

AN ACT

relating to the sentencing of defendants convicted of multiple counts of intoxication assault, improper photography or visual recording, or possession or promotion of child pornography.

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

SECTION 1. Section 3.03(b), Penal Code, is amended to read as follows:

(b) If the accused is found guilty of more than one offense arising out of the same criminal episode, the sentences may run concurrently or consecutively if each sentence is for a conviction of:

(1) an offense:

(A) under Section 49.07 or 49.08, regardless of whether the accused is convicted of violations of the same section more than once or is convicted of violations of both sections; or

(B) for which a plea agreement was reached in a case in which the accused was charged with more than one offense listed in Paragraph (A), regardless of whether the accused is charged with violations of the same section more than once or is charged with violations of both sections [~~under Section 49.08~~];
[~~or~~]

(2) an offense:

(A) under Section 21.11, 22.011, 22.021, 25.02, or 43.25 committed against a victim younger than 17 years of age at

1 the time of the commission of the offense regardless of whether the
2 accused is convicted of violations of the same section more than
3 once or is convicted of violations of more than one section; or

4 (B) for which a plea agreement was reached in a
5 case in which the accused was charged with more than one offense
6 listed in Paragraph (A) committed against a victim younger than 17
7 years of age at the time of the commission of the offense regardless
8 of whether the accused is charged with violations of the same
9 section more than once or is charged with violations of more than
10 one section; or

11 (3) an offense:

12 (A) under Section 21.15 or 43.26, regardless of
13 whether the accused is convicted of violations of the same section
14 more than once or is convicted of violations of both sections; or

15 (B) for which a plea agreement was reached in a
16 case in which the accused was charged with more than one offense
17 listed in Paragraph (A), regardless of whether the accused is
18 charged with violations of the same section more than once or is
19 charged with violations of both sections.

20 SECTION 2. Section 3.04(c), Penal Code, is amended to read
21 as follows:

22 (c) The right to severance under this section does not apply
23 to a prosecution for offenses described by Section 3.03(b)
24 [~~3.03(b)(2)~~] unless the court determines that the defendant or the
25 state would be unfairly prejudiced by a joinder of offenses, in
26 which event the judge may order the offenses to be tried separately
27 or may order other relief as justice requires.

1 SECTION 3. The change in law made by this Act applies only
2 to an offense committed on or after September 1, 2005. An offense
3 committed before September 1, 2005, is covered by the law in effect
4 when the offense was committed, and the former law is continued in
5 effect for that purpose. For the purposes of this section, an
6 offense was committed before September 1, 2005, if any element of
7 the offense was committed before that date.

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

President of the Senate

Speaker of the House

I certify that H.B. No. 904 was passed by the House on April 27, 2005, by a non-record vote.

Chief Clerk of the House

I certify that H.B. No. 904 was passed by the Senate on May 23, 2005, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor