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et al.

H.B. No. 8

A BILL TO BE ENTITLED

AN ACT

relating to the prosecution, punishment, and supervision of certain
sex offenders and to certain crimes involving sex offenders.

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

ARTICLE 1. CREATION OF OFFENSE AND PROSECUTION AND PUNISHMENT OF
OFFENSE

SECTION 1.01. This Act shall be known as the Jessica
Lunsford Act.

SECTION 1.02. Chapter 21, Penal Code, is amended by adding
Section 21.02 to read as follows:

Sec. 21.02. CONTINUOUS SEXUAL ABUSE OF YOUNG CHILD OR
CHILDREN. (a) In this section, "child" means a person younger than
14 years of age.

(b) A person commits an offense if:

(1) during a period that is 30 or more days in
duration, the person commits an offense listed in Subsection (c)
more than once or commits more than one offense listed in Subsection
(c), regardless of whether the offenses are committed against one
or more victims; and

(2) at the time of the commission of each of the
offenses, the actor is 17 years of age or older and the victim of the
offense is a child younger than 14 years of age.

(c) Any of the following offenses constitute an element of
the offense described by Subsection (b):

1 (1) aggravated kidnapping under Section 20.04(a)(4)
2 if the defendant committed the offense with the intent to violate or
3 abuse the victim sexually;

4 (2) indecency with a child under Section 21.11(a)(1);

5 (3) sexual assault under Section 22.011;

6 (4) aggravated sexual assault under Section 22.021;

7 (5) burglary under Section 30.02, if the offense is
8 punishable under Subsection (d) of that section and the defendant
9 committed the offense with the intent to commit an offense listed in
10 Subdivisions (1)-(4); and

11 (6) sexual performance by a child under Section 43.25.

12 (d) If a jury is the trier of fact, members of the jury are
13 not required to agree unanimously on which specific offenses listed
14 in Subsection (c) were committed by the defendant or when those
15 offenses were committed. The jury must agree unanimously that the
16 defendant, during a period that is 30 or more days in duration,
17 committed an offense listed in Subsection (c) more than one time or
18 committed more than one offense listed in Subsection (c).

19 (e) An offense listed under Subsection (c) the victim of
20 which is the same victim as a victim of the offense alleged under
21 Subsection (b) may not be prosecuted in the same criminal action
22 unless the offense listed in Subsection (c):

23 (1) is charged in the alternative; or

24 (2) occurred outside the period in which the offense
25 alleged under Subsection (b) was committed.

26 (f) A defendant may not be charged with more than one count
27 under Subsection (b) if all of the specific offenses listed in

1 Subsection (c) that are alleged to have been committed are alleged
2 to have been committed against a single victim.

3 (g) It is an affirmative defense to prosecution under this
4 section that the actor:

5 (1) was not more than five years older than:

6 (A) the victim of the offense, if the offense is
7 alleged to have been committed against only one victim; or

8 (B) the youngest victim of the offense, if the
9 offense is alleged to have been committed against more than one
10 victim;

11 (2) did not use duress, force, or a threat against a
12 victim at the time of the commission of any of the offenses alleged
13 as an element of the offense under Subsection (b); and

14 (3) at the time of the commission of any of the
15 offenses alleged as an element of the offense under Subsection (b):

16 (A) was not required under Chapter 62, Code of
17 Criminal Procedure, to register for life as a sex offender; or

18 (B) was not a person who under Chapter 62 had a
19 reportable conviction or adjudication for an offense under this
20 section or a section of this code described by Subsection (c).

21 (h) Except as provided by Subsection (i), an offense under
22 this section is a felony of the first degree, punishable by
23 imprisonment in the Texas Department of Criminal Justice for life,
24 or for any term of not more than 99 years or less than 25 years.

25 (i) If it is shown on the trial of an offense under this
26 section that the defendant has once before been convicted of an
27 offense under this section, on conviction the defendant shall be

1 punished for a capital felony.

2 SECTION 1.03. Chapter 37, Code of Criminal Procedure, is
3 amended by adding Article 37.072 to read as follows:

4 Art. 37.072. PROCEDURE IN REPEAT SEX OFFENDER CAPITAL CASE.

5 Sec. 1. If a defendant is found guilty in a capital felony case
6 punishable under Section 21.02(i), Penal Code, in which the state
7 does not seek the death penalty, the judge shall sentence the
8 defendant to life imprisonment without parole.

9 Sec. 2. (a)(1) If a defendant is tried for an offense
10 punishable under Section 21.02(i), Penal Code, in which the state
11 seeks the death penalty, on a finding that the defendant is guilty
12 of a capital offense, the court shall conduct a separate sentencing
13 proceeding to determine whether the defendant shall be sentenced to
14 death or life imprisonment without parole. The proceeding shall be
15 conducted in the trial court and, except as provided by Article
16 44.29(d) of this code, before the trial jury as soon as practicable.
17 In the proceeding, evidence may be presented by the state and the
18 defendant or the defendant's counsel as to any matter that the court
19 considers relevant to sentence, including evidence of the
20 defendant's background or character or the circumstances of the
21 offense that mitigates against the imposition of the death penalty.
22 This subdivision may not be construed to authorize the introduction
23 of any evidence secured in violation of the Constitution of the
24 United States or of the State of Texas. The state and the defendant
25 or the defendant's counsel shall be permitted to present argument
26 for or against sentence of death. The introduction of evidence of
27 extraneous conduct is governed by the notice requirements of

1 Section 3(g), Article 37.07. The court, the attorney representing
2 the state, the defendant, or the defendant's counsel may not inform
3 a juror or a prospective juror of the effect of a failure of a jury
4 to agree on issues submitted under Subsection (b) or (e).

5 (2) Notwithstanding Subdivision (1), evidence may not
6 be offered by the state to establish that the race or ethnicity of
7 the defendant makes it likely that the defendant will engage in
8 future criminal conduct.

9 (b) On conclusion of the presentation of the evidence, the
10 court shall submit the following issues to the jury:

11 (1) whether there is a probability that the defendant
12 would commit criminal acts of violence that would constitute a
13 continuing threat to society; and

14 (2) in cases in which the jury charge at the guilt or
15 innocence stage permitted the jury to find the defendant guilty as a
16 party under Sections 7.01 and 7.02, Penal Code, whether the
17 defendant actually engaged in the conduct prohibited by Section
18 21.02, Penal Code, or did not actually engage in the conduct
19 prohibited by that section but intended that the offense be
20 committed against the victim or another intended victim.

21 (c) The state must prove beyond a reasonable doubt each
22 issue submitted under Subsection (b) of this section, and the jury
23 shall return a special verdict of "yes" or "no" on each issue
24 submitted under Subsection (b) of this section.

25 (d) The court shall charge the jury that:

26 (1) in deliberating on the issues submitted under
27 Subsection (b) of this section, it shall consider all evidence

1 admitted at the guilt or innocence stage and the punishment stage,
2 including evidence of the defendant's background or character or
3 the circumstances of the offense that militates for or mitigates
4 against the imposition of the death penalty;

5 (2) it may not answer any issue submitted under
6 Subsection (b) of this section "yes" unless it agrees unanimously
7 and it may not answer any issue "no" unless 10 or more jurors agree;
8 and

9 (3) members of the jury need not agree on what
10 particular evidence supports a negative answer to any issue
11 submitted under Subsection (b) of this section.

12 (e)(1) The court shall instruct the jury that if the jury
13 returns an affirmative finding to each issue submitted under
14 Subsection (b), it shall answer the following issue:

15 Whether, taking into consideration all of the evidence,
16 including the circumstances of the offense, the defendant's
17 character and background, and the personal moral culpability of the
18 defendant, there is a sufficient mitigating circumstance or
19 circumstances to warrant that a sentence of life imprisonment
20 without parole rather than a death sentence be imposed.

21 (2) The court shall:

22 (A) instruct the jury that if the jury answers
23 that a circumstance or circumstances warrant that a sentence of
24 life imprisonment without parole rather than a death sentence be
25 imposed, the court will sentence the defendant to imprisonment in
26 the Texas Department of Criminal Justice for life without parole;
27 and

1 (B) charge the jury that a defendant sentenced to
2 confinement for life without parole under this article is
3 ineligible for release from the department on parole.

4 (f) The court shall charge the jury that in answering the
5 issue submitted under Subsection (e) of this section, the jury:

6 (1) shall answer the issue "yes" or "no";

7 (2) may not answer the issue "no" unless it agrees
8 unanimously and may not answer the issue "yes" unless 10 or more
9 jurors agree;

10 (3) need not agree on what particular evidence
11 supports an affirmative finding on the issue; and

12 (4) shall consider mitigating evidence to be evidence
13 that a juror might regard as reducing the defendant's moral
14 blameworthiness.

15 (g) If the jury returns an affirmative finding on each issue
16 submitted under Subsection (b) and a negative finding on an issue
17 submitted under Subsection (e)(1), the court shall sentence the
18 defendant to death. If the jury returns a negative finding on any
19 issue submitted under Subsection (b) or an affirmative finding on
20 an issue submitted under Subsection (e)(1) or is unable to answer
21 any issue submitted under Subsection (b) or (e), the court shall
22 sentence the defendant to imprisonment in the Texas Department of
23 Criminal Justice for life without parole.

24 (h) The judgment of conviction and sentence of death shall
25 be subject to automatic review by the Court of Criminal Appeals.

26 SECTION 1.04. Article 12.01, Code of Criminal Procedure, is
27 amended to read as follows:

1 Art. 12.01. FELONIES. Except as provided in Article 12.03,
2 felony indictments may be presented within these limits, and not
3 afterward:

4 (1) no limitation:

5 (A) murder and manslaughter;

6 (B) sexual assault under Section 22.011(a)(2),
7 Penal Code, or aggravated sexual assault under Section
8 22.021(a)(1)(B), Penal Code;

9 (C) continuous sexual abuse of young child or
10 children under Section 21.02, Penal Code, sexual assault, if during
11 the investigation of the offense biological matter is collected and
12 subjected to forensic DNA testing and the testing results show that
13 the matter does not match the victim or any other person whose
14 identity is readily ascertained;

15 (D) indecentcy with a child under Section
16 21.11(a), Penal Code; or

17 (E) [~~(C)~~] an offense involving leaving the scene
18 of an accident under Section 550.021, Transportation Code, if the
19 accident resulted in the death of a person;

20 (2) ten years from the date of the commission of the
21 offense:

22 (A) theft of any estate, real, personal or mixed,
23 by an executor, administrator, guardian or trustee, with intent to
24 defraud any creditor, heir, legatee, ward, distributee,
25 beneficiary or settlor of a trust interested in such estate;

26 (B) theft by a public servant of government
27 property over which he exercises control in his official capacity;

1 (C) forgery or the uttering, using or passing of
2 forged instruments;

3 (D) injury to a child, elderly individual, or
4 disabled individual punishable as a felony of the first degree
5 under Section 22.04, Penal Code;

6 (E) sexual assault, except as provided by
7 Subdivision (1) or (5); or

8 (F) arson;

9 (3) seven years from the date of the commission of the
10 offense:

11 (A) misapplication of fiduciary property or
12 property of a financial institution;

13 (B) securing execution of document by deception;
14 or

15 (C) a violation under Sections 162.403(22)-(39),
16 Tax Code;

17 (4) five years from the date of the commission of the
18 offense:

19 (A) theft or [~~burglary~~] robbery;

20 (B) except as provided by Subdivision (5),
21 kidnapping or burglary;

22 (C) injury to a child, elderly individual, or
23 disabled individual that is not punishable as a felony of the first
24 degree under Section 22.04, Penal Code;

25 (D) abandoning or endangering a child; or

26 (E) insurance fraud;

27 (5) except as provided by Subdivision (1), 20 years

1 from the 18th birthday of the victim of one of the following
2 offenses, if the investigation of the offense shows that the victim
3 is younger than 17 years of age at the time the offense is
4 committed:

5 (A) sexual performance by a child under Section
6 43.25, Penal Code;

7 (B) aggravated kidnapping under Section
8 20.04(a)(4), Penal Code, if the defendant committed the offense
9 with the intent to violate or abuse the victim sexually; or

10 (C) burglary under Section 30.02, Penal Code, if
11 the offense is punishable under Subsection (d) of that section and
12 the defendant committed the offense with the intent to commit an
13 offense described by Subdivision (1)(B) or (D) of this article or
14 Paragraph (B) of this subdivision;

15 (6) except as provided by Subdivision (1), for
16 continuous sexual abuse of young child or children under Section
17 21.02, Penal Code, 20 years from the 18th birthday of:

18 (A) the victim of the offense, if the offense is
19 alleged to have been committed against only one victim; or

20 (B) the youngest victim of the offense, if the
21 offense is alleged to have been committed against more than one
22 victim ~~[ten years from the 18th birthday of the victim of the~~
23 offense.

24 ~~[(A) indecency with a child under Section~~
25 ~~21.11(a)(1) or (2), Penal Code, or~~

26 ~~[(B) except as provided by Subdivision (1),~~
27 ~~sexual assault under Section 22.011(a)(2), Penal Code, or~~

1 ~~aggravated sexual assault under Section 22.021(a)(1)(B), Penal~~
2 ~~Code]; or~~

3 (7) [~~6~~] three years from the date of the commission
4 of the offense: all other felonies.

5 SECTION 1.05. Section 508.145, Government Code, is amended
6 by adding Subsection (c-1) to read as follows:

7 (c-1) An inmate serving a sentence for an offense under
8 Section 21.02, Penal Code, is not eligible for release on parole
9 until the inmate's actual calendar time served, without
10 consideration of good conduct time, equals one-half of the sentence
11 or 30 calendar years, whichever is less, but in no event is the
12 inmate eligible for release on parole in less than 25 calendar
13 years.

14 SECTION 1.06. Section 508.149(a), Government Code, is
15 amended to read as follows:

16 (a) An inmate may not be released to mandatory supervision
17 if the inmate is serving a sentence for or has been previously
18 convicted of:

19 (1) an offense for which the judgment contains an
20 affirmative finding under Section 3g(a)(2), Article 42.12, Code of
21 Criminal Procedure;

22 (2) a first degree felony or a second degree felony
23 under Section 19.02, Penal Code;

24 (3) a capital felony under Section 19.03, Penal Code;

25 (4) a first degree felony or a second degree felony
26 under Section 20.04, Penal Code;

27 (5) an offense [~~a second degree felony or a third~~

1 ~~degree felony~~] under Section 21.11, Penal Code;

2 (6) a [~~second degree~~] felony under Section 22.011,
3 Penal Code;

4 (7) a first degree felony or a second degree felony
5 under Section 22.02, Penal Code;

6 (8) a first degree felony under Section 22.021, Penal
7 Code;

8 (9) a first degree felony under Section 22.04, Penal
9 Code;

10 (10) a first degree felony under Section 28.02, Penal
11 Code;

12 (11) a second degree felony under Section 29.02, Penal
13 Code;

14 (12) a first degree felony under Section 29.03, Penal
15 Code;

16 (13) a first degree felony under Section 30.02, Penal
17 Code; ~~or~~]

18 (14) a felony for which the punishment is increased
19 under Section 481.134 or Section 481.140, Health and Safety Code;
20 or

21 (15) an offense under Section 21.02, Penal Code.

22 ARTICLE 2. CONFORMING AMENDMENTS

23 SECTION 2.01. Section 16.0045(a), Civil Practice and
24 Remedies Code, is amended to read as follows:

25 (a) A person must bring suit for personal injury not later
26 than five years after the day the cause of action accrues if the
27 injury arises as a result of conduct that violates:

- 1 (1) Section 22.011, Penal Code (sexual assault); [~~or~~]
2 (2) Section 22.021, Penal Code (aggravated sexual
3 assault); or
4 (3) Section 21.02, Penal Code (continuous sexual abuse
5 of young child or children).

6 SECTION 2.02. Section 33.013(b), Civil Practice and
7 Remedies Code, is amended to read as follows:

8 (b) Notwithstanding Subsection (a), each liable defendant
9 is, in addition to his liability under Subsection (a), jointly and
10 severally liable for the damages recoverable by the claimant under
11 Section 33.012 with respect to a cause of action if:

12 (1) the percentage of responsibility attributed to the
13 defendant with respect to a cause of action is greater than 50
14 percent; or

15 (2) the defendant, with the specific intent to do harm
16 to others, acted in concert with another person to engage in the
17 conduct described in the following provisions of the Penal Code and
18 in so doing proximately caused the damages legally recoverable by
19 the claimant:

- 20 (A) Section 19.02 (murder);
21 (B) Section 19.03 (capital murder);
22 (C) Section 20.04 (aggravated kidnapping);
23 (D) Section 22.02 (aggravated assault);
24 (E) Section 22.011 (sexual assault);
25 (F) Section 22.021 (aggravated sexual assault);
26 (G) Section 22.04 (injury to a child, elderly
27 individual, or disabled individual);

- 1 (H) Section 32.21 (forgery);
- 2 (I) Section 32.43 (commercial bribery);
- 3 (J) Section 32.45 (misapplication of fiduciary
- 4 property or property of financial institution);
- 5 (K) Section 32.46 (securing execution of
- 6 document by deception);
- 7 (L) Section 32.47 (fraudulent destruction,
- 8 removal, or concealment of writing); [~~or~~]
- 9 (M) conduct described in Chapter 31 the
- 10 punishment level for which is a felony of the third degree or
- 11 higher; or
- 12 (N) Section 21.02 (continuous sexual abuse of
- 13 young child or children).

14 SECTION 2.03. Section 41.008(c), Civil Practice and

15 Remedies Code, is amended to read as follows:

16 (c) This section does not apply to a cause of action against

17 a defendant from whom a plaintiff seeks recovery of exemplary

18 damages based on conduct described as a felony in the following

19 sections of the Penal Code if, except for Sections 49.07 and 49.08,

20 the conduct was committed knowingly or intentionally:

- 21 (1) Section 19.02 (murder);
- 22 (2) Section 19.03 (capital murder);
- 23 (3) Section 20.04 (aggravated kidnapping);
- 24 (4) Section 22.02 (aggravated assault);
- 25 (5) Section 22.011 (sexual assault);
- 26 (6) Section 22.021 (aggravated sexual assault);
- 27 (7) Section 22.04 (injury to a child, elderly

1 individual, or disabled individual, but not if the conduct occurred
2 while providing health care as defined by Section 74.001);

3 (8) Section 32.21 (forgery);

4 (9) Section 32.43 (commercial bribery);

5 (10) Section 32.45 (misapplication of fiduciary
6 property or property of financial institution);

7 (11) Section 32.46 (securing execution of document by
8 deception);

9 (12) Section 32.47 (fraudulent destruction, removal,
10 or concealment of writing);

11 (13) Chapter 31 (theft) the punishment level for which
12 is a felony of the third degree or higher;

13 (14) Section 49.07 (intoxication assault); ~~or~~

14 (15) Section 49.08 (intoxication manslaughter); or

15 (16) Section 21.02 (continuous sexual abuse of young
16 child or children).

17 SECTION 2.04. Section 125.0015(a), Civil Practice and
18 Remedies Code, is amended to read as follows:

19 (a) A person who maintains a place to which persons
20 habitually go for the following purposes and who knowingly
21 tolerates the activity and furthermore fails to make reasonable
22 attempts to abate the activity maintains a common nuisance:

23 (1) discharge of a firearm in a public place as
24 prohibited by the Penal Code;

25 (2) reckless discharge of a firearm as prohibited by
26 the Penal Code;

27 (3) engaging in organized criminal activity as a

1 member of a combination as prohibited by the Penal Code;

2 (4) delivery, possession, manufacture, or use of a
3 controlled substance in violation of Chapter 481, Health and Safety
4 Code;

5 (5) gambling, gambling promotion, or communicating
6 gambling information as prohibited by the Penal Code;

7 (6) prostitution, promotion of prostitution, or
8 aggravated promotion of prostitution as prohibited by the Penal
9 Code;

10 (7) compelling prostitution as prohibited by the Penal
11 Code;

12 (8) commercial manufacture, commercial distribution,
13 or commercial exhibition of obscene material as prohibited by the
14 Penal Code;

15 (9) aggravated assault as described by Section 22.02,
16 Penal Code;

17 (10) sexual assault as described by Section 22.011,
18 Penal Code;

19 (11) aggravated sexual assault as described by Section
20 22.021, Penal Code;

21 (12) robbery as described by Section 29.02, Penal
22 Code;

23 (13) aggravated robbery as described by Section 29.03,
24 Penal Code;

25 (14) unlawfully carrying a weapon as described by
26 Section 46.02, Penal Code;

27 (15) murder as described by Section 19.02, Penal Code;

1 [~~or~~]

2 (16) capital murder as described by Section 19.03,
3 Penal Code; or

4 (17) continuous sexual abuse of young child or
5 children as described by Section 21.02, Penal Code.

6 SECTION 2.05. Article 7A.01(a), Code of Criminal Procedure,
7 is amended to read as follows:

8 (a) A person who is the victim of an offense under Section
9 21.02, 22.011, or 22.021, Penal Code, or a prosecuting attorney
10 acting on behalf of the person, may file an application for a
11 protective order under this chapter without regard to the
12 relationship between the applicant and the alleged offender.

13 SECTION 2.06. Section 5(a), Article 11.071, Code of
14 Criminal Procedure, is amended to read as follows:

15 (a) If a subsequent application for a writ of habeas corpus
16 is filed after filing an initial application, a court may not
17 consider the merits of or grant relief based on the subsequent
18 application unless the application contains sufficient specific
19 facts establishing that:

20 (1) the current claims and issues have not been and
21 could not have been presented previously in a timely initial
22 application or in a previously considered application filed under
23 this article or Article 11.07 because the factual or legal basis for
24 the claim was unavailable on the date the applicant filed the
25 previous application;

26 (2) by a preponderance of the evidence, but for a
27 violation of the United States Constitution no rational juror could

1 have found the applicant guilty beyond a reasonable doubt; or

2 (3) by clear and convincing evidence, but for a
3 violation of the United States Constitution no rational juror would
4 have answered in the state's favor one or more of the special issues
5 that were submitted to the jury in the applicant's trial under
6 Article 37.071, ~~[or]~~ 37.0711, or 37.072.

7 SECTION 2.07. Article 15.051(a), Code of Criminal
8 Procedure, is amended to read as follows:

9 (a) A peace officer or an attorney representing the state
10 may not require a polygraph examination of a person who charges or
11 seeks to charge in a complaint the commission of an offense under
12 Section 21.02, 21.11, 22.011, 22.021, or 25.02, Penal Code.

13 SECTION 2.08. Article 17.03(b), Code of Criminal Procedure,
14 is amended to read as follows:

15 (b) Only the court before whom the case is pending may
16 release on personal bond a defendant who:

17 (1) is charged with an offense under the following
18 sections of the Penal Code:

19 (A) Section 19.03 (Capital Murder);

20 (B) Section 20.04 (Aggravated Kidnapping);

21 (C) Section 22.021 (Aggravated Sexual Assault);

22 (D) Section 22.03 (Deadly Assault on Law
23 Enforcement or Corrections Officer, Member or Employee of Board of
24 Pardons and Paroles, or Court Participant);

25 (E) Section 22.04 (Injury to a Child, Elderly
26 Individual, or Disabled Individual);

27 (F) Section 29.03 (Aggravated Robbery);

1 (G) Section 30.02 (Burglary); [~~or~~]

2 (H) Section 71.02 (Engaging in Organized
3 Criminal Activity); or

4 (I) Section 21.02 (Continuous Sexual Abuse of
5 Young Child or Children);

6 (2) is charged with a felony under Chapter 481, Health
7 and Safety Code, or Section 485.033, Health and Safety Code,
8 punishable by imprisonment for a minimum term or by a maximum fine
9 that is more than a minimum term or maximum fine for a first degree
10 felony; or

11 (3) does not submit to testing for the presence of a
12 controlled substance in the defendant's body as requested by the
13 court or magistrate under Subsection (c) of this article or submits
14 to testing and the test shows evidence of the presence of a
15 controlled substance in the defendant's body.

16 SECTION 2.09. Article 17.032(a), Code of Criminal
17 Procedure, is amended to read as follows:

18 (a) In this article, "violent offense" means an offense
19 under the following sections of the Penal Code:

20 (1) Section 19.02 (murder);

21 (2) Section 19.03 (capital murder);

22 (3) Section 20.03 (kidnapping);

23 (4) Section 20.04 (aggravated kidnapping);

24 (5) Section 21.11 (indecent with a child);

25 (6) Section 22.01(a)(1) (assault);

26 (7) Section 22.011 (sexual assault);

27 (8) Section 22.02 (aggravated assault);

- 1 (9) Section 22.021 (aggravated sexual assault);
2 (10) Section 22.04 (injury to a child, elderly
3 individual, or disabled individual); ~~[or]~~
4 (11) Section 29.03 (aggravated robbery); or
5 (12) Section 21.02 (continuous sexual abuse of young
6 child or children).

7 SECTION 2.10. Article 17.091, Code of Criminal Procedure,
8 is amended to read as follows:

9 Art. 17.091. NOTICE OF CERTAIN BAIL REDUCTIONS
10 REQUIRED. Before a judge or magistrate reduces the amount of bail
11 set for a defendant charged with an offense listed in Section 3g,
12 Article 42.12, or an offense described by Article 62.001(5)
13 [~~62.01(5)~~], the judge or magistrate shall provide:

14 (1) to the attorney representing the state, reasonable
15 notice of the proposed bail reduction; and

16 (2) on request of the attorney representing the state
17 or the defendant or the defendant's counsel, an opportunity for a
18 hearing concerning the proposed bail reduction.

19 SECTION 2.11. Article 18.021(a), Code of Criminal
20 Procedure, is amended to read as follows:

21 (a) A search warrant may be issued to search for and
22 photograph a child who is alleged to be the victim of the offenses
23 of injury to a child as prohibited [~~defined~~] by Section 22.04, Penal
24 Code[~~, as amended~~]; sexual assault of a child as prohibited
25 [~~defined~~] by Section 22.011(a), Penal Code[~~, as amended~~]; ~~[or]~~
26 aggravated sexual assault of a child as prohibited [~~defined~~] by
27 Section 22.021, Penal Code; or continuous sexual abuse of young

1 child or children as prohibited by Section 21.02, Penal Code.

2 SECTION 2.12. Article 21.31(a), Code of Criminal Procedure,
3 is amended to read as follows:

4 (a) A person who is indicted for or who waives indictment
5 for an offense under Section 21.02, 21.11(a)(1), 22.011, or 22.021,
6 Penal Code, shall, at the direction of the court, undergo a medical
7 procedure or test designed to show or help show whether the person
8 has a sexually transmitted disease or has acquired immune
9 deficiency syndrome (AIDS) or human immunodeficiency virus (HIV)
10 infection, antibodies to HIV, or infection with any other probable
11 causative agent of AIDS. The court may direct the person to undergo
12 the procedure or test on its own motion or on the request of the
13 victim of the alleged offense. If the person refuses to submit
14 voluntarily to the procedure or test, the court shall require the
15 person to submit to the procedure or test. The court may require a
16 defendant previously required under this article to undergo a
17 medical procedure or test on indictment for an offense to undergo a
18 subsequent medical procedure or test following conviction of the
19 offense. The person performing the procedure or test shall make the
20 test results available to the local health authority, and the local
21 health authority shall be required to make the notification of the
22 test result to the victim of the alleged offense and to the
23 defendant.

24 SECTION 2.13. Section 3, Article 31.08, Code of Criminal
25 Procedure, is amended to read as follows:

26 Sec. 3. Except for the review of a death sentence under
27 Section 2(h), Article 37.071, or under Section 2(h), Article 37.072

1 ~~[37.071(h) of this code]~~, an appeal taken in a cause returned to the
2 original county under this article must be docketed in the
3 appellate district in which the county of original venue is
4 located.

5 SECTION 2.14. Section 2(b), Article 37.07, Code of Criminal
6 Procedure, is amended to read as follows:

7 (b) Except as provided by ~~in~~ Article 37.071 or 37.072, if
8 a finding of guilty is returned, it shall then be the responsibility
9 of the judge to assess the punishment applicable to the offense;
10 provided, however, that (1) in any criminal action where the jury
11 may recommend community supervision and the defendant filed his
12 sworn motion for community supervision before the trial began, and
13 (2) in other cases where the defendant so elects in writing before
14 the commencement of the voir dire examination of the jury panel, the
15 punishment shall be assessed by the same jury, except as provided in
16 Section 3(c) of this article and in Article 44.29. If a finding of
17 guilty is returned, the defendant may, with the consent of the
18 attorney for the state, change his election of one who assesses the
19 punishment.

20 SECTION 2.15. Section 4, Article 37.07, Code of Criminal
21 Procedure, is amended by amending Subsections (a) and (b) and
22 adding Subsection (e) to read as follows:

23 (a) In the penalty phase of the trial of a felony case in
24 which the punishment is to be assessed by the jury rather than the
25 court, if the offense of which the jury has found the defendant
26 guilty is listed in Section 3g(a)(1), Article 42.12, of this code or
27 if the judgment contains an affirmative finding under Section

1 3g(a)(2), Article 42.12, of this code, unless the defendant has
2 been convicted of an offense under Section 21.02, Penal Code, or a
3 capital felony, the court shall charge the jury in writing as
4 follows:

5 "Under the law applicable in this case, the defendant, if
6 sentenced to a term of imprisonment, may earn time off the period of
7 incarceration imposed through the award of good conduct time.
8 Prison authorities may award good conduct time to a prisoner who
9 exhibits good behavior, diligence in carrying out prison work
10 assignments, and attempts at rehabilitation. If a prisoner engages
11 in misconduct, prison authorities may also take away all or part of
12 any good conduct time earned by the prisoner.

13 "It is also possible that the length of time for which the
14 defendant will be imprisoned might be reduced by the award of
15 parole.

16 "Under the law applicable in this case, if the defendant is
17 sentenced to a term of imprisonment, he will not become eligible for
18 parole until the actual time served equals one-half of the sentence
19 imposed or 30 years, whichever is less, without consideration of
20 any good conduct time he may earn. If the defendant is sentenced to
21 a term of less than four years, he must serve at least two years
22 before he is eligible for parole. Eligibility for parole does not
23 guarantee that parole will be granted.

24 "It cannot accurately be predicted how the parole law and
25 good conduct time might be applied to this defendant if he is
26 sentenced to a term of imprisonment, because the application of
27 these laws will depend on decisions made by prison and parole

1 authorities.

2 "You may consider the existence of the parole law and good
3 conduct time. However, you are not to consider the extent to which
4 good conduct time may be awarded to or forfeited by this particular
5 defendant. You are not to consider the manner in which the parole
6 law may be applied to this particular defendant."

7 (b) In the penalty phase of the trial of a felony case in
8 which the punishment is to be assessed by the jury rather than the
9 court, if the offense is punishable as a felony of the first degree,
10 if a prior conviction has been alleged for enhancement of
11 punishment as provided by Section 12.42(b), (c), or (d), Penal
12 Code, or if the offense is a felony not designated as a capital
13 felony or a felony of the first, second, or third degree and the
14 maximum term of imprisonment that may be imposed for the offense is
15 longer than 60 years, unless the offense of which the jury has found
16 the defendant guilty is an offense under Section 21.02, Penal Code,
17 or is listed in Section 3g(a)(1), Article 42.12, of this code or the
18 judgment contains an affirmative finding under Section 3g(a)(2),
19 Article 42.12, of this code, the court shall charge the jury in
20 writing as follows:

21 "Under the law applicable in this case, the defendant, if
22 sentenced to a term of imprisonment, may earn time off the period of
23 incarceration imposed through the award of good conduct time.
24 Prison authorities may award good conduct time to a prisoner who
25 exhibits good behavior, diligence in carrying out prison work
26 assignments, and attempts at rehabilitation. If a prisoner engages
27 in misconduct, prison authorities may also take away all or part of

1 any good conduct time earned by the prisoner.

2 "It is also possible that the length of time for which the
3 defendant will be imprisoned might be reduced by the award of
4 parole.

5 "Under the law applicable in this case, if the defendant is
6 sentenced to a term of imprisonment, he will not become eligible for
7 parole until the actual time served plus any good conduct time
8 earned equals one-fourth of the sentence imposed or 15 years,
9 whichever is less. Eligibility for parole does not guarantee that
10 parole will be granted.

11 "It cannot accurately be predicted how the parole law and
12 good conduct time might be applied to this defendant if he is
13 sentenced to a term of imprisonment, because the application of
14 these laws will depend on decisions made by prison and parole
15 authorities.

16 "You may consider the existence of the parole law and good
17 conduct time. However, you are not to consider the extent to which
18 good conduct time may be awarded to or forfeited by this particular
19 defendant. You are not to consider the manner in which the parole
20 law may be applied to this particular defendant."

21 (e) In the penalty phase of the trial of an offense under
22 Section 21.02, Penal Code, other than an offense punishable under
23 Subsection (i) of that section, in which the punishment is to be
24 assessed by the jury rather than the court, if the jury finds the
25 defendant guilty, the court shall charge the jury in writing as
26 follows:

27 "Under the law applicable in this case, it is possible that

1 the length of time for which the defendant will be imprisoned might
2 be reduced by the award of parole.

3 "Under the law applicable in this case, the defendant will
4 not become eligible for parole until the actual time served,
5 without consideration of good conduct time, equals one-half of the
6 sentence imposed or 30 years, whichever is less. If the defendant
7 is sentenced to a term of less than 50 years, the defendant must
8 serve at least 25 years before the defendant is eligible for parole.
9 Eligibility for parole does not guarantee that parole will be
10 granted.

11 "It cannot accurately be predicted how the parole law might
12 be applied to this defendant, because the application of that law
13 will depend on decisions made by parole authorities.

14 "You may consider the existence of the parole law. However,
15 you are not to consider the manner in which the parole law may be
16 applied to this particular defendant."

17 SECTION 2.16. Section 1, Article 38.071, Code of Criminal
18 Procedure, is amended to read as follows:

19 Sec. 1. This article applies only to a hearing or proceeding
20 in which the court determines that a child younger than 13 years of
21 age would be unavailable to testify in the presence of the defendant
22 about an offense defined by any of the following sections of the
23 Penal Code:

- 24 (1) Section 19.02 (Murder);
25 (2) Section 19.03 (Capital Murder);
26 (3) Section 19.04 (Manslaughter);
27 (4) Section 20.04 (Aggravated Kidnapping);

- 1 (5) Section 21.11 (Indecency with a Child);
- 2 (6) Section 22.011 (Sexual Assault);
- 3 (7) Section 22.02 (Aggravated Assault);
- 4 (8) Section 22.021 (Aggravated Sexual Assault);
- 5 (9) Section 22.04(e) (Injury to a Child, Elderly
- 6 Individual, or Disabled Individual);
- 7 (10) Section 22.04(f) (Injury to a Child, Elderly
- 8 Individual, or Disabled Individual), if the conduct is committed
- 9 intentionally or knowingly;
- 10 (11) Section 25.02 (Prohibited Sexual Conduct);
- 11 (12) Section 29.03 (Aggravated Robbery); [~~or~~]
- 12 (13) Section 43.25 (Sexual Performance by a Child); or
- 13 (14) Section 21.02 (Continuous Sexual Abuse of Young
- 14 Child or Children).

15 SECTION 2.17. Article 42.017, Code of Criminal Procedure,

16 is amended to read as follows:

17 Art. 42.017. FINDING REGARDING AGE-BASED OFFENSE. In the

18 trial of an offense under Section 21.02, 21.11, 22.011, 22.021, or

19 43.25, Penal Code, the judge shall make an affirmative finding of

20 fact and enter the affirmative finding in the judgment in the case

21 if the judge determines that:

22 (1) at the time of the offense, the defendant was

23 younger than 19 years of age and the victim was at least 13 years of

24 age; and

25 (2) the conviction is based solely on the ages of the

26 defendant and the victim or intended victim at the time of the

27 offense.

1 SECTION 2.18. Section 5(d), Article 42.12, Code of Criminal
2 Procedure, is amended to read as follows:

3 (d) In all other cases the judge may grant deferred
4 adjudication unless:

5 (1) the defendant is charged with an offense:

6 (A) under Section 21.02, Penal Code;

7 (B) under Section 49.04, 49.05, 49.06, 49.07, or
8 49.08, Penal Code; or

9 (C) [~~(B)~~] for which punishment may be increased
10 under Section 481.134(c), (d), (e), or (f), Health and Safety Code,
11 if it is shown that the defendant has been previously convicted of
12 an offense for which punishment was increased under any one of those
13 subsections; or

14 (2) the defendant:

15 (A) is charged with an offense under Section
16 21.11, 22.011, or 22.021, Penal Code, regardless of the age of the
17 victim, or a felony described by Section 13B(b) of this article; and

18 (B) has previously been placed on community
19 supervision for any offense under Paragraph (A) of this
20 subdivision.

21 SECTION 2.19. Article 44.251, Code of Criminal Procedure,
22 is amended by amending Subsections (a) and (c) and adding
23 Subsection (d) to read as follows:

24 (a) The court of criminal appeals shall reform a sentence of
25 death to a sentence of confinement in the [~~institutional division~~
26 ~~of the~~] Texas Department of Criminal Justice for life without
27 parole if the court finds that there is legally insufficient

1 evidence to support an affirmative answer to an issue submitted to
2 the jury under Section 2(b), Article 37.071, or Section 2(b),
3 Article 37.072.

4 (c) If the court of criminal appeals finds reversible error
5 that affects the punishment stage of the trial only, as described by
6 Subsection (b) of this article, and the prosecuting attorney does
7 not file a motion for reformation of sentence in the period
8 described by that subsection, the defendant shall receive a new
9 sentencing trial in the manner required by Article 44.29(c) or (d),
10 as applicable [of this code].

11 (d) The court of criminal appeals shall reform a sentence of
12 death imposed under Section 21.02(i), Penal Code, to a sentence of
13 imprisonment in the Texas Department of Criminal Justice for life
14 without parole if the United States Supreme Court finds that the
15 imposition of the death penalty under Section 21.02(i), Penal Code,
16 violates the United States Constitution and issues an order that is
17 not inconsistent with this article.

18 SECTION 2.20. Article 44.29, Code of Criminal Procedure, is
19 amended by adding Subsection (d) to read as follows:

20 (d) If any court sets aside or invalidates the sentence of a
21 defendant convicted of an offense punishable as a capital felony
22 under Section 21.02(i), Penal Code, and sentenced to death on the
23 basis of any error affecting punishment only, the court shall not
24 set the conviction aside but rather shall commence a new punishment
25 hearing under Article 37.072, as if a finding of guilt had been
26 returned. The court shall empanel a jury for the sentencing stage
27 of the trial in the same manner as a jury is to be empaneled by the

1 court in other trials before the court for the offense of which the
2 defendant was convicted. At the new punishment hearing, the court
3 shall permit both the state and the defendant to introduce evidence
4 as permitted by Article 37.072.

5 SECTION 2.21. Article 56.01, Code of Criminal Procedure, is
6 amended by adding Subdivision (2-a) to read as follows:

7 (2-a) "Sexual assault" includes an offense under
8 Section 21.02, Penal Code.

9 SECTION 2.22. Article 56.02(a), Code of Criminal Procedure,
10 is amended to read as follows:

11 (a) A victim, guardian of a victim, or close relative of a
12 deceased victim is entitled to the following rights within the
13 criminal justice system:

14 (1) the right to receive from law enforcement agencies
15 adequate protection from harm and threats of harm arising from
16 cooperation with prosecution efforts;

17 (2) the right to have the magistrate take the safety of
18 the victim or his family into consideration as an element in fixing
19 the amount of bail for the accused;

20 (3) the right, if requested, to be informed:

21 (A) by the attorney representing the state of
22 relevant court proceedings, including appellate proceedings, and
23 to be informed if those proceedings have been canceled or
24 rescheduled prior to the event; and

25 (B) by an appellate court of decisions of the
26 court, after the decisions are entered but before the decisions are
27 made public;

1 (4) the right to be informed, when requested, by a
2 peace officer concerning the defendant's right to bail and the
3 procedures in criminal investigations and by the district
4 attorney's office concerning the general procedures in the criminal
5 justice system, including general procedures in guilty plea
6 negotiations and arrangements, restitution, and the appeals and
7 parole process;

8 (5) the right to provide pertinent information to a
9 probation department conducting a presentencing investigation
10 concerning the impact of the offense on the victim and his family by
11 testimony, written statement, or any other manner prior to any
12 sentencing of the offender;

13 (6) the right to receive information regarding
14 compensation to victims of crime as provided by Subchapter B,
15 including information related to the costs that may be compensated
16 under that subchapter and the amount of compensation, eligibility
17 for compensation, and procedures for application for compensation
18 under that subchapter, the payment for a medical examination under
19 Article 56.06 for a victim of a sexual assault, and when requested,
20 to referral to available social service agencies that may offer
21 additional assistance;

22 (7) the right to be informed, upon request, of parole
23 procedures, to participate in the parole process, to be notified,
24 if requested, of parole proceedings concerning a defendant in the
25 victim's case, to provide to the Board of Pardons and Paroles for
26 inclusion in the defendant's file information to be considered by
27 the board prior to the parole of any defendant convicted of any

1 crime subject to this subchapter, and to be notified, if requested,
2 of the defendant's release;

3 (8) the right to be provided with a waiting area,
4 separate or secure from other witnesses, including the offender and
5 relatives of the offender, before testifying in any proceeding
6 concerning the offender; if a separate waiting area is not
7 available, other safeguards should be taken to minimize the
8 victim's contact with the offender and the offender's relatives and
9 witnesses, before and during court proceedings;

10 (9) the right to prompt return of any property of the
11 victim that is held by a law enforcement agency or the attorney for
12 the state as evidence when the property is no longer required for
13 that purpose;

14 (10) the right to have the attorney for the state
15 notify the employer of the victim, if requested, of the necessity of
16 the victim's cooperation and testimony in a proceeding that may
17 necessitate the absence of the victim from work for good cause;

18 (11) the right to counseling, on request, regarding
19 acquired immune deficiency syndrome (AIDS) and human
20 immunodeficiency virus (HIV) infection and testing for acquired
21 immune deficiency syndrome (AIDS), human immunodeficiency virus
22 (HIV) infection, antibodies to HIV, or infection with any other
23 probable causative agent of AIDS, if the offense is an offense under
24 Section 21.02, 21.11(a)(1), 22.011, or 22.021, Penal Code;

25 (12) the right to request victim-offender mediation
26 coordinated by the victim services division of the Texas Department
27 of Criminal Justice;

1 (13) the right to be informed of the uses of a victim
2 impact statement and the statement's purpose in the criminal
3 justice system, to complete the victim impact statement, and to
4 have the victim impact statement considered:

5 (A) by the attorney representing the state and
6 the judge before sentencing or before a plea bargain agreement is
7 accepted; and

8 (B) by the Board of Pardons and Paroles before an
9 inmate is released on parole; and

10 (14) except as provided by Article 56.06(a), for a
11 victim of a sexual assault, the right to a forensic medical
12 examination if the sexual assault is reported to a law enforcement
13 agency within 96 hours of the assault.

