

By: Meyer

H.B. No. 3110

A BILL TO BE ENTITLED

AN ACT

relating to possession or promotion of child sexual abuse material;  
increasing a criminal penalty.

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

ARTICLE 1. POSSESSION OR PROMOTION OF CHILD SEXUAL ABUSE MATERIAL

SECTION 1.01. The heading to Section 43.26, Penal Code, is amended to read as follows:

Sec. 43.26. POSSESSION OR PROMOTION OF CHILD SEXUAL ABUSE MATERIAL [~~PORNOGRAPHY~~].

SECTION 1.02. Section 43.26, Penal Code, is amended by amending Subsections (d) and (g) and adding Subsection (g-1) to read as follows:

(d) An offense under Subsection (a) is a felony of the second [~~third~~] degree, except that the offense is[+]

~~[(1) a felony of the second degree if it is shown on the trial of the offense that the person has been previously convicted one time of an offense under that subsection; and~~

~~[(2)] a felony of the first degree if it is shown on the trial of the offense that the person has been previously convicted [two or more times] of an offense under that subsection.~~

(g) Except as provided by Subsection (g-1), an [An] offense under Subsection (e) is a felony of the second degree with a minimum term of imprisonment of five years.

(g-1) An offense under Subsection (e) [except that the

1 ~~offense~~] is a felony of the first degree if it is shown on the trial  
2 of the offense that the person has been previously convicted of an  
3 offense under that subsection.

4 ARTICLE 2. CONFORMING AMENDMENTS

5 SECTION 2.01. The heading to Chapter 110, Business &  
6 Commerce Code, is amended to read as follows:

7 CHAPTER 110. COMPUTER TECHNICIANS REQUIRED TO REPORT CHILD SEXUAL  
8 ABUSE MATERIAL [~~PORNOGRAPHY~~]

9 SECTION 2.02. Section 110.001(1), Business & Commerce Code,  
10 is amended to read as follows:

11 (1) "Child sexual abuse material [~~pornography~~]" means  
12 an image of a child engaging in sexual conduct or sexual  
13 performance.

14 SECTION 2.03. The heading to Section 110.002, Business &  
15 Commerce Code, is amended to read as follows:

16 Sec. 110.002. REPORTING OF IMAGES OF CHILD SEXUAL ABUSE  
17 MATERIAL [~~PORNOGRAPHY~~].

18 SECTION 2.04. Sections 110.002(a) and (c), Business &  
19 Commerce Code, are amended to read as follows:

20 (a) A computer technician who, in the course and scope of  
21 employment or business, views an image on a computer that is or  
22 appears to be child sexual abuse material [~~pornography~~] shall  
23 immediately report the discovery of the image to a local or state  
24 law enforcement agency or the Cyber Tipline at the National Center  
25 for Missing and Exploited Children. The report must include the  
26 name and address of the owner or person claiming a right to  
27 possession of the computer, if known, and as permitted by federal

1 law.

2 (c) A telecommunications provider, commercial mobile  
3 service provider, or information service provider may not be held  
4 liable under this chapter for the failure to report child sexual  
5 abuse material [~~pornography~~] that is transmitted or stored by a  
6 user of the service.

7 SECTION 2.05. Section 110.003(b), Business & Commerce Code,  
8 is amended to read as follows:

9 (b) It is a defense to prosecution under this section that  
10 the actor did not report the discovery of an image of child sexual  
11 abuse material [~~pornography~~] because the child in the image  
12 appeared to be at least 18 years of age.

13 SECTION 2.06. Articles 18.18(a), (b), (e), (f), (g), and  
14 (h), Code of Criminal Procedure, are amended to read as follows:

15 (a) Following the final conviction of a person for  
16 possession of a gambling device or equipment, altered gambling  
17 equipment, or gambling paraphernalia, for an offense involving a  
18 criminal instrument, for an offense involving an obscene device or  
19 material, for an offense involving child sexual abuse material  
20 [~~pornography~~], or for an offense involving a scanning device or  
21 re-encoder, the court entering the judgment of conviction shall  
22 order that the machine, device, gambling equipment or gambling  
23 paraphernalia, instrument, obscene device or material, child  
24 sexual abuse material [~~pornography~~], or scanning device or  
25 re-encoder be destroyed or forfeited to the state. Not later than  
26 the 30th day after the final conviction of a person for an offense  
27 involving a prohibited weapon, the court entering the judgment of

