

By: Martinez Fischer

H.B. No. 732

A BILL TO BE ENTITLED

AN ACT

relating to the prosecution of the offense of criminal solicitation of a minor.

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

SECTION 1. Section 15.031, Penal Code, is amended by adding Subsection (g) to read as follows:

(g) An intent to commit an offense under Section 21.11, 22.011, 22.021, or 43.25 is presumed if it is shown at the trial of an offense under this section that the actor performed one or more overt acts to further the commission of an offense under one of those sections. A presumption under this subsection is rebuttable in the manner described by Article 38.43, Code of Criminal Procedure.

SECTION 2. Chapter 38, Code of Criminal Procedure, is amended by adding Article 38.43 to read as follows:

Art. 38.43. PROCEDURE REGARDING PRESUMPTIONS ARISING IN TRIAL OF CRIMINAL SOLICITATION OF MINOR. In the trial of an offense under Section 15.031, Penal Code, the defendant may file a motion to rebut a presumption described by Subsection (g) of that section. On motion by the defendant, the trial court shall conduct a hearing outside the presence of the jury to assess the validity of the presumption as applied to the facts of the case. The presumption is considered to be rebutted under this article only if the trial court finds that the defendant did not have the intent to commit an

1 offense under Section 21.11, 22.011, 22.021, or 43.25, Penal Code.
2 The jury shall review any decision by the trial court that the
3 presumption described by Subsection (g) applies to the facts of the
4 case.

5 SECTION 3. The change in law made by this Act applies only
6 to an offense committed on or after the effective date of this Act.
7 An offense committed before the effective date of this Act is
8 covered by the law in effect when the offense was committed, and the
9 former law is continued in effect for that purpose. For purposes of
10 this section, an offense was committed before the effective date of
11 this Act if any element of the offense was committed before that
12 date.

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