14 SECTION 2.23. (a) Article 62.001(5), Code of Criminal
15 Procedure, as renumbered from former Article 62.01(5), Code of
16 Criminal Procedure, and amended by Chapter 1008, Acts of the 79th
17 Legislature, Regular Session, 2005, is reenacted and amended to
18 conform to an amendment to former Article 62.01(5) by Chapter 1273,
19 Acts of the 79th Legislature, Regular Session, 2005, and is further
20 amended to read as follows:

21 (5) "Reportable conviction or adjudication" means a
22 conviction or adjudication, including an adjudication of
23 delinquent conduct or a deferred adjudication, that, regardless of
24 the pendency of an appeal, is a conviction for or an adjudication
25 for or based on:

26 (A) a violation of Section 21.02 (Continuous
27 sexual abuse of young child or children), 21.11 (Indecency with a

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

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

6 (C) a violation of Section 20.04(a)(4)
7 (Aggravated kidnapping), Penal Code, if the actor committed the
8 offense or engaged in the conduct with intent to violate or abuse
9 the victim sexually;

10 (D) a violation of Section 30.02 (Burglary),
11 Penal Code, if the offense or conduct is punishable under
12 Subsection (d) of that section and the actor committed the offense
13 or engaged in the conduct with intent to commit a felony listed in
14 Paragraph (A) or (C);

15 (E) a violation of Section 20.02 (Unlawful
16 restraint), 20.03 (Kidnapping), or 20.04 (Aggravated kidnapping),
17 Penal Code, if, as applicable:

18 (i) the judgment in the case contains an
19 affirmative finding under Article 42.015; or

20 (ii) the order in the hearing or the papers
21 in the case contain an affirmative finding that the victim or
22 intended victim was younger than 17 years of age;

23 (F) the second violation of Section 21.08
24 (Indecent exposure), Penal Code, but not if the second violation
25 results in a deferred adjudication;

26 (G) an attempt, conspiracy, or solicitation, as
27 defined by Chapter 15, Penal Code, to commit an offense or engage in

1 conduct listed in Paragraph (A), (B), (C), (D), or (E);

2 (H) a violation of the laws of another state,
3 federal law, the laws of a foreign country, or the Uniform Code of
4 Military Justice for or based on the violation of an offense
5 containing elements that are substantially similar to the elements
6 of an offense listed under Paragraph (A), (B), (C), (D), (E), [~~or~~]
7 (G), or (J), but not if the violation results in a deferred
8 adjudication; [~~or~~]

9 (I) the second violation of the laws of another
10 state, federal law, the laws of a foreign country, or the Uniform
11 Code of Military Justice for or based on the violation of an offense
12 containing elements that are substantially similar to the elements
13 of the offense of indecent exposure, but not if the second violation
14 results in a deferred adjudication; or

15 (J) a violation of Section 33.021 (Online
16 solicitation of a minor), Penal Code.

17 (b) Section 2, Chapter 1273, Acts of the 79th Legislature,
18 Regular Session, 2005, is repealed.

19 SECTION 2.24. Article 62.001(6), Code of Criminal
20 Procedure, is amended to read as follows:

21 (6) "Sexually violent offense" means any of the
22 following offenses committed by a person 17 years of age or older:

23 (A) an offense under Section 21.02 (Continuous
24 sexual abuse of young child or children), 21.11(a)(1) (Indecency
25 with a child), 22.011 (Sexual assault), or 22.021 (Aggravated
26 sexual assault), Penal Code;

27 (B) an offense under Section 43.25 (Sexual

1 performance by a child), Penal Code;

2 (C) an offense under Section 20.04(a)(4)
3 (Aggravated kidnapping), Penal Code, if the defendant committed the
4 offense with intent to violate or abuse the victim sexually;

5 (D) an offense under Section 30.02 (Burglary),
6 Penal Code, if the offense is punishable under Subsection (d) of
7 that section and the defendant committed the offense with intent to
8 commit a felony listed in Paragraph (A) or (C) of Subdivision (5);
9 or

10 (E) an offense under the laws of another state,
11 federal law, the laws of a foreign country, or the Uniform Code of
12 Military Justice if the offense contains elements that are
13 substantially similar to the elements of an offense listed under
14 Paragraph (A), (B), (C), or (D).

15 SECTION 2.25. Article 102.0186(a), Code of Criminal
16 Procedure, is amended to read as follows:

17 (a) A person convicted of an offense under Section 21.02,
18 21.11, 22.011(a)(2), 22.021(a)(1)(B), 43.25, 43.251, or 43.26,
19 Penal Code, shall pay \$100 on conviction of the offense.

20 SECTION 2.26. Section 25.0341(a), Education Code, as added
21 by Chapter 997, Acts of the 79th Legislature, Regular Session,
22 2005, is amended to read as follows:

23 (a) This section applies only to:

24 (1) a student:

25 (A) who has been convicted of continuous sexual
26 abuse of young child or children under Section 21.02, Penal Code, or
27 convicted of or placed on deferred adjudication for the offense of

1 sexual assault under Section 22.011, Penal Code, or aggravated
2 sexual assault under Section 22.021, Penal Code, committed against
3 another student who, at the time the offense occurred, was assigned
4 to the same campus as the student convicted or placed on deferred
5 adjudication;

6 (B) who has been adjudicated under Section 54.03,
7 Family Code, as having engaged in conduct described by Paragraph
8 (A);

9 (C) whose prosecution under Section 53.03,
10 Family Code, for engaging in conduct described by Paragraph (A) has
11 been deferred; or

12 (D) who has been placed on probation under
13 Section 54.04(d)(1), Family Code, for engaging in conduct described
14 by Paragraph (A); and

15 (2) a student who is the victim of conduct described by
16 Subdivision (1)(A).

17 SECTION 2.27. Section 37.007(a), Education Code, is amended
18 to read as follows:

19 (a) A student shall be expelled from a school if the
20 student, on school property or while attending a school-sponsored
21 or school-related activity on or off of school property:

22 (1) uses, exhibits, or possesses:

23 (A) a firearm as defined by Section 46.01(3),
24 Penal Code;

25 (B) an illegal knife as defined by Section
26 46.01(6), Penal Code, or by local policy;

27 (C) a club as defined by Section 46.01(1), Penal

1 Code; or

2 (D) a weapon listed as a prohibited weapon under
3 Section 46.05, Penal Code;

4 (2) engages in conduct that contains the elements of
5 the offense of:

6 (A) aggravated assault under Section 22.02,
7 Penal Code, sexual assault under Section 22.011, Penal Code, or
8 aggravated sexual assault under Section 22.021, Penal Code;

9 (B) arson under Section 28.02, Penal Code;

10 (C) murder under Section 19.02, Penal Code,
11 capital murder under Section 19.03, Penal Code, or criminal
12 attempt, under Section 15.01, Penal Code, to commit murder or
13 capital murder;

14 (D) indecency with a child under Section 21.11,
15 Penal Code;

16 (E) aggravated kidnapping under Section 20.04,
17 Penal Code;

18 (F) aggravated robbery under Section 29.03,
19 Penal Code;

20 (G) manslaughter under Section 19.04, Penal
21 Code; ~~or~~

22 (H) criminally negligent homicide under Section
23 19.05, Penal Code; or

24 (I) continuous sexual abuse of young child or
25 children under Section 21.02, Penal Code; or

26 (3) engages in conduct specified by Section
27 37.006(a)(2)(C) or (D), if the conduct is punishable as a felony.

1 SECTION 2.28. Section 33.009, Family Code, is amended to
2 read as follows:

3 Sec. 33.009. OTHER REPORTS OF SEXUAL ABUSE OF A MINOR. A
4 court or the guardian ad litem or attorney ad litem for the minor
5 shall report conduct reasonably believed to violate Section 21.02,
6 22.011, 22.021, or 25.02, Penal Code, based on information obtained
7 during a confidential court proceeding held under this chapter to:

- 8 (1) any local or state law enforcement agency;
- 9 (2) the Department of Family and Protective [~~and~~
10 ~~Regulatory~~] Services, if the alleged conduct involves a person
11 responsible for the care, custody, or welfare of the child;
- 12 (3) the state agency that operates, licenses,
13 certifies, or registers the facility in which the alleged conduct
14 occurred, if the alleged conduct occurred in a facility operated,
15 licensed, certified, or registered by a state agency; or
- 16 (4) an appropriate agency designated by the court.

17 SECTION 2.29. Section 33.010, Family Code, is amended to
18 read as follows:

19 Sec. 33.010. CONFIDENTIALITY. Notwithstanding any other
20 law, information obtained by the Department of Family and
21 Protective [~~and Regulatory~~] Services or another entity under
22 Section 33.008 or 33.009 is confidential except to the extent
23 necessary to prove a violation of Section 21.02, 22.011, 22.021, or
24 25.02, Penal Code.

25 SECTION 2.30. Section 156.104, Family Code, is amended to
26 read as follows:

27 Sec. 156.104. MODIFICATION OF ORDER ON CONVICTION FOR CHILD

1 ABUSE; PENALTY. (a) Except as provided by Section 156.1045, the
2 conviction of a conservator for an offense under Section 21.02,
3 Penal Code, or the conviction of a conservator[7] or an order
4 deferring adjudication with regard to the conservator[7] for an
5 offense involving the abuse of a child under Section 21.11, 22.011,
6 or 22.021, Penal Code, is a material and substantial change of
7 circumstances sufficient to justify a temporary order and
8 modification of an existing court order or portion of a decree that
9 provides for the appointment of a conservator or that sets the terms
10 and conditions of conservatorship or for the possession of or
11 access to a child.

12 (b) A person commits an offense if the person files a suit to
13 modify an order or portion of a decree based on the grounds
14 permitted under Subsection (a) and the person knows that the person
15 against whom the motion is filed has not been convicted of an
16 offense under Section 21.02, Penal Code, or convicted of, or
17 received deferred adjudication for an offense, under Section 21.11,
18 22.011, or 22.021, Penal Code. An offense under this subsection is
19 a Class B misdemeanor.