1 conviction on its own motion, on the motion of the prosecuting  
2 attorney in the case, or on the motion of the law enforcement agency  
3 initiating the complaint on notice to the prosecuting attorney in  
4 the case if the prosecutor fails to move for the order shall order  
5 that the prohibited weapon be destroyed or forfeited to the law  
6 enforcement agency that initiated the complaint. If the court fails  
7 to enter the order within the time required by this subsection, any  
8 magistrate in the county in which the offense occurred may enter the  
9 order. Following the final conviction of a person for an offense  
10 involving dog fighting, the court entering the judgment of  
11 conviction shall order that any dog-fighting equipment be destroyed  
12 or forfeited to the state. Destruction of dogs, if necessary, must  
13 be carried out by a veterinarian licensed in this state or, if one  
14 is not available, by trained personnel of a humane society or an  
15 animal shelter. If forfeited, the court shall order the contraband  
16 delivered to the state, any political subdivision of the state, or  
17 to any state institution or agency. If gambling proceeds were  
18 seized, the court shall order them forfeited to the state and shall  
19 transmit them to the grand jury of the county in which they were  
20 seized for use in investigating alleged violations of the Penal  
21 Code, or to the state, any political subdivision of the state, or to  
22 any state institution or agency.

23 (b) If there is no prosecution or conviction following  
24 seizure, the magistrate to whom the return was made shall notify in  
25 writing the person found in possession of the alleged gambling  
26 device or equipment, altered gambling equipment or gambling  
27 paraphernalia, gambling proceeds, prohibited weapon, obscene

1 device or material, child sexual abuse material [~~pornography~~],  
2 scanning device or re-encoder, criminal instrument, or  
3 dog-fighting equipment to show cause why the property seized should  
4 not be destroyed or the proceeds forfeited. The magistrate, on the  
5 motion of the law enforcement agency seizing a prohibited weapon,  
6 shall order the weapon destroyed or forfeited to the law  
7 enforcement agency seizing the weapon, unless a person shows cause  
8 as to why the prohibited weapon should not be destroyed or  
9 forfeited. A law enforcement agency shall make a motion under this  
10 subsection [~~section~~] in a timely manner after the time at which the  
11 agency is informed in writing by the attorney representing the  
12 state that no prosecution will arise from the seizure.

13 (e) Any person interested in the alleged gambling device or  
14 equipment, altered gambling equipment or gambling paraphernalia,  
15 gambling proceeds, prohibited weapon, obscene device or material,  
16 child sexual abuse material [~~pornography~~], scanning device or  
17 re-encoder, criminal instrument, or dog-fighting equipment seized  
18 must appear before the magistrate on the 20th day following the date  
19 the notice was mailed or posted. Failure to timely appear forfeits  
20 any interest the person may have in the property or proceeds seized,  
21 and no person after failing to timely appear may contest  
22 destruction or forfeiture.

23 (f) If a person timely appears to show cause why the  
24 property or proceeds should not be destroyed or forfeited, the  
25 magistrate shall conduct a hearing on the issue and determine the  
26 nature of property or proceeds and the person's interest therein.  
27 Unless the person proves by a preponderance of the evidence that the

1 property or proceeds is not gambling equipment, altered gambling  
2 equipment, gambling paraphernalia, gambling device, gambling  
3 proceeds, prohibited weapon, obscene device or material, child  
4 sexual abuse material [~~pornography~~], criminal instrument, scanning  
5 device or re-encoder, or dog-fighting equipment and that the person  
6 [~~he~~] is entitled to possession, the magistrate shall dispose of the  
7 property or proceeds in accordance with Subsection [~~Paragraph~~] (a)  
8 [~~of this article~~].

9 (g) For purposes of this article:

10 (1) "criminal instrument" has the meaning defined in  
11 the Penal Code;

12 (2) "gambling device or equipment, altered gambling  
13 equipment or gambling paraphernalia" has the meaning defined in the  
14 Penal Code;

15 (3) "prohibited weapon" has the meaning defined in the  
16 Penal Code;

17 (4) "dog-fighting equipment" means:

18 (A) equipment used for training or handling a  
19 fighting dog, including a harness, treadmill, cage, decoy, pen,  
20 house for keeping a fighting dog, feeding apparatus, or training  
21 pen;

22 (B) equipment used for transporting a fighting  
23 dog, including any automobile[~~r~~] or other vehicle, and its  
24 appurtenances which are intended to be used as a vehicle for  
25 transporting a fighting dog;

26 (C) equipment used to promote or advertise an  
27 exhibition of dog fighting, including a printing press or similar

1 equipment, paper, ink, or photography equipment; or

2 (D) a dog trained, being trained, or intended to  
3 be used to fight with another dog;

4 (5) "obscene device" and "obscene" have the meanings  
5 assigned by Section 43.21, Penal Code;

6 (6) "re-encoder" has the meaning assigned by Section  
7 522.001, Business & Commerce Code;

8 (7) "scanning device" has the meaning assigned by  
9 Section 522.001, Business & Commerce Code; and

10 (8) "obscene material" and "child sexual abuse  
11 material [~~pornography~~]" include digital images and the media and  
12 equipment on which those images are stored.

13 (h) No provider of an electronic communication service or of  
14 a remote computing service to the public shall be held liable for an  
15 offense involving obscene material or child sexual abuse material  
16 [~~pornography~~] under this article [~~section~~] on account of any action  
17 taken in good faith in providing that service.

18 SECTION 2.07. Section 2(a), Article 38.37, Code of Criminal  
19 Procedure, is amended to read as follows:

20 (a) Subsection (b) applies only to the trial of a defendant  
21 for:

22 (1) an offense under any of the following provisions  
23 of the Penal Code:

24 (A) Section 20A.02, if punishable as a felony of  
25 the first degree under Section 20A.02(b)(1) (Sex Trafficking of a  
26 Child);

27 (B) Section 21.02 (Continuous Sexual Abuse of

1 Young Child or Children);

2 (C) Section 21.11 (Indecency With a Child);

3 (D) Section 22.011(a)(2) (Sexual Assault of a  
4 Child);

5 (E) Sections 22.021(a)(1)(B) and (2) (Aggravated  
6 Sexual Assault of a Child);

7 (F) Section 33.021 (Online Solicitation of a  
8 Minor);

9 (G) Section 43.25 (Sexual Performance by a  
10 Child); or

11 (H) Section 43.26 (Possession or Promotion of  
12 Child Sexual Abuse Material [~~Pornography~~]), Penal Code; or

13 (2) an attempt or conspiracy to commit an offense  
14 described by Subdivision (1).

15 SECTION 2.08. Article 38.45(a), Code of Criminal Procedure,  
16 is amended to read as follows:

17 (a) During the course of a criminal hearing or proceeding,  
18 the court may not make available or allow to be made available for  
19 copying or dissemination to the public property or material:

20 (1) that constitutes child sexual abuse material  
21 [~~pornography~~], as described by Section 43.26(a)(1), Penal Code;

22 (2) the promotion or possession of which is prohibited  
23 under Section 43.261, Penal Code; or

24 (3) that is described by Section 2 or 5, Article  
25 38.071, of this code.

26 SECTION 2.09. Article 39.15(a), Code of Criminal Procedure,  
27 is amended to read as follows:

1 (a) In the manner provided by this article, a court shall  
2 allow discovery under Article 39.14 of property or material:

3 (1) that constitutes child sexual abuse material  
4 [~~pornography~~], as described by Section 43.26(a)(1), Penal Code;

5 (2) the promotion or possession of which is prohibited  
6 under Section 43.261, Penal Code; or

7 (3) that is described by Section 2 or 5, Article  
8 38.071, of this code.

9 SECTION 2.10. Article 42A.251(2), Code of Criminal  
10 Procedure, is amended to read as follows:

11 (2) "Sex offender" means a person who has been  
12 convicted of, or has entered a plea of guilty or nolo contendere  
13 for, an offense under any one of the following provisions of the  
14 Penal Code:

15 (A) Section 20.04(a)(4) (Aggravated Kidnapping),  
16 if the person committed the offense with the intent to violate or  
17 abuse the victim sexually;

18 (B) Section 21.08 (Indecent Exposure);

19 (C) Section 21.11 (Indecency with a Child);

20 (D) Section 22.011 (Sexual Assault);

21 (E) Section 22.021 (Aggravated Sexual Assault);

22 (F) Section 25.02 (Prohibited Sexual Conduct);

23 (G) Section 30.02 (Burglary), if:

24 (i) the offense is punishable under  
25 Subsection (d) of that section; and

26 (ii) the person committed the offense with  
27 the intent to commit a felony listed in this subdivision;

1 (H) Section 43.25 (Sexual Performance by a  
2 Child); or

3 (I) Section 43.26 (Possession or Promotion of  
4 Child Sexual Abuse Material [~~Pornography~~]).

5 SECTION 2.11. Article 62.001(5), Code of Criminal  
6 Procedure, is amended to read as follows:

7 (5) "Reportable conviction or adjudication" means a  
8 conviction or adjudication, including an adjudication of  
9 delinquent conduct or a deferred adjudication, that, regardless of  
10 the pendency of an appeal, is a conviction for or an adjudication  
11 for or based on:

12 (A) a violation of Section 21.02 (Continuous  
13 sexual abuse of young child or children), 21.09 (Bestiality), 21.11  
14 (Indecency with a child), 22.011 (Sexual assault), 22.021  
15 (Aggravated sexual assault), or 25.02 (Prohibited sexual conduct),  
16 Penal Code;

17 (B) a violation of Section 43.04 (Aggravated  
18 promotion of prostitution), 43.05 (Compelling prostitution), 43.25  
19 (Sexual performance by a child), or 43.26 (Possession or promotion  
20 of child sexual abuse material [~~pornography~~]), Penal Code;

21 (B-1) a violation of Section 43.02  
22 (Prostitution), Penal Code, if the offense is punishable under  
23 Subsection (c-1)(2) of that section;

24 (C) a violation of Section 20.04(a)(4)  
25 (Aggravated kidnapping), Penal Code, if the actor committed the  
26 offense or engaged in the conduct with intent to violate or abuse  
27 the victim sexually;

1 (D) a violation of Section 30.02 (Burglary),  
2 Penal Code, if the offense or conduct is punishable under  
3 Subsection (d) of that section and the actor committed the offense  
4 or engaged in the conduct with intent to commit a felony listed in  
5 Paragraph (A) or (C);

6 (E) a violation of Section 20.02 (Unlawful  
7 restraint), 20.03 (Kidnapping), or 20.04 (Aggravated kidnapping),  
8 Penal Code, if, as applicable:

9 (i) the judgment in the case contains an  
10 affirmative finding under Article 42.015; or

11 (ii) the order in the hearing or the papers  
12 in the case contain an affirmative finding that the victim or  
13 intended victim was younger than 17 years of age;

14 (F) the second violation of Section 21.08  
15 (Indecent exposure), Penal Code, but not if the second violation  
16 results in a deferred adjudication;

17 (G) an attempt, conspiracy, or solicitation, as  
18 defined by Chapter 15, Penal Code, to commit an offense or engage in  
19 conduct listed in Paragraph (A), (B), (C), (D), (E), (K), or (L);

20 (H) a violation of the laws of another state,  
21 federal law, the laws of a foreign country, or the Uniform Code of  
22 Military Justice for or based on the violation of an offense  
23 containing elements that are substantially similar to the elements  
24 of an offense listed under Paragraph (A), (B), (B-1), (C), (D), (E),  
25 (G), (J), (K), or (L), but not if the violation results in a  
26 deferred adjudication;

27 (I) the second violation of the laws of another

1 state, federal law, the laws of a foreign country, or the Uniform  
2 Code of Military Justice for or based on the violation of an offense  
3 containing elements that are substantially similar to the elements  
4 of the offense of indecent exposure, but not if the second violation  
5 results in a deferred adjudication;

6 (J) a violation of Section 33.021 (Online  
7 solicitation of a minor), Penal Code;

8 (K) a violation of Section 20A.02(a)(3), (4),  
9 (7), or (8) (Trafficking of persons), Penal Code; or

10 (L) a violation of Section 20A.03 (Continuous  
11 trafficking of persons), Penal Code, if the offense is based partly  
12 or wholly on conduct that constitutes an offense under Section  
13 20A.02(a)(3), (4), (7), or (8) of that code.

14 SECTION 2.12. Section 201.062(a), Estates Code, is amended  
15 to read as follows:

16 (a) A probate court may enter an order declaring that the  
17 parent of a child under 18 years of age may not inherit from or  
18 through the child under the laws of descent and distribution if the  
19 court finds by clear and convincing evidence that the parent has:

20 (1) voluntarily abandoned and failed to support the  
21 child in accordance with the parent's obligation or ability for at  
22 least three years before the date of the child's death, and did not  
23 resume support for the child before that date;

24 (2) voluntarily and with knowledge of the pregnancy:

25 (A) abandoned the child's mother beginning at a  
26 time during her pregnancy with the child and continuing through the  
27 birth;

1 (B) failed to provide adequate support or medical  
2 care for the mother during the period of abandonment before the  
3 child's birth; and

4 (C) remained apart from and failed to support the  
5 child since birth; or

6 (3) been convicted or has been placed on community  
7 supervision, including deferred adjudication community  
8 supervision, for being criminally responsible for the death or  
9 serious injury of a child under the following sections of the Penal  
10 Code or adjudicated under Title 3, Family Code, for conduct that  
11 caused the death or serious injury of a child and that would  
12 constitute a violation of one of the following sections of the Penal  
13 Code:

14 (A) Section 19.02 (murder);

15 (B) Section 19.03 (capital murder);

16 (C) Section 19.04 (manslaughter);

17 (D) Section 21.11 (indecent with a child);

18 (E) Section 22.01 (assault);

19 (F) Section 22.011 (sexual assault);

20 (G) Section 22.02 (aggravated assault);

21 (H) Section 22.021 (aggravated sexual assault);

22 (I) Section 22.04 (injury to a child, elderly  
23 individual, or disabled individual);

24 (J) Section 22.041 (abandoning or endangering  
25 child);

26 (K) Section 25.02 (prohibited sexual conduct);

27 (L) Section 43.25 (sexual performance by a

1 child); or

2 (M) Section 43.26 (possession or promotion of  
3 child sexual abuse material [~~pornography~~]).

4 SECTION 2.13. Section 161.001(b), Family Code, is amended  
5 to read as follows:

6 (b) The court may order termination of the parent-child  
7 relationship if the court finds by clear and convincing evidence:

8 (1) that the parent has:

9 (A) voluntarily left the child alone or in the  
10 possession of another not the parent and expressed an intent not to  
11 return;

12 (B) voluntarily left the child alone or in the  
13 possession of another not the parent without expressing an intent  
14 to return, without providing for the adequate support of the child,  
15 and remained away for a period of at least three months;

16 (C) voluntarily left the child alone or in the  
17 possession of another without providing adequate support of the  
18 child and remained away for a period of at least six months;

19 (D) knowingly placed or knowingly allowed the  
20 child to remain in conditions or surroundings which endanger the  
21 physical or emotional well-being of the child;

22 (E) engaged in conduct or knowingly placed the  
23 child with persons who engaged in conduct which endangers the  
24 physical or emotional well-being of the child;

25 (F) failed to support the child in accordance  
26 with the parent's ability during a period of one year ending within  
27 six months of the date of the filing of the petition;

1                   (G) abandoned the child without identifying the  
2 child or furnishing means of identification, and the child's  
3 identity cannot be ascertained by the exercise of reasonable  
4 diligence;

5                   (H) voluntarily, and with knowledge of the  
6 pregnancy, abandoned the mother of the child beginning at a time  
7 during her pregnancy with the child and continuing through the  
8 birth, failed to provide adequate support or medical care for the  
9 mother during the period of abandonment before the birth of the  
10 child, and remained apart from the child or failed to support the  
11 child since the birth;

12                   (I) contumaciously refused to submit to a  
13 reasonable and lawful order of a court under Subchapter D, Chapter  
14 261;

15                   (J) been the major cause of:

16                         (i) the failure of the child to be enrolled  
17 in school as required by the Education Code; or

18                         (ii) the child's absence from the child's  
19 home without the consent of the parents or guardian for a  
20 substantial length of time or without the intent to return;

21                   (K) executed before or after the suit is filed an  
22 unrevoked or irrevocable affidavit of relinquishment of parental  
23 rights as provided by this chapter;

24                   (L) been convicted or has been placed on  
25 community supervision, including deferred adjudication community  
26 supervision, for being criminally responsible for the death or  
27 serious injury of a child under the following sections of the Penal

1 Code, or under a law of another jurisdiction that contains elements  
2 that are substantially similar to the elements of an offense under  
3 one of the following Penal Code sections, or adjudicated under  
4 Title 3 for conduct that caused the death or serious injury of a  
5 child and that would constitute a violation of one of the following  
6 Penal Code sections:

- 7 (i) Section 19.02 (murder);
- 8 (ii) Section 19.03 (capital murder);
- 9 (iii) Section 19.04 (manslaughter);
- 10 (iv) Section 21.11 (indecent with a  
11 child);
- 12 (v) Section 22.01 (assault);
- 13 (vi) Section 22.011 (sexual assault);
- 14 (vii) Section 22.02 (aggravated assault);
- 15 (viii) Section 22.021 (aggravated sexual  
16 assault);
- 17 (ix) Section 22.04 (injury to a child,  
18 elderly individual, or disabled individual);
- 19 (x) Section 22.041 (abandoning or  
20 endangering child);
- 21 (xi) Section 25.02 (prohibited sexual  
22 conduct);
- 23 (xii) Section 43.25 (sexual performance by  
24 a child);
- 25 (xiii) Section 43.26 (possession or  
26 promotion of child sexual abuse material [~~pornography~~]);
- 27 (xiv) Section 21.02 (continuous sexual

