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H.B. No. 692

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the punishment for and certain civil consequences of
3 committing the offense of prostitution.

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

5 SECTION 1. Section 43.02, Penal Code, is amended by
6 amending Subsection (c) and adding Subsection (d) to read as
7 follows:

8 (c) An offense under this section is a Class B misdemeanor,
9 except that the offense is:

10 (1) a Class A misdemeanor if [~~unless~~ the actor has
11 previously been convicted one or two times of an offense under this
12 section;

13 (2) a state jail felony if [~~, in which event it is a~~
14 ~~Class A misdemeanor. If~~ the actor has previously been convicted
15 three or more times of an offense under this section; or

16 (3) a felony of the third degree if the person who is
17 to receive the fee from the actor or who is solicited to be hired by
18 the actor was at the time of the offense younger than 17 years of age
19 [~~, the offense is a state jail felony~~].

20 (d) If conduct constituting an offense under this section
21 also constitutes an offense under another section of this code, the
22 actor may be prosecuted under either section.

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

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

4 (A) a conviction for a violation of Section 21.11
5 (Indecency with a child), 22.011 (Sexual assault), 22.021
6 (Aggravated sexual assault), or 25.02 (Prohibited sexual conduct),
7 Penal Code;

8 (B) a conviction for a violation of Section 43.05
9 (Compelling prostitution), 43.25 (Sexual performance by a child),
10 or 43.26 (Possession or promotion of child pornography), Penal
11 Code;

12 (B-1) a conviction for a violation of Section
13 43.02 (Prostitution), Penal Code, if the offense is punishable
14 under Subsection (c)(3) of that section;

15 (C) a conviction for a violation of Section
16 20.04(a)(4) (Aggravated kidnapping), Penal Code, if the defendant
17 committed the offense with intent to violate or abuse the victim
18 sexually;

19 (D) a conviction for a violation of Section 30.02
20 (Burglary), Penal Code, if the offense is punishable under
21 Subsection (d) of that section and the defendant committed the
22 offense with intent to commit a felony listed in Paragraph (A) or
23 (C);

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

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

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

6 (H) an adjudication of delinquent conduct:

7 (i) based on a violation of one of the
8 offenses listed in Paragraph (A), (B), (B-1), (C), (D), or (G) or,
9 if the order in the hearing contains an affirmative finding that the
10 victim or intended victim was younger than 17 years of age, one of
11 the offenses listed in Paragraph (E); or

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

14 (I) a deferred adjudication for an offense listed
15 in:

16 (i) Paragraph (A), (B), (B-1), (C), (D), or
17 (G); or

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

21 (J) a conviction under the laws of another state,
22 federal law, the laws of a foreign country, or the Uniform Code of
23 Military Justice for an offense containing elements that are
24 substantially similar to the elements of an offense listed under
25 Paragraph (A), (B), (B-1), (C), (D), (E), or (G);

26 (K) an adjudication of delinquent conduct under
27 the laws of another state, federal law, or the laws of a foreign

1 country based on a violation of an offense containing elements that
2 are substantially similar to the elements of an offense listed
3 under Paragraph (A), (B), (B-1), (C), (D), (E), or (G);

4 (L) the second conviction under the laws of
5 another state, federal law, the laws of a foreign country, or the
6 Uniform Code of Military Justice for an offense containing elements
7 that are substantially similar to the elements of the offense of
8 indecent exposure; or

9 (M) the second adjudication of delinquent
10 conduct under the laws of another state, federal law, or the laws of
11 a foreign country based on a violation of an offense containing
12 elements that are substantially similar to the elements of the
13 offense of indecent exposure.

14 SECTION 3. The change in law made by this Act applies only
15 to the punishment for an offense committed on or after the effective
16 date of this Act. The punishment for an offense committed before
17 the effective date of this Act is governed by the law in effect on
18 the date that the offense was committed, and the former law is
19 continued in effect for that purpose. For purposes of this section,
20 an offense is committed before the effective date of this Act if any
21 element of the offense occurs before the effective date.

22 SECTION 4. This Act takes effect September 1, 2005.