20 SECTION 2.31. Section 161.001, Family Code, is amended to
21 read as follows:

22 Sec. 161.001. INVOLUNTARY TERMINATION OF PARENT-CHILD
23 RELATIONSHIP. The court may order termination of the parent-child
24 relationship if the court finds by clear and convincing evidence:

25 (1) that the parent has:

26 (A) voluntarily left the child alone or in the
27 possession of another not the parent and expressed an intent not to

1 return;

2 (B) voluntarily left the child alone or in the
3 possession of another not the parent without expressing an intent
4 to return, without providing for the adequate support of the child,
5 and remained away for a period of at least three months;

6 (C) voluntarily left the child alone or in the
7 possession of another without providing adequate support of the
8 child and remained away for a period of at least six months;

9 (D) knowingly placed or knowingly allowed the
10 child to remain in conditions or surroundings which endanger the
11 physical or emotional well-being of the child;

12 (E) engaged in conduct or knowingly placed the
13 child with persons who engaged in conduct which endangers the
14 physical or emotional well-being of the child;

15 (F) failed to support the child in accordance
16 with the parent's ability during a period of one year ending within
17 six months of the date of the filing of the petition;

18 (G) abandoned the child without identifying the
19 child or furnishing means of identification, and the child's
20 identity cannot be ascertained by the exercise of reasonable
21 diligence;

22 (H) voluntarily, and with knowledge of the
23 pregnancy, abandoned the mother of the child beginning at a time
24 during her pregnancy with the child and continuing through the
25 birth, failed to provide adequate support or medical care for the
26 mother during the period of abandonment before the birth of the
27 child, and remained apart from the child or failed to support the

1 child since the birth;

2 (I) contumaciously refused to submit to a
3 reasonable and lawful order of a court under Subchapter D, Chapter
4 261;

5 (J) been the major cause of:

6 (i) the failure of the child to be enrolled
7 in school as required by the Education Code; or

8 (ii) the child's absence from the child's
9 home without the consent of the parents or guardian for a
10 substantial length of time or without the intent to return;

11 (K) executed before or after the suit is filed an
12 unrevoked or irrevocable affidavit of relinquishment of parental
13 rights as provided by this chapter;

14 (L) been convicted or has been placed on
15 community supervision, including deferred adjudication community
16 supervision, for being criminally responsible for the death or
17 serious injury of a child under the following sections of the Penal
18 Code or adjudicated under Title 3 for conduct that caused the death
19 or serious injury of a child and that would constitute a violation
20 of one of the following Penal Code sections:

21 (i) Section 19.02 (murder);

22 (ii) Section 19.03 (capital murder);

23 (iii) Section 19.04 (manslaughter);

24 (iv) Section 21.11 (indecent with a
25 child);

26 (v) Section 22.01 (assault);

27 (vi) Section 22.011 (sexual assault);

- 1 (vii) Section 22.02 (aggravated assault);
2 (viii) Section 22.021 (aggravated sexual
3 assault);
4 (ix) Section 22.04 (injury to a child,
5 elderly individual, or disabled individual);
6 (x) Section 22.041 (abandoning or
7 endangering child);
8 (xi) Section 25.02 (prohibited sexual
9 conduct);
10 (xii) Section 43.25 (sexual performance by
11 a child); ~~and~~
12 (xiii) Section 43.26 (possession or
13 promotion of child pornography); and
14 (xiv) Section 21.02 (continuous sexual
15 abuse of young child or children);

16 (M) had his or her parent-child relationship
17 terminated with respect to another child based on a finding that the
18 parent's conduct was in violation of Paragraph (D) or (E) or
19 substantially equivalent provisions of the law of another state;

20 (N) constructively abandoned the child who has
21 been in the permanent or temporary managing conservatorship of the
22 Department of Family and Protective Services or an authorized
23 agency for not less than six months, and:

24 (i) the department or authorized agency has
25 made reasonable efforts to return the child to the parent;

26 (ii) the parent has not regularly visited
27 or maintained significant contact with the child; and

1 (iii) the parent has demonstrated an
2 inability to provide the child with a safe environment;

3 (O) failed to comply with the provisions of a
4 court order that specifically established the actions necessary for
5 the parent to obtain the return of the child who has been in the
6 permanent or temporary managing conservatorship of the Department
7 of Family and Protective Services for not less than nine months as a
8 result of the child's removal from the parent under Chapter 262 for
9 the abuse or neglect of the child;

10 (P) used a controlled substance, as defined by
11 Chapter 481, Health and Safety Code, in a manner that endangered the
12 health or safety of the child, and:

13 (i) failed to complete a court-ordered
14 substance abuse treatment program; or

15 (ii) after completion of a court-ordered
16 substance abuse treatment program, continued to abuse a controlled
17 substance;

18 (Q) knowingly engaged in criminal conduct that
19 has resulted in the parent's:

20 (i) conviction of an offense; and

21 (ii) confinement or imprisonment and
22 inability to care for the child for not less than two years from the
23 date of filing the petition;

24 (R) been the cause of the child being born
25 addicted to alcohol or a controlled substance, other than a
26 controlled substance legally obtained by prescription, as defined
27 by Section 261.001;

1 (S) voluntarily delivered the child to a
2 designated emergency infant care provider under Section 262.302
3 without expressing an intent to return for the child; or

4 (T) been convicted of the murder of the other
5 parent of the child under Section 19.02 or 19.03, Penal Code, or
6 under a law of another state, federal law, the law of a foreign
7 country, or the Uniform Code of Military Justice that contains
8 elements that are substantially similar to the elements of an
9 offense under Section 19.02 or 19.03, Penal Code; and

10 (2) that termination is in the best interest of the
11 child.

12 SECTION 2.32. Section 161.007, Family Code, is amended to
13 read as follows:

14 Sec. 161.007. TERMINATION WHEN PREGNANCY RESULTS FROM
15 CRIMINAL ACT. The court may order the termination of the
16 parent-child relationship of a parent and a child if the court finds
17 that:

18 (1) the parent has been convicted of an offense
19 committed under Section 21.02, 22.011, 22.021, or 25.02, Penal
20 Code;

21 (2) as a direct result of the commission of the offense
22 by the parent, the victim of the offense became pregnant with the
23 parent's child; and

24 (3) termination is in the best interest of the child.

25 SECTION 2.33. Section 261.001(1), Family Code, is amended
26 to read as follows:

27 (1) "Abuse" includes the following acts or omissions

1 by a person:

2 (A) mental or emotional injury to a child that
3 results in an observable and material impairment in the child's
4 growth, development, or psychological functioning;

5 (B) causing or permitting the child to be in a
6 situation in which the child sustains a mental or emotional injury
7 that results in an observable and material impairment in the
8 child's growth, development, or psychological functioning;

9 (C) physical injury that results in substantial
10 harm to the child, or the genuine threat of substantial harm from
11 physical injury to the child, including an injury that is at
12 variance with the history or explanation given and excluding an
13 accident or reasonable discipline by a parent, guardian, or
14 managing or possessory conservator that does not expose the child
15 to a substantial risk of harm;

16 (D) failure to make a reasonable effort to
17 prevent an action by another person that results in physical injury
18 that results in substantial harm to the child;

19 (E) sexual conduct harmful to a child's mental,
20 emotional, or physical welfare, including conduct that constitutes
21 the offense of continuous sexual abuse of young child or children
22 under Section 21.02, Penal Code, indecency with a child under
23 Section 21.11, Penal Code, sexual assault under Section 22.011,
24 Penal Code, or aggravated sexual assault under Section 22.021,
25 Penal Code;

26 (F) failure to make a reasonable effort to
27 prevent sexual conduct harmful to a child;

1 (G) compelling or encouraging the child to engage
2 in sexual conduct as defined by Section 43.01, Penal Code;

3 (H) causing, permitting, encouraging, engaging
4 in, or allowing the photographing, filming, or depicting of the
5 child if the person knew or should have known that the resulting
6 photograph, film, or depiction of the child is obscene as defined by
7 Section 43.21, Penal Code, or pornographic;

8 (I) the current use by a person of a controlled
9 substance as defined by Chapter 481, Health and Safety Code, in a
10 manner or to the extent that the use results in physical, mental, or
11 emotional injury to a child;

12 (J) causing, expressly permitting, or
13 encouraging a child to use a controlled substance as defined by
14 Chapter 481, Health and Safety Code; or

15 (K) causing, permitting, encouraging, engaging
16 in, or allowing a sexual performance by a child as defined by
17 Section 43.25, Penal Code.

18 SECTION 2.34. Section 262.2015(b), Family Code, is amended
19 to read as follows:

20 (b) The court may find under Subsection (a) that a parent
21 has subjected the child to aggravated circumstances if:

22 (1) the parent abandoned the child without
23 identification or a means for identifying the child;

24 (2) the child is a victim of serious bodily injury or
25 sexual abuse inflicted by the parent or by another person with the
26 parent's consent;

27 (3) the parent has engaged in conduct against the

1 child that would constitute an offense under the following
2 provisions of the Penal Code:

3 (A) Section 19.02 (murder);

4 (B) Section 19.03 (capital murder);

5 (C) Section 19.04 (manslaughter);

6 (D) Section 21.11 (indecent with a child);

7 (E) Section 22.011 (sexual assault);

8 (F) Section 22.02 (aggravated assault);

9 (G) Section 22.021 (aggravated sexual assault);

10 (H) Section 22.04 (injury to a child, elderly
11 individual, or disabled individual);

12 (I) Section 22.041 (abandoning or endangering
13 child);

14 (J) Section 25.02 (prohibited sexual conduct);

15 (K) Section 43.25 (sexual performance by a
16 child); ~~[or]~~

17 (L) Section 43.26 (possession or promotion of
18 child pornography); or

19 (M) Section 21.02 (continuous sexual abuse of
20 young child or children);

21 (4) the parent voluntarily left the child alone or in
22 the possession of another person not the parent of the child for at
23 least six months without expressing an intent to return and without
24 providing adequate support for the child;

25 (5) the parent's parental rights with regard to
26 another child have been involuntarily terminated based on a finding
27 that the parent's conduct violated Section 161.001(1)(D) or (E) or

1 a substantially equivalent provision of another state's law;

2 (6) the parent has been convicted for:

3 (A) the murder of another child of the parent and
4 the offense would have been an offense under 18 U.S.C. Section
5 1111(a) if the offense had occurred in the special maritime or
6 territorial jurisdiction of the United States;

7 (B) the voluntary manslaughter of another child
8 of the parent and the offense would have been an offense under 18
9 U.S.C. Section 1112(a) if the offense had occurred in the special
10 maritime or territorial jurisdiction of the United States;

11 (C) aiding or abetting, attempting, conspiring,
12 or soliciting an offense under Subdivision (A) or (B); or

13 (D) the felony assault of the child or another
14 child of the parent that resulted in serious bodily injury to the
15 child or another child of the parent; or

16 (7) the parent's parental rights with regard to two
17 other children have been involuntarily terminated.

18 SECTION 2.35. Section 411.1471(a), Government Code, is
19 amended to read as follows:

20 (a) This section applies to a defendant who is:

21 (1) indicted or waives indictment for a felony
22 prohibited or punishable under any of the following Penal Code
23 sections:

24 (A) Section 20.04(a)(4);

25 (B) Section 21.11;

26 (C) Section 22.011;

27 (D) Section 22.021;

- 1 (E) Section 25.02;
- 2 (F) Section 30.02(d);
- 3 (G) Section 43.05;
- 4 (H) Section 43.25; [~~or~~]
- 5 (I) Section 43.26; or
- 6 (J) Section 21.02;

7 (2) arrested for a felony described by Subdivision (1)
8 after having been previously convicted of or placed on deferred
9 adjudication for an offense described by Subdivision (1) or an
10 offense punishable under Section 30.02(c)(2), Penal Code; or

11 (3) convicted of an offense under Section 21.07 or
12 21.08, Penal Code.

13 SECTION 2.36. Section 420.003(4), Government Code, is
14 amended to read as follows:

15 (4) "Sexual assault" means any act or attempted act as
16 described by Section 21.02, 21.11, 22.011, 22.021, or 25.02, Penal
17 Code.

18 SECTION 2.37. Section 499.027(b), Government Code, is
19 amended to read as follows:

20 (b) An inmate is not eligible under this subchapter to be
21 considered for release to intensive supervision parole if:

22 (1) the inmate is awaiting transfer to the
23 institutional division, or serving a sentence, for an offense for
24 which the judgment contains an affirmative finding under Section
25 3g(a)(2), Article 42.12, Code of Criminal Procedure;

26 (2) the inmate is awaiting transfer to the
27 institutional division, or serving a sentence, for an offense

1 listed in one of the following sections of the Penal Code:

2 (A) Section 19.02 (murder);

3 (B) Section 19.03 (capital murder);

4 (C) Section 19.04 (manslaughter);

5 (D) Section 20.03 (kidnapping);

6 (E) Section 20.04 (aggravated kidnapping);

7 (F) Section 21.11 (indecent with a child);

8 (G) Section 22.011 (sexual assault);

9 (H) Section 22.02 (aggravated assault);

10 (I) Section 22.021 (aggravated sexual assault);

11 (J) Section 22.04 (injury to a child or an
12 elderly individual);

13 (K) Section 25.02 (prohibited sexual conduct);

14 (L) Section 25.08 (sale or purchase of a child);

15 (M) Section 28.02 (arson);

16 (N) Section 29.02 (robbery);

17 (O) Section 29.03 (aggravated robbery);

18 (P) Section 30.02 (burglary), if the offense is
19 punished as a first-degree felony under that section;

20 (Q) Section 43.04 (aggravated promotion of
21 prostitution);

22 (R) Section 43.05 (compelling prostitution);

23 (S) Section 43.24 (sale, distribution, or
24 display of harmful material to minor);

25 (T) Section 43.25 (sexual performance by a
26 child);

27 (U) Section 46.10 (deadly weapon in penal

1 institution);

2 (V) Section 15.01 (criminal attempt), if the
3 offense attempted is listed in this subsection;

4 (W) Section 15.02 (criminal conspiracy), if the
5 offense that is the subject of the conspiracy is listed in this
6 subsection; [~~or~~]

7 (X) Section 15.03 (criminal solicitation), if
8 the offense solicited is listed in this subsection; or

9 (Y) Section 21.02 (continuous sexual abuse of
10 young child or children); or

11 (3) the inmate is awaiting transfer to the
12 institutional division, or serving a sentence, for an offense under
13 Chapter 481, Health and Safety Code, punishable by a minimum term of
14 imprisonment or a maximum fine that is greater than the minimum term
15 of imprisonment or the maximum fine for a first degree felony.

16 SECTION 2.38. Section 501.061(a), Government Code, is
17 amended to read as follows:

18 (a) A physician employed or retained by the department may
19 perform an orchiectomy on an inmate only if:

20 (1) the inmate has been convicted of an offense under
21 Section 21.02, 21.11, 22.011(a)(2), or 22.021(a)(2)(B), Penal
22 Code, and has previously been convicted under one or more of those
23 sections;

24 (2) the inmate is 21 years of age or older;

25 (3) the inmate requests the procedure in writing;

26 (4) the inmate signs a statement admitting the inmate
27 committed the offense described by Subsection (a)(1) for which the

1 inmate has been convicted;

2 (5) a psychiatrist and a psychologist who are
3 appointed by the department and have experience in the treatment of
4 sex offenders:

5 (A) evaluate the inmate and determine that the
6 inmate is a suitable candidate for the procedure; and

7 (B) counsel the inmate before the inmate
8 undergoes the procedure;

9 (6) the physician obtains the inmate's informed,
10 written consent to undergo the procedure;

11 (7) the inmate has not previously requested that the
12 department perform the procedure and subsequently withdrawn the
13 request; and

14 (8) the inmate consults with a monitor as provided by
15 Subsection (f).

16 SECTION 2.39. Section 508.046, Government Code, is amended
17 to read as follows:

18 Sec. 508.046. EXTRAORDINARY VOTE REQUIRED. To release on
19 parole an inmate who was convicted of an offense under Section
20 21.02, 21.11(a)(1), or 22.021, Penal Code, or who is required under
21 Section 508.145(c) to serve 35 calendar years before becoming
22 eligible for release on parole, all members of the board must vote
23 on the release on parole of the inmate, and at least two-thirds of
24 the members must vote in favor of the release on parole. A member of
25 the board may not vote on the release unless the member first
26 receives a copy of a written report from the department on the
27 probability that the inmate would commit an offense after being

1 released on parole.

2 SECTION 2.40. Section 508.117(g), Government Code, is
3 amended by adding Subdivision (2-a) to read as follows:

4 (2-a) "Sexual assault" includes an offense under
5 Section 21.02, Penal Code.

6 SECTION 2.41. Section 508.151(a), Government Code, is
7 amended to read as follows:

8 (a) For the purpose of diverting inmates to halfway houses
9 under Section 508.118, a parole panel, after reviewing all
10 available pertinent information, may designate a presumptive
11 parole date for an inmate who:

12 (1) has never been convicted of an offense listed
13 under Section 3g(a)(1), Article 42.12, Code of Criminal Procedure,
14 or an offense under Section 21.02, Penal Code; and

15 (2) has never had a conviction with a judgment that
16 contains an affirmative finding under Section 3g(a)(2), Article
17 42.12, Code of Criminal Procedure.

18 SECTION 2.42. Section 508.187(a), Government Code, is
19 amended to read as follows:

20 (a) This section applies only to a releasee serving a
21 sentence for an offense under:

22 (1) Section 43.25 or 43.26, Penal Code;

23 (2) Section 21.02, 21.11, 22.011, 22.021, or 25.02,
24 Penal Code;

25 (3) Section 20.04(a)(4), Penal Code, if the releasee
26 committed the offense with the intent to violate or abuse the victim
27 sexually; or

1 (4) Section 30.02, Penal Code, punishable under
2 Subsection (d) of that section, if the releasee committed the
3 offense with the intent to commit a felony listed in Subdivision (2)
4 or (3).

5 SECTION 2.43. Section 508.189(a), Government Code, is
6 amended to read as follows:

7 (a) A parole panel shall require as a condition of parole or
8 mandatory supervision that a releasee convicted of an offense under
9 Section 21.02, 21.08, 21.11, 22.011, 22.021, 25.02, 43.25, or
10 43.26, Penal Code, pay to the division a parole supervision fee of
11 \$5 each month during the period of parole supervision.

12 SECTION 2.44. Section 242.126(c), Health and Safety Code,
13 is amended to read as follows:

14 (c) The agency shall begin the investigation:

15 (1) within 24 hours of receipt of the report or other
16 allegation, if the report of abuse or neglect or other complaint
17 alleges that:

18 (A) a resident's health or safety is in imminent
19 danger;

20 (B) a resident has recently died because of
21 conduct alleged in the report of abuse or neglect or other
22 complaint;

23 (C) a resident has been hospitalized or been
24 treated in an emergency room because of conduct alleged in the
25 report of abuse or neglect or other complaint;

26 (D) a resident has been a victim of any act or
27 attempted act described by Section 21.02, 21.11, 22.011, or 22.021,

1 Penal Code; or

2 (E) a resident has suffered bodily injury, as
3 that term is defined by Section 1.07, Penal Code, because of conduct
4 alleged in the report of abuse or neglect or other complaint; or

5 (2) before the end of the next working day after the
6 date of receipt of the report of abuse or neglect or other
7 complaint, if the report or complaint alleges the existence of
8 circumstances that could result in abuse or neglect and that could
9 place a resident's health or safety in imminent danger.

10 SECTION 2.45. Section 250.006(a), Health and Safety Code,
11 is amended to read as follows:

12 (a) A person for whom the facility is entitled to obtain
13 criminal history record information may not be employed in a
14 facility if the person has been convicted of an offense listed in
15 this subsection:

16 (1) an offense under Chapter 19, Penal Code (criminal
17 homicide);

18 (2) an offense under Chapter 20, Penal Code
19 (kidnapping and unlawful restraint);

20 (3) an offense under Section 21.02, Penal Code
21 (continuous sexual abuse of young child or children), or Section
22 21.11, Penal Code (indecent with a child);

23 (4) an offense under Section 22.011, Penal Code
24 (sexual assault);

25 (5) an offense under Section 22.02, Penal Code
26 (aggravated assault);

27 (6) an offense under Section 22.04, Penal Code (injury

1 to a child, elderly individual, or disabled individual);

2 (7) an offense under Section 22.041, Penal Code
3 (abandoning or endangering child);

4 (8) an offense under Section 22.08, Penal Code (aiding
5 suicide);

6 (9) an offense under Section 25.031, Penal Code
7 (agreement to abduct from custody);

8 (10) an offense under Section 25.08, Penal Code (sale
9 or purchase of a child);

10 (11) an offense under Section 28.02, Penal Code
11 (arson);

12 (12) an offense under Section 29.02, Penal Code
13 (robbery);

14 (13) an offense under Section 29.03, Penal Code
15 (aggravated robbery); or

16 (14) a conviction under the laws of another state,
17 federal law, or the Uniform Code of Military Justice for an offense
18 containing elements that are substantially similar to the elements
19 of an offense listed under Subdivisions (1)-(13).

