

1-1 By: Gattis (Senate Sponsor - Ogden) H.B. No. 904
1-2 (In the Senate - Received from the House April 28, 2005;
1-3 April 29, 2005, read first time and referred to Committee on
1-4 Criminal Justice; May 18, 2005, reported favorably by the
1-5 following vote: Yeas 5, Nays 0; May 18, 2005, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the sentencing of defendants convicted of multiple
1-9 counts of intoxication assault, improper photography or visual
1-10 recording, or possession or promotion of child pornography.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 3.03(b), Penal Code, is amended to read
1-13 as follows:

1-14 (b) If the accused is found guilty of more than one offense
1-15 arising out of the same criminal episode, the sentences may run
1-16 concurrently or consecutively if each sentence is for a conviction
1-17 of:

1-18 (1) an offense:

1-19 (A) under Section 49.07 or 49.08, regardless of
1-20 whether the accused is convicted of violations of the same section
1-21 more than once or is convicted of violations of both sections; or

1-22 (B) for which a plea agreement was reached in a
1-23 case in which the accused was charged with more than one offense
1-24 listed in Paragraph (A), regardless of whether the accused is
1-25 charged with violations of the same section more than once or is
1-26 charged with violations of both sections [under Section 49.08];
1-27 [or]

1-28 (2) an offense:

1-29 (A) under Section 21.11, 22.011, 22.021, 25.02,
1-30 or 43.25 committed against a victim younger than 17 years of age at
1-31 the time of the commission of the offense regardless of whether the
1-32 accused is convicted of violations of the same section more than
1-33 once or is convicted of violations of more than one section; or

1-34 (B) for which a plea agreement was reached in a
1-35 case in which the accused was charged with more than one offense
1-36 listed in Paragraph (A) committed against a victim younger than 17
1-37 years of age at the time of the commission of the offense regardless
1-38 of whether the accused is charged with violations of the same
1-39 section more than once or is charged with violations of more than
1-40 one section; or

1-41 (3) an offense:

1-42 (A) under Section 21.15 or 43.26, regardless of
1-43 whether the accused is convicted of violations of the same section
1-44 more than once or is convicted of violations of both sections; or

1-45 (B) for which a plea agreement was reached in a
1-46 case in which the accused was charged with more than one offense
1-47 listed in Paragraph (A), regardless of whether the accused is
1-48 charged with violations of the same section more than once or is
1-49 charged with violations of both sections.

1-50 SECTION 2. Section 3.04(c), Penal Code, is amended to read
1-51 as follows:

1-52 (c) The right to severance under this section does not apply
1-53 to a prosecution for offenses described by Section 3.03(b)
1-54 [~~3.03(b)(2)~~] unless the court determines that the defendant or the
1-55 state would be unfairly prejudiced by a joinder of offenses, in
1-56 which event the judge may order the offenses to be tried separately
1-57 or may order other relief as justice requires.

1-58 SECTION 3. The change in law made by this Act applies only
1-59 to an offense committed on or after September 1, 2005. An offense
1-60 committed before September 1, 2005, is covered by the law in effect
1-61 when the offense was committed, and the former law is continued in
1-62 effect for that purpose. For the purposes of this section, an
1-63 offense was committed before September 1, 2005, if any element of
1-64 the offense was committed before that date.

2-1 SECTION 4. This Act takes effect September 1, 2005.

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