

By: Parker

H.B. No. 2285

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the regulation of and criminal offenses occurring near
3 certain child-care facilities and age restrictions on persons
4 employed by or allowed on the premises of a sexually oriented
5 business; creating criminal offenses; increasing criminal
6 penalties.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

8 SECTION 1. Chapter 106, Alcoholic Beverage Code, is amended
9 by adding Section 106.17 to read as follows:

10 Sec. 106.17. PRESENCE OF MINOR ON PERMITTED OR LICENSED
11 PREMISES OPERATING AS SEXUALLY ORIENTED BUSINESS. (a) A minor may
12 not be on premises covered by a permit or license issued under this
13 code if a sexually oriented business, as defined by Section
14 243.002, Local Government Code, operates on the premises.

15 (b) The holder of a permit or license covering a premises
16 described by Subsection (a) may not knowingly or recklessly allow a
17 minor to be on the premises.

18 SECTION 2. Subchapter A, Chapter 102, Business & Commerce
19 Code, is amended by adding Section 102.0031 to read as follows:

20 Sec. 102.0031. PROHIBITION ON CERTAIN ACTIVITIES BY
21 BUSINESS IN RELATION TO CHILD. A sexually oriented business may not
22 allow an individual younger than 18 years of age to enter the
23 premises of the business.

24 SECTION 3. Section 102.004(a), Business & Commerce Code, is

1 amended to read as follows:

2 (a) The attorney general or appropriate district or county
3 attorney, in the name of the state, may bring an action for an
4 injunction or other process against a person who violates or
5 threatens to violate Section 102.002, ~~[or]~~ 102.003, or 102.0031.

6 SECTION 4. Section 102.005(b), Business & Commerce Code, is
7 amended to read as follows:

8 (b) A sexually oriented business commits an offense if the
9 business violates Section 102.003 or 102.0031.

10 SECTION 5. Section 125.0015(a), Civil Practice and Remedies
11 Code, is amended to read as follows:

12 (a) A person who maintains a place to which persons
13 habitually go for the following purposes and who knowingly
14 tolerates the activity and furthermore fails to make reasonable
15 attempts to abate the activity maintains a common nuisance:

16 (1) discharge of a firearm in a public place as
17 prohibited by the Penal Code;

18 (2) reckless discharge of a firearm as prohibited by
19 the Penal Code;

20 (3) engaging in organized criminal activity as a
21 member of a combination as prohibited by the Penal Code;

22 (4) delivery, possession, manufacture, or use of a
23 substance or other item in violation of Chapter 481, Health and
24 Safety Code;

25 (5) gambling, gambling promotion, or communicating
26 gambling information as prohibited by the Penal Code;

27 (6) prostitution, promotion of prostitution, or

- 1 aggravated promotion of prostitution as prohibited by the Penal
2 Code;
- 3 (7) compelling prostitution as prohibited by the Penal
4 Code;
- 5 (8) commercial manufacture, commercial distribution,
6 or commercial exhibition of obscene material as prohibited by the
7 Penal Code;
- 8 (9) aggravated assault as described by Section 22.02,
9 Penal Code;
- 10 (10) sexual assault as described by Section 22.011,
11 Penal Code;
- 12 (11) aggravated sexual assault as described by Section
13 22.021, Penal Code;
- 14 (12) robbery as described by Section 29.02, Penal
15 Code;
- 16 (13) aggravated robbery as described by Section 29.03,
17 Penal Code;
- 18 (14) unlawfully carrying a weapon as described by
19 Section 46.02, Penal Code;
- 20 (15) murder as described by Section 19.02, Penal Code;
- 21 (16) capital murder as described by Section 19.03,
22 Penal Code;
- 23 (17) continuous sexual abuse of young child or
24 children as described by Section 21.02, Penal Code;
- 25 (18) massage therapy or other massage services in
26 violation of Chapter 455, Occupations Code;
- 27 (19) employing an individual younger than 21 years of

1 age [~~a minor~~] at a sexually oriented business as defined by Section
2 243.002, Local Government Code;

3 (20) trafficking of persons as described by Section
4 20A.02, Penal Code;

5 (21) sexual conduct or performance by a child as
6 described by Section 43.25, Penal Code;

7 (22) employment harmful to a child as described by
8 Section 43.251, Penal Code;

9 (23) criminal trespass as described by Section 30.05,
10 Penal Code;

11 (24) disorderly conduct as described by Section 42.01,
12 Penal Code;

13 (25) arson as described by Section 28.02, Penal Code;

14 (26) criminal mischief as described by Section 28.03,
15 Penal Code, that causes a pecuniary loss of \$500 or more; [~~or~~]

16 (27) a graffiti offense in violation of Section 28.08,
17 Penal Code; or

18 (28) permitting an individual younger than 18 years of
19 age to remain on the premises of a sexually oriented business as
20 defined by Section 243.002, Local Government Code.

21 SECTION 6. Articles 42A.453(a) and (c), Code of Criminal
22 Procedure, are amended to read as follows:

23 (a) In this article, "playground," "premises," "school,"
24 "video arcade facility," and "youth center" have the meanings
25 assigned by Section 481.134, Health and Safety Code, and "general
26 residential operation" has the meaning assigned by Section 42.002,
27 Human Resources Code.

1 (c) If a judge grants community supervision to a defendant
2 described by Subsection (b) and the judge determines that a child as
3 defined by Section 22.011(c), Penal Code, was the victim of the
4 offense, the judge shall establish a child safety zone applicable
5 to the defendant by requiring as a condition of community
6 supervision that the defendant:

7 (1) not:

8 (A) supervise or participate in any program that:

9 (i) includes as participants or recipients
10 persons who are 17 years of age or younger; and

11 (ii) regularly provides athletic, civic, or
12 cultural activities; or

13 (B) go in, on, or within 1,000 feet of a premises
14 where children commonly gather, including a school, day-care
15 facility, playground, public or private youth center, public
16 swimming pool, ~~or~~ video arcade facility, or general residential
17 operation operating as a residential treatment center; and

18 (2) attend psychological counseling sessions for sex
19 offenders with an individual or organization that provides sex
20 offender treatment or counseling as specified or approved by the
21 judge or the defendant's supervision officer.

22 SECTION 7. Section 481.134(a), Health and Safety Code, is
23 amended by adding Subdivision (8) to read as follows:

24 (8) "General residential operation" has the meaning
25 assigned by Section 42.002, Human Resources Code.

26 SECTION 8. Sections 481.134(b), (c), (d), (e), and (f),
27 Health and Safety Code, are amended to read as follows:

1 (b) An offense otherwise punishable as a state jail felony
2 under Section 481.112, 481.1121, 481.113, 481.114, or 481.120 is
3 punishable as a felony of the third degree, and an offense otherwise
4 punishable as a felony of the second degree under any of those
5 sections is punishable as a felony of the first degree, if it is
6 shown at the punishment phase of the trial of the offense that the
7 offense was committed:

8 (1) in, on, or within 1,000 feet of premises owned,
9 rented, or leased by an institution of higher learning, the
10 premises of a public or private youth center, or a playground; ~~or~~

11 (2) in, on, or within 300 feet of the premises of a
12 public swimming pool or video arcade facility; or

13 (3) by any unauthorized person 18 years of age or
14 older, in, on, or within 1,000 feet of premises owned, rented, or
15 leased by a general residential operation operating as a
16 residential treatment center.

17 (c) The minimum term of confinement or imprisonment for an
18 offense otherwise punishable under Section 481.112(c), (d), (e), or
19 (f), 481.1121(b)(2), (3), or (4), 481.113(c), (d), or (e),
20 481.114(c), (d), or (e), 481.115(c)-(f), 481.1151(b)(2), (3), (4),
21 or (5), 481.116(c), (d), or (e), 481.1161(b)(4), (5), or (6),
22 481.117(c), (d), or (e), 481.118(c), (d), or (e), 481.120(b)(4),
23 (5), or (6), or 481.121(b)(4), (5), or (6) is increased by five
24 years and the maximum fine for the offense is doubled if it is shown
25 on the trial of the offense that the offense was committed:

26 (1) in, on, or within 1,000 feet of the premises of a
27 school, the premises of a public or private youth center, or a

1 playground; [~~or~~]

2 (2) on a school bus; or

3 (3) by any unauthorized person 18 years of age or
4 older, in, on, or within 1,000 feet of premises owned, rented, or
5 leased by a general residential operation operating as a
6 residential treatment center.

