A.02, 20A.03, 21.11 (Indecency With a Child), 22.011 (Sexual Assault), 22.021 (aggravated Sexual Assault), 43.03, 43.04, or 43.05, Penal Code, rather than 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) (relating to certain sexual offenses); and

(B) makes no changes to this paragraph;

(3) and (4) makes no changes to these subdivisions.

SECTION 4. Amends Section 773.0614(c), Health and Safety Code, as follows:

(c) Requires a certificate holder's certificate to be revoked if the certificate holder has been convicted of or placed on deferred adjudication community supervision or deferred disposition for:

(1) an offense listed in Article 42A.054(a)(2) (relating to murder), (3) (relating to capital murder), (4) (relating to aggravated kidnapping), (7) (relating to indecency with a child), (8) (relating to sexual assault), (9) (relating to aggravated sexual assault), (11) (relating to aggravated robbery), or (17) (relating to violations of the Controlled Substances Act), Code of Criminal Procedure, rather than Article 42A.054(a)(2), (3), (4), (6), (7), (8), (10) (relating to injury to a child, elderly individual, or disabled individual), or (14) (relating to aggravated promotion of prostitution), Code of Criminal Procedure; or

(2) makes no changes to this subdivision.

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

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. Effective date: September 1, 2019.