1 abuse of young child or children);

2 (xv) Section 20A.02(a)(7) or (8)  
3 (trafficking of persons); and

4 (xvi) Section 43.05(a)(2) (compelling  
5 prostitution);

6 (M) had his or her parent-child relationship  
7 terminated with respect to another child based on a finding that the  
8 parent's conduct was in violation of Paragraph (D) or (E) or  
9 substantially equivalent provisions of the law of another state;

10 (N) constructively abandoned the child who has  
11 been in the permanent or temporary managing conservatorship of the  
12 Department of Family and Protective Services for not less than six  
13 months, and:

14 (i) the department has made reasonable  
15 efforts to return the child to the parent;

16 (ii) the parent has not regularly visited  
17 or maintained significant contact with the child; and

18 (iii) the parent has demonstrated an  
19 inability to provide the child with a safe environment;

20 (O) failed to comply with the provisions of a  
21 court order that specifically established the actions necessary for  
22 the parent to obtain the return of the child who has been in the  
23 permanent or temporary managing conservatorship of the Department  
24 of Family and Protective Services for not less than nine months as a  
25 result of the child's removal from the parent under Chapter 262 for  
26 the abuse or neglect of the child;

27 (P) used a controlled substance, as defined by

1 Chapter 481, Health and Safety Code, in a manner that endangered the  
2 health or safety of the child, and:

3 (i) failed to complete a court-ordered  
4 substance abuse treatment program; or

5 (ii) after completion of a court-ordered  
6 substance abuse treatment program, continued to abuse a controlled  
7 substance;

8 (Q) knowingly engaged in criminal conduct that  
9 has resulted in the parent's:

10 (i) conviction of an offense; and

11 (ii) confinement or imprisonment and  
12 inability to care for the child for not less than two years from the  
13 date of filing the petition;

14 (R) been the cause of the child being born  
15 addicted to alcohol or a controlled substance, other than a  
16 controlled substance legally obtained by prescription;

17 (S) voluntarily delivered the child to a  
18 designated emergency infant care provider under Section 262.302  
19 without expressing an intent to return for the child;

20 (T) been convicted of:

21 (i) the murder of the other parent of the  
22 child under Section 19.02 or 19.03, Penal Code, or under a law of  
23 another state, federal law, the law of a foreign country, or the  
24 Uniform Code of Military Justice that contains elements that are  
25 substantially similar to the elements of an offense under Section  
26 19.02 or 19.03, Penal Code;

27 (ii) criminal attempt under Section 15.01,

1 Penal Code, or under a law of another state, federal law, the law of  
2 a foreign country, or the Uniform Code of Military Justice that  
3 contains elements that are substantially similar to the elements of  
4 an offense under Section 15.01, Penal Code, to commit the offense  
5 described by Subparagraph (i);

6 (iii) criminal solicitation under Section  
7 15.03, Penal Code, or under a law of another state, federal law, the  
8 law of a foreign country, or the Uniform Code of Military Justice  
9 that contains elements that are substantially similar to the  
10 elements of an offense under Section 15.03, Penal Code, of the  
11 offense described by Subparagraph (i); or

12 (iv) the sexual assault of the other parent  
13 of the child under Section 22.011 or 22.021, Penal Code, or under a  
14 law of another state, federal law, or the Uniform Code of Military  
15 Justice that contains elements that are substantially similar to  
16 the elements of an offense under Section 22.011 or 22.021, Penal  
17 Code; or

18 (U) been placed on community supervision,  
19 including deferred adjudication community supervision, or another  
20 functionally equivalent form of community supervision or  
21 probation, for being criminally responsible for the sexual assault  
22 of the other parent of the child under Section 22.011 or 22.021,  
23 Penal Code, or under a law of another state, federal law, or the  
24 Uniform Code of Military Justice that contains elements that are  
25 substantially similar to the elements of an offense under Section  
26 22.011 or 22.021, Penal Code; and

27 (2) that termination is in the best interest of the

1 child.