7 (d) An offense otherwise punishable under Section
8 481.112(b), 481.1121(b)(1), 481.113(b), 481.114(b), 481.115(b),
9 481.1151(b)(1), 481.116(b), 481.1161(b)(3), 481.120(b)(3), or
10 481.121(b)(3) is a felony of the third degree if it is shown on the
11 trial of the offense that the offense was committed:

12 (1) in, on, or within 1,000 feet of any real property
13 that is owned, rented, or leased to a school or school board, the
14 premises of a public or private youth center, or a playground; [~~or~~]

15 (2) on a school bus; or

16 (3) by any unauthorized person 18 years of age or
17 older, in, on, or within 1,000 feet of premises owned, rented, or
18 leased by a general residential operation operating as a
19 residential treatment center.

20 (e) An offense otherwise punishable under Section
21 481.117(b), 481.119(a), 481.120(b)(2), or 481.121(b)(2) is a state
22 jail felony if it is shown on the trial of the offense that the
23 offense was committed:

24 (1) in, on, or within 1,000 feet of any real property
25 that is owned, rented, or leased to a school or school board, the
26 premises of a public or private youth center, or a playground; [~~or~~]

27 (2) on a school bus; or

1 (3) by any unauthorized person 18 years of age or
2 older, in, on, or within 1,000 feet of premises owned, rented, or
3 leased by a general residential operation operating as a
4 residential treatment center.

5 (f) An offense otherwise punishable under Section
6 481.118(b), 481.119(b), 481.120(b)(1), or 481.121(b)(1) is a Class
7 A misdemeanor if it is shown on the trial of the offense that the
8 offense was committed:

9 (1) in, on, or within 1,000 feet of any real property
10 that is owned, rented, or leased to a school or school board, the
11 premises of a public or private youth center, or a playground; ~~or~~

12 (2) on a school bus; or

13 (3) by any unauthorized person 18 years of age or
14 older, in, on, or within 1,000 feet of premises owned, rented, or
15 leased by a general residential operation operating as a
16 residential treatment center.

17 SECTION 9. Section 42.002, Human Resources Code, is amended
18 by adding Subdivision (25) to read as follows:

19 (25) "Grounds" means, with regard to property, the
20 real property, whether fenced or unfenced, of the parcel of land on
21 which is located any appurtenant building, structure, or other
22 improvement, including a public or private driveway, street,
23 sidewalk or walkway, parking lot, and parking garage on the
24 property.

25 SECTION 10. Sections 42.042(e), (g), and (g-2), Human
26 Resources Code, are amended to read as follows:

27 (e) The executive commissioner shall promulgate minimum

1 standards that apply to licensed child-care facilities and to
2 registered family homes covered by this chapter and that will:

3 (1) promote the health, safety, and welfare of
4 children attending a facility or registered family home;

5 (2) promote safe, comfortable, and healthy physical
6 facilities and registered family homes for children;

7 (3) ensure adequate supervision of children by
8 capable, qualified, and healthy personnel;

9 (4) ensure adequate and healthy food service where
10 food service is offered;

11 (5) prohibit racial discrimination by child-care
12 facilities and registered family homes;

13 (6) require procedures for parental and guardian
14 consultation in the formulation of children's educational and
15 therapeutic programs;

16 (7) prevent the breakdown of foster care and adoptive
17 placement; ~~and~~

18 (8) ensure that a child-care facility or registered
19 family home:

20 (A) follows the directions of a child's physician
21 or other health care provider in providing specialized medical
22 assistance required by the child; and

23 (B) maintains for a reasonable time a copy of any
24 directions from the physician or provider that the parent provides
25 to the facility or home; and

26 (9) ensure that a child's health, safety, and welfare
27 are adequately protected on the grounds of a child-care facility or

1 registered family home.

2 (g) In promulgating minimum standards the executive
3 commissioner may recognize and treat differently the types of
4 services provided by and the grounds appurtenant to the following:

5 (1) listed family homes;

6 (2) registered family homes;

7 (3) child-care facilities, including general
8 residential operations, cottage home operations, specialized
9 child-care homes, group day-care homes, and day-care centers;

10 (4) child-placing agencies;

11 (5) agency foster homes;

12 (6) continuum-of-care residential operations;

13 (7) before-school or after-school programs; and

14 (8) school-age programs.

15 (g-2) The executive commissioner by rule shall adopt
16 minimum standards that apply to general residential operations that
17 provide comprehensive residential and nonresidential services to
18 persons who are victims of trafficking under Section 20A.02, Penal
19 Code. In adopting the minimum standards under this subsection, the
20 executive commissioner shall consider:

21 (1) the special circumstances, ~~and~~ needs, and
22 precautions required of victims of trafficking of persons; ~~and~~

23 (2) the role of the general residential operations in
24 assisting, ~~and~~ supporting, and protecting victims of trafficking
25 of persons; and

26 (3) the vulnerability of victims of trafficking of
27 persons on the grounds of a general residential operation operating

1 as a residential treatment center.

2 SECTION 11. Subchapter C, Chapter 42, Human Resources Code,
3 is amended by adding Section 42.068 to read as follows:

4 Sec. 42.068. REQUIRED POSTING OF NO TRESPASSING NOTICE;
5 CRIMINAL PENALTY. (a) Each general residential operation
6 operating as a residential treatment center shall post "No
7 Trespassing" notices on the grounds of the general residential
8 operation in the following locations:

9 (1) parallel to and along the exterior boundaries of
10 the general residential operation's grounds;

11 (2) at each roadway or other way of access to the
12 grounds;

13 (3) for grounds not fenced, at least every five
14 hundred feet along the exterior boundaries of the grounds;

15 (4) at each entrance to the grounds; and

16 (5) at conspicuous places reasonably likely to be
17 viewed by intruders.

18 (b) Each "No Trespassing" notice posted on the grounds of a
19 general residential operation operating as a residential treatment
20 center must:

21 (1) state that entry to the property is forbidden;

22 (2) include a description of the provisions of
23 Section 30.05, Penal Code, including the penalties for violating
24 Section 30.05, Penal Code;

25 (3) include the name and address of the person under
26 whose authority the notice is posted;

27 (4) be written in English and Spanish; and

1 (5) be at least 8-1/2 by 11 inches in size.

2 (c) The executive commissioner by rule shall determine and
3 prescribe the requirements regarding the placement, installation,
4 design, size, wording, and maintenance procedures for the "No
5 Trespassing" notices.

6 (d) The commission shall provide without charge to each
7 general residential operation operating as a residential treatment
8 center the number of "No Trespassing" notices required to comply
9 with this section and rules adopted under this section.

10 (e) A person who operates a general residential operation
11 operating as a residential treatment center commits an offense if
12 the commission provides "No Trespassing" notices to the facility
13 and the person fails to display the "No Trespassing" notices on the
14 operation's grounds as required by this section before the end of
15 the 30th business day after the date the operation receives the
16 notices. An offense under this subsection is a Class C misdemeanor.

17 SECTION 12. Sections 51.016(b), (h), and (i), Labor Code,
18 are amended to read as follows:

19 (b) A sexually oriented business may not employ an
20 individual younger than 21 [~~18~~] years of age.

21 (h) The commission, the attorney general, or a local law
22 enforcement agency may inspect a record maintained under this
23 section if there is good reason to believe that an individual
24 younger than 21 [~~18~~] years of age is employed or has been employed
25 by the sexually oriented business within the two years preceding
26 the date of the inspection.

27 (i) A person commits an offense if the person:

1 (1) fails to maintain a record as required by this
2 section; [~~or~~]

3 (2) knowingly or intentionally hinders an inspection
4 authorized under Subsection (h); or

5 (3) violates Subsection (b).

6 SECTION 13. Section 20A.02(b), Penal Code, is amended to
7 read as follows:

8 (b) Except as otherwise provided by this subsection, an
9 offense under this section is a felony of the second degree. An
10 offense under this section is a felony of the first degree if:

11 (1) the applicable conduct constitutes an offense
12 under Subsection (a)(5), (6), (7), or (8), regardless of whether
13 the actor knows the age of the child at the time of the offense;

14 (2) the commission of the offense results in the death
15 of the person who is trafficked; [~~or~~]

16 (3) the commission of the offense results in the death
17 of an unborn child of the person who is trafficked; or

18 (4) the actor recruited, enticed, or obtained the
19 victim of the offense from a shelter or facility operating as a
20 residential treatment center that serves runaway youth, foster
21 children, the homeless, or persons subjected to human trafficking,
22 domestic violence, or sexual assault.