20 SECTION 2.46. Section 841.002(8), Health and Safety Code,
21 is amended to read as follows:

22 (8) "Sexually violent offense" means:

23 (A) an offense under Section 21.02, 21.11(a)(1),
24 22.011, or 22.021, Penal Code;

25 (B) an offense under Section 20.04(a)(4), Penal
26 Code, if the person committed the offense with the intent to violate
27 or abuse the victim sexually;

1 (C) an offense under Section 30.02, Penal Code,
2 if the offense is punishable under Subsection (d) of that section
3 and the person committed the offense with the intent to commit an
4 offense listed in Paragraph (A) or (B);

5 (D) an offense under Section 19.02 or 19.03,
6 Penal Code, that, during the guilt or innocence phase or the
7 punishment phase for the offense, during the adjudication or
8 disposition of delinquent conduct constituting the offense, or
9 subsequently during a civil commitment proceeding under Subchapter
10 D, is determined beyond a reasonable doubt to have been based on
11 sexually motivated conduct;

12 (E) an attempt, conspiracy, or solicitation, as
13 defined by Chapter 15, Penal Code, to commit an offense listed in
14 Paragraph (A), (B), (C), or (D);

15 (F) an offense under prior state law that
16 contains elements substantially similar to the elements of an
17 offense listed in Paragraph (A), (B), (C), (D), or (E); or

18 (G) an offense under the law of another state,
19 federal law, or the Uniform Code of Military Justice that contains
20 elements substantially similar to the elements of an offense listed
21 in Paragraph (A), (B), (C), (D), or (E).

22 SECTION 2.47. Section 301.4535(a), Occupations Code, is
23 amended to read as follows:

24 (a) The board shall suspend a nurse's license or refuse to
25 issue a license to an applicant on proof that the nurse or applicant
26 has been initially convicted of:

27 (1) murder under Section 19.02, Penal Code, capital

1 murder under Section 19.03, Penal Code, or manslaughter under
2 Section 19.04, Penal Code;

3 (2) kidnapping or unlawful restraint under Chapter 20,
4 Penal Code, and the offense was punished as a felony or state jail
5 felony;

6 (3) sexual assault under Section 22.011, Penal Code;

7 (4) aggravated sexual assault under Section 22.021,
8 Penal Code;

9 (5) continuous sexual abuse of young child or children
10 under Section 21.02, Penal Code, or indecency with a child under
11 Section 21.11, Penal Code;

12 (6) aggravated assault under Section 22.02, Penal
13 Code;

14 (7) intentionally, knowingly, or recklessly injuring
15 a child, elderly individual, or disabled individual under Section
16 22.04, Penal Code;

17 (8) intentionally, knowingly, or recklessly
18 abandoning or endangering a child under Section 22.041, Penal Code;

19 (9) aiding suicide under Section 22.08, Penal Code,
20 and the offense was punished as a state jail felony;

21 (10) an offense under Section 25.07, Penal Code,
22 punished as a felony;

23 (11) an offense under Section 25.071, Penal Code,
24 punished as a felony;

25 (12) an agreement to abduct a child from custody under
26 Section 25.031, Penal Code;

27 (13) the sale or purchase of a child under Section

1 25.08, Penal Code;

2 (14) robbery under Section 29.02, Penal Code;

3 (15) aggravated robbery under Section 29.03, Penal
4 Code;

5 (16) an offense for which a defendant is required to
6 register as a sex offender under Chapter 62, Code of Criminal
7 Procedure; or

8 (17) an offense under the law of another state,
9 federal law, or the Uniform Code of Military Justice that contains
10 elements that are substantially similar to the elements of an
11 offense listed in this subsection.

12 SECTION 2.48. Section 3.03(b), Penal Code, is amended to
13 read as follows:

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

18 (1) an offense:

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

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

27 (2) an offense:

1 (A) under Section 21.02, 21.11, 22.011, 22.021,
2 25.02, or 43.25 committed against a victim younger than 17 years of
3 age at the time of the commission of the offense regardless of
4 whether the accused is convicted of violations of the same section
5 more than once or is convicted of violations of more than one
6 section; or

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

14 (3) an offense:

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

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

23 SECTION 2.49. Section 12.35(c), Penal Code, is amended to
24 read as follows:

25 (c) An individual adjudged guilty of a state jail felony
26 shall be punished for a third degree felony if it is shown on the
27 trial of the offense that:

1 (1) a deadly weapon as defined by Section 1.07 was used
2 or exhibited during the commission of the offense or during
3 immediate flight following the commission of the offense, and that
4 the individual used or exhibited the deadly weapon or was a party to
5 the offense and knew that a deadly weapon would be used or
6 exhibited; or

7 (2) the individual has previously been finally
8 convicted of any felony:

9 (A) under Section 21.02 or listed in Section
10 3g(a)(1), Article 42.12, Code of Criminal Procedure; or

11 (B) for which the judgment contains an
12 affirmative finding under Section 3g(a)(2), Article 42.12, Code of
13 Criminal Procedure.

14 SECTION 2.50. Section 15.031(b), Penal Code, is amended to
15 read as follows:

16 (b) A person commits an offense if, with intent that an
17 offense under Section 21.02, 21.11, 22.011, 22.021, or 43.25 be
18 committed, the person by any means requests, commands, or attempts
19 to induce a minor or another whom the person believes to be a minor
20 to engage in specific conduct that, under the circumstances
21 surrounding the actor's conduct as the actor believes them to be,
22 would constitute an offense under one of those sections or would
23 make the minor or other believed by the person to be a minor a party
24 to the commission of an offense under one of those sections.

25 SECTION 2.51. Section 19.03(a), Penal Code, is amended to
26 read as follows:

27 (a) A person commits an offense if the person commits murder

1 as defined under Section 19.02(b)(1) and:

2 (1) the person murders a peace officer or fireman who
3 is acting in the lawful discharge of an official duty and who the
4 person knows is a peace officer or fireman;

5 (2) the person intentionally commits the murder in the
6 course of committing or attempting to commit kidnapping, burglary,
7 robbery, continuous sexual abuse of young child or children,
8 aggravated sexual assault, arson, obstruction or retaliation, or
9 terroristic threat under Section 22.07(a)(1), (3), (4), (5), or
10 (6);

11 (3) the person commits the murder for remuneration or
12 the promise of remuneration or employs another to commit the murder
13 for remuneration or the promise of remuneration;

14 (4) the person commits the murder while escaping or
15 attempting to escape from a penal institution;

16 (5) the person, while incarcerated in a penal
17 institution, murders another:

18 (A) who is employed in the operation of the penal
19 institution; or

20 (B) with the intent to establish, maintain, or
21 participate in a combination or in the profits of a combination;

22 (6) the person:

23 (A) while incarcerated for an offense under this
24 section or Section 19.02, murders another; or

25 (B) while serving a sentence of life imprisonment
26 or a term of 99 years for an offense under Section 20.04, 22.021, or
27 29.03, murders another;

1 (7) the person murders more than one person:

2 (A) during the same criminal transaction; or

3 (B) during different criminal transactions but
4 the murders are committed pursuant to the same scheme or course of
5 conduct;

6 (8) the person murders an individual under six years
7 of age; or

8 (9) the person murders another person in retaliation
9 for or on account of the service or status of the other person as a
10 judge or justice of the supreme court, the court of criminal
11 appeals, a court of appeals, a district court, a criminal district
12 court, a constitutional county court, a statutory county court, a
13 justice court, or a municipal court.

14 SECTION 2.52. Section 38.17(a), Penal Code, is amended to
15 read as follows:

16 (a) A person, other than a person who has a relationship
17 with a child described by Section 22.04(b), commits an offense if:

18 (1) the actor observes the commission or attempted
19 commission of an offense prohibited by Section 21.02 or
20 22.021(a)(2)(B) under circumstances in which a reasonable person
21 would believe that an offense of a sexual or assaultive nature was
22 being committed or was about to be committed against the child;

23 (2) the actor fails to assist the child or immediately
24 report the commission of the offense to a peace officer or law
25 enforcement agency; and

26 (3) the actor could assist the child or immediately
27 report the commission of the offense without placing the actor in

1 danger of suffering serious bodily injury or death.

2 SECTION 2.53. Article 26.13, Code of Criminal Procedure, is
3 amended by adding Subsection (j) to read as follows:

4 (j) No plea of guilty or plea of nolo contendere may be
5 accepted by the court if the plea is entered with respect to a
6 sexually violent offense and contains any provision that authorizes
7 the destruction of evidence that has previously been subjected to a
8 forensic analysis. For purposes of this subsection, "sexually
9 violent offense" has the meaning assigned by Section 1.07, Penal
10 Code.

11 SECTION 2.54. Article 26.13(j), Code of Criminal Procedure,
12 as added by this Act, applies to a plea entered on or after the
13 effective date of this Act, regardless of when the offense that is
14 the subject of the plea was committed.

15 SECTION 2.55. Chapter 38, Code of Criminal Procedure, is
16 amended by adding Article 38.351 to read as follows:

17 Art. 38.351. CERTAIN DEFENDANTS ENTITLED TO FORENSIC
18 ANALYSIS. (a) A defendant charged with an offense punishable as a
19 capital felony under Section 21.02(i), Penal Code, may request and
20 is entitled to a forensic analysis of any available biological
21 matter collected during the investigation of the offense.

22 (b) The state shall pay the cost of any forensic analysis
23 requested and performed under this article.

24 SECTION 2.56. Chapter 39, Penal Code, is amended by adding
25 Section 39.07 to read as follows:

26 Sec. 39.07. FAILURE TO REPORT CONTINUOUS SEXUAL ABUSE OF
27 YOUNG CHILD OR CHILDREN. (a) A person commits an offense if the

1 person:

2 (1) is:

3 (A) an officer or employee of the state, of any
4 agency or other entity of the state, or any political subdivision of
5 the state; or

6 (B) a person contracting with a person described
7 by Paragraph (A); and

8 (2) knows of the commission of an offense under
9 Section 21.02, Penal Code, committed by a person described by
10 Subdivision (1) and fails to report the commission of that offense
11 to an appropriate law enforcement authority.

12 (b) An offense under this section is a felony of the second
13 degree.

14 (c) Notwithstanding Section 15.02(d), a conspiracy to
15 commit an offense under this section is a felony of the second
16 degree.

17 ARTICLE 3. TRANSITION; EFFECTIVE DATE

18 SECTION 3.01. (a) Except as provided by Subsections (b)
19 and (c) of this section, the change in law made by this Act applies
20 only to an offense committed on or after September 1, 2007. An
21 offense committed before September 1, 2007, is covered by the law in
22 effect when the offense was committed, and the former law is
23 continued in effect for that purpose. For the purposes of this
24 section, an offense was committed before September 1, 2007, if any
25 element of the offense occurred before that date.

26 (b) The change in law made by this Act to Section 841.002,
27 Health and Safety Code, applies only to an individual who on or

1 after September 1, 2007, is serving a sentence in the Texas
2 Department of Criminal Justice or is committed to the Department of
3 State Health Services for an offense committed before, on, or after
4 the effective date of this Act.

5 (c) The change in law made by this Act to Article 12.01, Code
6 of Criminal Procedure, does not apply to an offense if the
7 prosecution of that offense becomes barred by limitation before the
8 effective date of this Act. The prosecution of that offense remains
9 barred as if this Act had not taken effect.

10 SECTION 3.02. This Act takes effect September 1, 2007.