

By: Wise

H.B. No. 138

A BILL TO BE ENTITLED

AN ACT

relating to the creation of an offense prohibiting the covert photography or visual recording of another for an improper sexual purpose and to certain consequences on conviction of that offense.

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

SECTION 1. Chapter 21, Penal Code, is amended by adding Section 21.15 to read as follows:

Sec. 21.15. IMPROPER PHOTOGRAPHY OR VISUAL RECORDING. (a)

A person commits an offense if the person photographs or by videotape or other electronic means visually records another person who is in a location, either public or private, where the other person has a reasonable expectation of not being photographed or visually recorded and the photograph is taken or the recording is made:

(1) without the other person's consent; and

(2) with intent to arouse or gratify the sexual desire of any person.

(b) An offense under this section is a state jail felony.

SECTION 2. Article 62.01(5), Code of Criminal Procedure, is amended to read as follows:

(5) "Reportable conviction or adjudication" means a conviction or adjudication, regardless of the pendency of an appeal, that is:

(A) a conviction for a violation of Section 21.11

1 (Indecency with a child), 22.011 (Sexual assault), 22.021
2 (Aggravated sexual assault), or 25.02 (Prohibited sexual conduct),
3 Penal Code;

4 (B) a conviction for a violation of Section 43.05
5 (Compelling prostitution), 43.25 (Sexual performance by a child),
6 or 43.26 (Possession or promotion of child pornography), Penal
7 Code;

8 (C) a conviction for a violation of Section
9 20.04(a)(4) (Aggravated kidnapping), Penal Code, if the defendant
10 committed the offense with intent to violate or abuse the victim
11 sexually;

12 (D) a conviction for a violation of Section 30.02
13 (Burglary), Penal Code, if the offense is punishable under
14 Subsection (d) of that section and the defendant committed the
15 offense with intent to commit a felony listed in Paragraph (A) or
16 (C);

17 (E) a conviction for a violation of Section 20.02
18 (Unlawful restraint), 20.03 (Kidnapping), or 20.04 (Aggravated
19 kidnapping), Penal Code, if the judgment in the case contains an
20 affirmative finding under Article 42.015;

21 (F) the second conviction for a violation of
22 Section 21.08 (Indecent exposure), Penal Code;

23 (G) a conviction for an attempt, conspiracy, or
24 solicitation, as defined by Chapter 15, Penal Code, to commit an
25 offense listed in Paragraph (A), (B), (C), (D), or (E);

26 (H) an adjudication of delinquent conduct:

27 (i) based on a violation of one of the

1 offenses listed in Paragraph (A), (B), (C), (D), or (G) or, if the
2 order in the hearing contains an affirmative finding that the
3 victim or intended victim was younger than 17 years of age, one of
4 the offenses listed in Paragraph (E); or

5 (ii) for which two violations of the
6 offense listed in Paragraph (F) are shown;

7 (I) a deferred adjudication for an offense listed
8 in:

9 (i) Paragraph (A), (B), (C), (D), or (G); or

10 (ii) Paragraph (E) if the papers in the case
11 contain an affirmative finding that the victim or intended victim
12 was younger than 17 years of age;

13 (J) a conviction under the laws of another state,
14 federal law, or the Uniform Code of Military Justice for an offense
15 containing elements that are substantially similar to the elements
16 of an offense listed under Paragraph (A), (B), (C), (D), (E), or
17 (G);

18 (K) an adjudication of delinquent conduct under
19 the laws of another state or federal law based on a violation of an
20 offense containing elements that are substantially similar to the
21 elements of an offense listed under Paragraph (A), (B), (C), (D),
22 (E), or (G);

23 (L) the second conviction under the laws of
24 another state, federal law, or the Uniform Code of Military Justice
25 for an offense containing elements that are substantially similar
26 to the elements of the offense of indecent exposure; ~~or~~

27 (M) the second adjudication of delinquent

1 conduct under the laws of another state or federal law based on a
2 violation of an offense containing elements that are substantially
3 similar to the elements of the offense of indecent exposure; or
4 (N) a conviction for a violation of Section
5 21.15, Penal Code.

6 SECTION 3. This Act takes effect September 1, 2003.