23 SECTION 14. Section 30.05(a), Penal Code, is amended to
24 read as follows:

25 (a) A person commits an offense if the person enters or
26 remains on or in property of another, including residential land,
27 agricultural land, a recreational vehicle park, a building, a

1 general residential operation operating as a residential treatment
2 center, or an aircraft or other vehicle, without effective consent
3 and the person:

- 4 (1) had notice that the entry was forbidden; or
- 5 (2) received notice to depart but failed to do so.

6 SECTION 15. Section 30.05(b), Penal Code, is amended by
7 adding Subdivision (13) to read as follows:

8 (13) "General residential operation" has the meaning
9 assigned by Section 42.002, Human Resources Code.

10 SECTION 16. Section 30.05(d), Penal Code, is amended to
11 read as follows:

12 (d) An offense under this section is:

13 (1) a Class B misdemeanor, except as provided by
14 Subdivisions (2) and (3);

15 (2) a Class C misdemeanor, except as provided by
16 Subdivision (3), if the offense is committed:

17 (A) on agricultural land and within 100 feet of
18 the boundary of the land; or

19 (B) on residential land and within 100 feet of a
20 protected freshwater area; and

21 (3) a Class A misdemeanor if:

22 (A) the offense is committed:

23 (i) in a habitation or a shelter center;

24 (ii) on a Superfund site; or

25 (iii) on or in a critical infrastructure
26 facility;

27 (B) the offense is committed on or in property of

1 an institution of higher education and it is shown on the trial of
2 the offense that the person has previously been convicted of:

3 (i) an offense under this section relating
4 to entering or remaining on or in property of an institution of
5 higher education; or

6 (ii) an offense under Section 51.204(b)(1),
7 Education Code, relating to trespassing on the grounds of an
8 institution of higher education; ~~or~~

9 (C) the person carries a deadly weapon during the
10 commission of the offense; or

11 (D) the offense is committed on the property of
12 or within a general residential operation operating as a
13 residential treatment center.

14 SECTION 17. Section 43.251(a)(1), Penal Code, is amended to
15 read as follows:

16 (1) "Child" means a person younger than 21 ~~[18]~~ years
17 of age.

18 SECTION 18. Section 71.028(a), Penal Code, is amended to
19 read as follows:

20 (a) In this section:

21 (1) "General residential operation" has the meaning
22 assigned by Section 42.002, Human Resources Code.

23 (2) "Institution of higher education," "playground,"
24 "premises," "school," "video arcade facility," and "youth center"
25 have the meanings assigned by Section 481.134, Health and Safety
26 Code.

27 (3) ~~[(2)]~~ "Shopping mall" means an enclosed public

1 walkway or hall area that connects retail, service, or professional
2 establishments.

3 SECTION 19. Section 71.028(c), Penal Code, is amended to
4 read as follows:

5 (c) Except as provided by Subsection (d), the punishment
6 prescribed for an offense described by Subsection (b) is increased
7 to the punishment prescribed for the next highest category of
8 offense if the actor is 17 years of age or older and it is shown
9 beyond a reasonable doubt on the trial of the offense that the actor
10 committed the offense at a location that was:

11 (1) in, on, or within 1,000 feet of any:

12 (A) real property that is owned, rented, or
13 leased by a school or school board;

14 (B) premises owned, rented, or leased by an
15 institution of higher education;

16 (C) premises of a public or private youth center;

17 [~~or~~]

18 (D) playground; or

19 (E) general residential operation operating as a
20 residential treatment center;

21 (2) in, on, or within 300 feet of any:

22 (A) shopping mall;

23 (B) movie theater;

24 (C) premises of a public swimming pool; or

25 (D) premises of a video arcade facility; or

26 (3) on a school bus.

27 SECTION 20. The changes in law made by this Act apply only

1 to an offense committed on or after the effective date of this Act.
2 An offense committed before the effective date of this Act is
3 governed by the law in effect when the offense was committed, and
4 that law is continued in effect for that purpose. For the purposes
5 of this section, an offense is committed before the effective date
6 of this Act if any element of the offense occurs before that date.

7 SECTION 21. This Act takes effect September 1, 2021.