2 SECTION 2.14. Section 261.001(1), Family Code, is amended  
3 to read as follows:

4 (1) "Abuse" includes the following acts or omissions  
5 by a person:

6 (A) mental or emotional injury to a child that  
7 results in an observable and material impairment in the child's  
8 growth, development, or psychological functioning;

9 (B) causing or permitting the child to be in a  
10 situation in which the child sustains a mental or emotional injury  
11 that results in an observable and material impairment in the  
12 child's growth, development, or psychological functioning;

13 (C) physical injury that results in substantial  
14 harm to the child, or the genuine threat of substantial harm from  
15 physical injury to the child, including an injury that is at  
16 variance with the history or explanation given and excluding an  
17 accident or reasonable discipline by a parent, guardian, or  
18 managing or possessory conservator that does not expose the child  
19 to a substantial risk of harm;

20 (D) failure to make a reasonable effort to  
21 prevent an action by another person that results in physical injury  
22 that results in substantial harm to the child;

23 (E) sexual conduct harmful to a child's mental,  
24 emotional, or physical welfare, including conduct that constitutes  
25 the offense of continuous sexual abuse of young child or children  
26 under Section 21.02, Penal Code, indecency with a child under  
27 Section 21.11, Penal Code, sexual assault under Section 22.011,

1 Penal Code, or aggravated sexual assault under Section 22.021,  
2 Penal Code;

3 (F) failure to make a reasonable effort to  
4 prevent sexual conduct harmful to a child;

5 (G) compelling or encouraging the child to engage  
6 in sexual conduct as defined by Section 43.01, Penal Code,  
7 including compelling or encouraging the child in a manner that  
8 constitutes an offense of trafficking of persons under Section  
9 20A.02(a)(7) or (8), Penal Code, prostitution under Section  
10 43.02(b), Penal Code, or compelling prostitution under Section  
11 43.05(a)(2), Penal Code;

12 (H) causing, permitting, encouraging, engaging  
13 in, or allowing the photographing, filming, or depicting of the  
14 child if the person knew or should have known that the resulting  
15 photograph, film, or depiction of the child:

16 (i) is obscene as defined by Section 43.21,  
17 Penal Code; ~~or~~ or

18 (ii) constitutes child sexual abuse  
19 material [pornographic];

20 (I) the current use by a person of a controlled  
21 substance as defined by Chapter 481, Health and Safety Code, in a  
22 manner or to the extent that the use results in physical, mental, or  
23 emotional injury to a child;

24 (J) causing, expressly permitting, or  
25 encouraging a child to use a controlled substance as defined by  
26 Chapter 481, Health and Safety Code;

27 (K) causing, permitting, encouraging, engaging

1 in, or allowing a sexual performance by a child as defined by  
2 Section 43.25, Penal Code;

3 (L) knowingly causing, permitting, encouraging,  
4 engaging in, or allowing a child to be trafficked in a manner  
5 punishable as an offense under Section 20A.02(a)(5), (6), (7), or  
6 (8), Penal Code, or the failure to make a reasonable effort to  
7 prevent a child from being trafficked in a manner punishable as an  
8 offense under any of those sections; or

9 (M) forcing or coercing a child to enter into a  
10 marriage.

11 SECTION 2.15. Section 262.2015(b), Family Code, is amended  
12 to read as follows:

13 (b) The court may find under Subsection (a) that a parent  
14 has subjected the child to aggravated circumstances if:

15 (1) the parent abandoned the child without  
16 identification or a means for identifying the child;

17 (2) the child or another child of the parent is a  
18 victim of serious bodily injury or sexual abuse inflicted by the  
19 parent or by another person with the parent's consent;

20 (3) the parent has engaged in conduct against the  
21 child or another child of the parent that would constitute an  
22 offense under the following provisions of the Penal Code:

23 (A) Section 19.02 (murder);

24 (B) Section 19.03 (capital murder);

25 (C) Section 19.04 (manslaughter);

26 (D) Section 21.11 (indecent with a child);

27 (E) Section 22.011 (sexual assault);

- 1 (F) Section 22.02 (aggravated assault);
- 2 (G) Section 22.021 (aggravated sexual assault);
- 3 (H) Section 22.04 (injury to a child, elderly
- 4 individual, or disabled individual);
- 5 (I) Section 22.041 (abandoning or endangering
- 6 child);
- 7 (J) Section 25.02 (prohibited sexual conduct);
- 8 (K) Section 43.25 (sexual performance by a
- 9 child);
- 10 (L) Section 43.26 (possession or promotion of
- 11 child sexual abuse material [~~pornography~~]);
- 12 (M) Section 21.02 (continuous sexual abuse of
- 13 young child or children);
- 14 (N) Section 43.05(a)(2) (compelling
- 15 prostitution); or
- 16 (O) Section 20A.02(a)(7) or (8) (trafficking of
- 17 persons);
- 18 (4) the parent voluntarily left the child alone or in
- 19 the possession of another person not the parent of the child for at
- 20 least six months without expressing an intent to return and without
- 21 providing adequate support for the child;
- 22 (5) the parent's parental rights with regard to
- 23 another child have been involuntarily terminated based on a finding
- 24 that the parent's conduct violated Section 161.001(b)(1)(D) or (E)
- 25 or a substantially equivalent provision of another state's law;
- 26 (6) the parent has been convicted for:
- 27 (A) the murder of another child of the parent and

