

CHAPTER 987

S.B. No. 456

AN ACT

relating to the punishment of an offense motivated by bias or prejudice and to the conditions of community supervision or parole of persons convicted of that offense.

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

SECTION 1. Subchapter D, Chapter 12, Penal Code, is amended by adding Section 12.47 to read as follows:

Sec. 12.47. PENALTY IF OFFENSE COMMITTED BECAUSE OF BIAS OR PREJUDICE. If the court makes an affirmative finding under Article 42.014, Code of Criminal Procedure, in the punishment phase of the trial of an offense other than a first degree felony, the punishment for the offense is increased to the punishment prescribed for the next highest category of offense.

SECTION 2. Article 42.12, Code of Criminal Procedure, is amended by adding Section 13A to read as follows:

Sec. 13A. COMMUNITY SUPERVISION FOR OFFENSE COMMITTED BECAUSE OF BIAS OR PREJUDICE. (a) A court granting community supervision to a defendant convicted of an offense for which the court has made an affirmative finding under Article 42.014 of this code shall require as a term of community supervision that the defendant:

(1) serve a term of not more than one year imprisonment in the institutional division of the Texas Department of Criminal Justice if the offense is a felony other than an offense under Section 19.02, Penal Code; or

(2) serve a term of not more than 90 days confinement in jail if the offense is a misdemeanor.

(b) The court may not grant community supervision on its own motion or on the recommendation of the jury to a defendant convicted of an offense for which the court has made an affirmative finding under Article 42.014 of this code if:

(1) the offense is murder under Section 19.02, Penal Code; or

(2) the defendant has been previously convicted of an offense for which the court made an affirmative finding under Article 42.014 of this code.

SECTION 3. Section 16, Article 42.12, Code of Criminal Procedure, is amended by adding Subsection (e) to read as follows:

(e) If the court makes an affirmative finding under Article 42.014, Code of Criminal Procedure, the court may order the defendant to perform community service under this section at a project designated by the court that primarily serves the person or group who was the target of the defendant. If the court orders community service under this subsection the court shall order the defendant to perform not less than:

(1) 100 hours of service if the offense is a misdemeanor; or

(2) 300 hours of service if the offense is a felony.

SECTION 4. Article 42.01, Code of Criminal Procedure, is amended by adding Section 6 to read as follows:

Sec. 6. In addition to the information described by Section 1 of this article, the judgment should reflect affirmative findings entered pursuant to Article 42.014 of this code.

SECTION 5. Chapter 42, Code of Criminal Procedure, is amended by adding Article 42.014 to read as follows:

Art. 42.014. FINDING THAT OFFENSE WAS COMMITTED BECAUSE OF BIAS OR PREJUDICE. In the punishment phase of the trial of an offense under the Penal Code, if the court determines that the defendant intentionally selected the victim primarily because of the defendant's bias or prejudice against a person or a group, the court shall make an affirmative finding of that fact and enter the affirmative finding in the judgment of that case.

SECTION 6. Section 8, Article 42.18, Code of Criminal Procedure, is amended by adding Subsection (o) to read as follows:

(o) In addition to other conditions imposed by a parole panel under this article, the parole panel shall require as a condition of parole or release to mandatory supervision that a prisoner for whom the court has made an affirmative finding under Article 42.014 of this code perform not less than 300 hours of community service at a project designated by the parole panel that primarily serves the person or group who was the target of the defendant.

SECTION 7. (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 that date.

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

SECTION 8. This Act takes effect September 1, 1993.

SECTION 9. 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 April 7, 1993, by a viva-voce vote; May 27, 1993, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 28, 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 25, 1993, by a non-record vote; May 28, 1993, House granted request of the Senate for appointment of Conference Committee; May 29, 1993, House adopted Conference Committee Report by a non-record vote.

Approved June 19, 1993.

Effective Sept. 1, 1993.