

CHAPTER 888

S.B. No. 16

AN ACT

relating to certain offenses committed on school premises or in drug-free zones; providing penalties.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Subchapter D, Chapter 481, Health and Safety Code, is amended by adding Section 481.134 to read as follows:

Sec. 481.134. DRUG-FREE ZONES. (a) In this section:

(1) "Institution of higher education" means any public or private technical institute, junior college, senior college or university, medical or dental unit, or other agency of higher education as defined by Section 61.003, Education Code.

(2) "Playground" means any outdoor facility that is not on the premises of a school and that:

(A) is intended for recreation;

(B) is open to the public; and

(C) contains three or more separate apparatus intended for the recreation of children, such as slides, swing sets, and teeterboards.

(3) "Premises" means real property and all buildings and appurtenances pertaining to the real property.

(4) "School" means a private or public elementary or secondary school.

(5) "Video arcade facility" means any facility that:

(A) is open to the public, including persons who are 17 years of age or younger;

(B) is intended primarily for the use of pinball or video machines; and

(C) contains at least three pinball or video machines.

(6) "Youth center" means any recreational facility or gymnasium that:

(A) is intended primarily for use by persons who are 17 years of age or younger; and

(B) regularly provides athletic, civic, or cultural activities.

(b) The minimum term of confinement or imprisonment for an offense and the maximum fine for an offense under Section 481.112, 481.113, 481.114, 481.119, or 481.120 are doubled if it is shown on the trial of the offense that the offense was committed:

(1) *in, on, or within 1,000 feet of premises owned, rented, or leased by a school or an institution of higher learning or a playground; or*

(2) *in, on, or within 300 feet of the premises of a public or private youth center, public swimming pool, or video arcade facility.*

SECTION 2. Subsections (b) and (c), Section 8, Article 42.18, Code of Criminal Procedure, are amended to read as follows:

(b)(1) A prisoner under sentence of death is not eligible for parole.

(2) If a prisoner is serving a life sentence for a capital felony, the prisoner is not eligible for release on parole until the actual calendar time the prisoner has served, without consideration of good conduct time, equals 35 calendar years.

(3) If a prisoner, *other than a prisoner described by Subdivision (4) of this subsection*, is serving a sentence for the offenses listed in Subdivision (1)(B), (C), or (D) of Section 3g(a), Article 42.12 of this code, or if the judgment contains an affirmative finding under Subdivision (2) of Subsection (a) of Section 3g of that article, he is not eligible for release on parole until his actual calendar time served, without consideration of good conduct time, equals one-fourth of the maximum sentence or 15 calendar years, whichever is less, but in no event shall he be eligible for release on parole in less than two calendar years.

(4) *If a prisoner is serving a sentence for which the punishment is increased under Section 481.134, Health and Safety Code, the prisoner is not eligible for release on parole until the prisoner's actual calendar time served, without consideration of good conduct time, equals five years or the maximum term to which the prisoner was sentenced, whichever is less.*

(5) Except as provided by Subsection (m) of this section, all other prisoners shall be eligible for release on parole when their calendar time served plus good conduct time equals one-fourth of the maximum sentence imposed or 15 years, whichever is less.

(c) Except as otherwise provided by this subsection, a prisoner who is not on parole shall be released to mandatory supervision by order of a parole panel when the calendar time he has served plus any accrued good conduct time equal the maximum term to which he was sentenced. A prisoner released to mandatory supervision shall, upon release, be deemed as if released on parole. To the extent practicable, arrangements for the prisoner's proper employment, maintenance, and care shall be made prior to his release to mandatory supervision. The period of mandatory supervision shall be for a period equivalent to the maximum term for which the prisoner was sentenced less calendar time actually served on the sentence. The time served on mandatory supervision is calculated as calendar time. Every prisoner while on mandatory supervision shall remain in the legal custody of the state and shall be amenable to conditions of supervision ordered by the parole panel. A prisoner may not be released to mandatory supervision if the prisoner is serving a sentence for an offense and the judgment for the offense contains an affirmative finding under Subdivision (2), Subsection (a), Section 3g, Article 42.12, of this code or if the prisoner is serving a sentence for:

(1) a first degree felony under Section 19.02, Penal Code (Murder);

(2) a capital felony under Section 19.03, Penal Code (Capital Murder);

(3) a first degree felony or a second degree felony under Section 20.04, Penal Code (Aggravated Kidnapping);

(4) a second degree felony under Section 22.011, Penal Code (Sexual Assault);

(5) a second degree or third degree felony under Section 22.02, Penal Code (Aggravated Assault);

(6) a first degree felony under Section 22.021, Penal Code (Aggravated Sexual Assault);

(7) a first degree felony under Section 22.03, Penal Code (Deadly Assault on Law Enforcement or Corrections Officer or Court Participant);

(8) a first degree felony under Section 22.04, Penal Code (Injury to a Child or an Elderly Individual);

(9) a first degree felony under Section 28.02, Penal Code (Arson);

(10) a second degree felony under Section 29.02, Penal Code (Robbery);

(11) a first degree felony under Section 29.03, Penal Code (Aggravated Robbery); [ø]

(12) a first degree felony under Section 30.02, Penal Code (Burglary), if the offense is punished under Subsection (d)(2) or (d)(3) of that section; or

(13) a felony for which the punishment is increased under Section 481.134, Health and Safety Code (Drug-Free Zones).

SECTION 3. Subchapter D, Chapter 481, Health and Safety Code, is amended by adding Section 481.135 to read as follows:

Sec. 481.135. MAPS AS EVIDENCE OF LOCATION OR AREA. (a) In a prosecution under Section 481.134, a map produced or reproduced by a municipal or county engineer for the purpose of showing the location and boundaries of drug-free zones is admissible in evidence and is prima facie evidence of the location or boundaries of those areas if the governing body of the municipality or county adopts a resolution or ordinance approving the map as an official finding and record of the location or boundaries of those areas.

(b) A municipal or county engineer may, on request of the governing body of the municipality or county, revise a map that has been approved by the governing body of the municipality or county as provided by Subsection (a).

(c) A municipal or county engineer shall file the original or a copy of every approved or revised map approved as provided by Subsection (a) with the county clerk of each county in which the area is located.

(d) This section does not prevent the prosecution from:

(1) introducing or relying on any other evidence or testimony to establish any element of an offense for which punishment is increased under Section 481.134; or

(2) using or introducing any other map or diagram otherwise admissible under the Texas Rules of Criminal Evidence.

SECTION 4. Chapter 46, Penal Code, is amended by adding Section 46.13 to read as follows:

Sec. 46.13. PENALTY IF OFFENSE COMMITTED WITHIN WEAPON-FREE ZONE.

(a) Except as provided by Subsection (b), the punishment prescribed for an offense under this chapter is increased to the punishment prescribed for the next highest category of offense if it is shown on trial of the offense that the offense was committed on the premises of a primary or secondary school subject to or eligible for accreditation by the Central Education Agency.

(b) This section does not apply to an offense under Section 46.04 (a)(1) of this code.

SECTION 5. (a) The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

(b) An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for this purpose.

SECTION 6. This Act takes effect September 1, 1993.

SECTION 7. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on March 30, 1993, by a viva-voce vote; May 25, 1993, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 26, 1993, House granted request of the Senate; May 29, 1993, Senate adopted Conference Committee Report by a viva-voce vote; passed the House, with amendments, on May 22, 1993, by a non-record vote; May 26, 1993, House granted request of the Senate for appointment of Conference Committee; May 29, 1993, House adopted Conference Committee Report by the following vote: Yeas 67, Nays 58, one present not voting.

Approved June 19, 1993.

Effective Sept. 1, 1993.