1 the offense would have been an offense under 18 U.S.C. Section  
2 1111(a) if the offense had occurred in the special maritime or  
3 territorial jurisdiction of the United States;

4 (B) the voluntary manslaughter of another child  
5 of the parent and the offense would have been an offense under 18  
6 U.S.C. Section 1112(a) if the offense had occurred in the special  
7 maritime or territorial jurisdiction of the United States;

8 (C) aiding or abetting, attempting, conspiring,  
9 or soliciting an offense under Paragraph (A) or (B); or

10 (D) the felony assault of the child or another  
11 child of the parent that resulted in serious bodily injury to the  
12 child or another child of the parent;

13 (7) the parent's parental rights with regard to  
14 another child of the parent have been involuntarily terminated; or

15 (8) the parent is required under any state or federal  
16 law to register with a sex offender registry.

17 SECTION 2.16. Section 20A.02(a), Penal Code, is amended to  
18 read as follows:

19 (a) A person commits an offense if the person knowingly:

20 (1) traffics another person with the intent that the  
21 trafficked person engage in forced labor or services;

22 (2) receives a benefit from participating in a venture  
23 that involves an activity described by Subdivision (1), including  
24 by receiving labor or services the person knows are forced labor or  
25 services;

26 (3) traffics another person and, through force, fraud,  
27 or coercion, causes the trafficked person to engage in conduct

1 prohibited by:

2 (A) Section 43.02 (Prostitution);

3 (B) Section 43.03 (Promotion of Prostitution);

4 (B-1) Section 43.031 (Online Promotion of  
5 Prostitution);

6 (C) Section 43.04 (Aggravated Promotion of  
7 Prostitution);

8 (C-1) Section 43.041 (Aggravated Online  
9 Promotion of Prostitution); or

10 (D) Section 43.05 (Compelling Prostitution);

11 (4) receives a benefit from participating in a venture  
12 that involves an activity described by Subdivision (3) or engages  
13 in sexual conduct with a person trafficked in the manner described  
14 in Subdivision (3);

15 (5) traffics a child with the intent that the  
16 trafficked child engage in forced labor or services;

17 (6) receives a benefit from participating in a venture  
18 that involves an activity described by Subdivision (5), including  
19 by receiving labor or services the person knows are forced labor or  
20 services;

21 (7) traffics a child and by any means causes the  
22 trafficked child to engage in, or become the victim of, conduct  
23 prohibited by:

24 (A) Section 21.02 (Continuous Sexual Abuse of  
25 Young Child or Children);

26 (B) Section 21.11 (Indecency with a Child);

27 (C) Section 22.011 (Sexual Assault);

- 1 (D) Section 22.021 (Aggravated Sexual Assault);  
2 (E) Section 43.02 (Prostitution);  
3 (F) Section 43.03 (Promotion of Prostitution);  
4 (F-1) Section 43.031 (Online Promotion of  
5 Prostitution);  
6 (G) Section 43.04 (Aggravated Promotion of  
7 Prostitution);  
8 (G-1) Section 43.041 (Aggravated Online  
9 Promotion of Prostitution);  
10 (H) Section 43.05 (Compelling Prostitution);  
11 (I) Section 43.25 (Sexual Performance by a  
12 Child);  
13 (J) Section 43.251 (Employment Harmful to  
14 Children); or  
15 (K) Section 43.26 (Possession or Promotion of  
16 Child Sexual Abuse Material [~~Pornography~~]); or  
17 (8) receives a benefit from participating in a venture  
18 that involves an activity described by Subdivision (7) or engages  
19 in sexual conduct with a child trafficked in the manner described in  
20 Subdivision (7).

21 ARTICLE 3. TRANSITION AND EFFECTIVE DATE

22 SECTION 3.01. The changes in law made by this Act apply only  
23 to an offense committed on or after the effective date of this Act.  
24 An offense committed before the effective date of this Act is  
25 governed by the law in effect on the date the offense was committed,  
26 and the former law is continued in effect for that purpose. For  
27 purposes of this section, an offense was committed before the

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1 effective date of this Act if any element of the offense occurred  
2 before that date.

3 SECTION 3.02. This Act takes effect September 1, 2021.