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<i>Enhancement Groups</i>		
<b>Group Name</b>	<b>Group Makeup</b>	<b>Authority</b>
Non-state jail felonies	Capital felonies and 1st-, 2nd-, and 3rd-degree felonies	Tex. Penal Code §§12.31(a), 12.32(a), 12.33(a), 12.34(a)
Standard state jail felonies	State jail felony convictions resulting in incarceration in state jail facility for not more than two years or not less than 180 days	Tex. Penal Code §12.35(a)
Aggravated state jail felonies	State jail felony convictions punished under 3rd-degree felony punishment range due to aggravating factor	Tex. Penal Code §12.35(c)
Enhanced state jail felonies	State jail felony convictions punished under either 3rd-degree or 2nd-degree felony punishment range due to enhancements based on defendant's prior criminal convictions	Tex. Penal Code §12.425

state jail felonies can be found in §12.35 of the Penal Code.

Enhanced state jail felonies are state jail felonies for which there is a punishment range equal to either third- or second-degree felonies based on the defendant's criminal history. This enhancement scheme is found in §12.425 of the Penal Code.

The nomenclature is so important in describing these offenses. The underlying noun is still "state jail felony" despite the preceding adjectives. Sticking to this language is what keeps prosecutors out of trouble. If we let ourselves (or the defense or even the judge) start referring to the offense as if it has been enhanced by the punishment (e.g., saying, "it's a third-degree felony" instead of "it's an aggravated state jail felony"), someone is going to make a mistake. And mistakes and justice just don't hang out together very often. The court of appeals remanded *Thomas* for a new sentencing hearing—but also note that the Court of Criminal Appeals granted a petition for discretionary review on it in May.

## *Enhancing state jail felonies*

Under Texas Penal Code §12.425(a), a state jail felony punishable under §12.35(a) may be enhanced by proof of one of the following combinations of prior convictions:

- two standard state jail felony convictions *or*
- two enhanced state jail felony convictions *or*
- one standard state jail conviction *and* one enhanced state jail felony conviction.

Under PC §12.425(b), a state jail felony punishable under §12.35(a) may be enhanced by proof of two non-state jail felony convictions, where the second one was committed after the first one became final.

Under PC §12.425(c), a state jail felony for which punishment may be enhanced under §12.35(a) may be enhanced by proof of one of the following prior convictions:

- one non-state jail felony conviction *or*
- one aggravated state jail felony conviction.

## **Conclusion**

The reason God invented nerds is because we are tasked with providing precision to the universes, both DC and Marvel. It's a burden and no mistake. But for prosecutors, it's more than just our responsibility: It's our calling. Our attention to detail is the dilithium crystals that power the warp-drive of justice.

This responsibility will require us to politely and respectfully explain to the judge, clerks, and

maybe even your boss that the judgments and record shouldn't reflect enhanced offenses just because the punishment has been enhanced. But if you can survive spending all of ninth grade stuffed in your locker, you can survive that conversation.

The next time you're thinking about letting something trivial go rather than correct it when you have a chance, just remember this important lesson from *The Matrix*: "You step onto the road, and if you don't