

By: Shapiro, Harris

S.B. No. 78

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the offense of continuous sexual abuse of a child, the prosecution and punishment of that offense, and the consequences of a conviction for that offense.

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. 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" has the meaning assigned by Section 22.011(c).

(b) A person commits an offense if:

(1) during a period that is 90 or more days in duration, the person commits two or more acts of sexual abuse, regardless of whether the acts of sexual abuse are committed against one or more victims; and

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

(c) For purposes of this section, "act of sexual abuse" means any act that is a violation of one or more of the following penal laws:

(1) aggravated kidnapping under Section 20.04(a)(4)

1 if the defendant committed the offense with the intent to violate or
2 abuse the victim sexually;

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

4 (3) sexual assault under Section 22.011;

5 (4) aggravated sexual assault under Section 22.021;

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

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

11 (d) If a jury is the trier of fact, members of the jury are
12 not required to agree unanimously on which specific acts of sexual
13 abuse were committed by the defendant or the exact date when those
14 acts were committed. The jury must agree unanimously that the
15 defendant, during a period that is 90 or more days in duration,
16 committed two or more acts of sexual abuse.

17 (e) A defendant may not be convicted in the same criminal
18 action of an offense listed under Subsection (c) the victim of which
19 is the same victim as a victim of the offense alleged under
20 Subsection (b) unless the offense listed in Subsection (c):

21 (1) is charged in the alternative;

22 (2) occurred outside the period in which the offense
23 alleged under Subsection (b) was committed; or

24 (3) is considered by the trier of fact to be a lesser
25 included offense of the offense alleged under Subsection (b).

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

1 that are alleged to have been committed are alleged to have been
2 committed against a single victim.

3 (g) An offense under this section is a felony of the first
4 degree, punishable by imprisonment in the Texas Department of
5 Criminal Justice for life, or for any term of not more than 99 years
6 or less than 25 years.

7 SECTION 1.02. Section 508.145, Government Code, is amended
8 by adding Subsection (c-1) to read as follows:

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

16 SECTION 1.03. Subsection (a), Section 508.149, Government
17 Code, is amended to read as follows:

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

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

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

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

27 (4) a first degree felony or a second degree felony

1 under Section 20.04, Penal Code;

2 (5) an offense [~~a second degree felony or a third~~
3 ~~degree felony~~] under Section 21.11, Penal Code;

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

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

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

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

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

14 (11) a second degree felony under Section 29.02, Penal
15 Code;

16 (12) a first degree felony under Section 29.03, Penal
17 Code;

18 (13) a first degree felony under Section 30.02, Penal
19 Code; [~~or~~]

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

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

24 ARTICLE 2. CONFORMING AMENDMENTS

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

27 (a) A person must bring suit for personal injury not later

1 than five years after the day the cause of action accrues if the
2 injury arises as a result of conduct that violates:

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

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

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

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

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

- 22 (A) Section 19.02 (murder);
23 (B) Section 19.03 (capital murder);
24 (C) Section 20.04 (aggravated kidnapping);
25 (D) Section 22.02 (aggravated assault);
26 (E) Section 22.011 (sexual assault);
27 (F) Section 22.021 (aggravated sexual assault);

1 (G) Section 22.04 (injury to a child, elderly
2 individual, or disabled individual);

3 (H) Section 32.21 (forgery);

4 (I) Section 32.43 (commercial bribery);

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

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

9 (L) Section 32.47 (fraudulent destruction,
10 removal, or concealment of writing); [~~or~~]

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

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

16 SECTION 2.03. Subsection (c), Section 41.008, Civil
17 Practice and Remedies Code, is amended to read as follows:

18 (c) This section does not apply to a cause of action against
19 a defendant from whom a plaintiff seeks recovery of exemplary
20 damages based on conduct described as a felony in the following
21 sections of the Penal Code if, except for Sections 49.07 and 49.08,
22 the conduct was committed knowingly or intentionally:

23 (1) Section 19.02 (murder);

24 (2) Section 19.03 (capital murder);

25 (3) Section 20.04 (aggravated kidnapping);

26 (4) Section 22.02 (aggravated assault);

27 (5) Section 22.011 (sexual assault);

- 1 (6) Section 22.021 (aggravated sexual assault);
- 2 (7) Section 22.04 (injury to a child, elderly
- 3 individual, or disabled individual, but not if the conduct occurred
- 4 while providing health care as defined by Section 74.001);
- 5 (8) Section 32.21 (forgery);
- 6 (9) Section 32.43 (commercial bribery);
- 7 (10) Section 32.45 (misapplication of fiduciary
- 8 property or property of financial institution);
- 9 (11) Section 32.46 (securing execution of document by
- 10 deception);
- 11 (12) Section 32.47 (fraudulent destruction, removal,
- 12 or concealment of writing);
- 13 (13) Chapter 31 (theft) the punishment level for which
- 14 is a felony of the third degree or higher;
- 15 (14) Section 49.07 (intoxication assault); ~~or~~
- 16 (15) Section 49.08 (intoxication manslaughter); or
- 17 (16) Section 21.02 (continuous sexual abuse of young
- 18 child or children).

19 SECTION 2.04. Subsection (a), Section 125.0015, Civil

20 Practice and Remedies Code, is amended to read as follows:

21 (a) A person who maintains a place to which persons

22 habitually go for the following purposes and who knowingly

23 tolerates the activity and furthermore fails to make reasonable

24 attempts to abate the activity maintains a common nuisance:

25 (1) discharge of a firearm in a public place as

26 prohibited by the Penal Code;

27 (2) reckless discharge of a firearm as prohibited by

1 the Penal Code;

2 (3) engaging in organized criminal activity as a
3 member of a combination as prohibited by the Penal Code;

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

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

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

12 (7) compelling prostitution as prohibited by the Penal
13 Code;

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

17 (9) aggravated assault as described by Section 22.02,
18 Penal Code;

19 (10) sexual assault as described by Section 22.011,
20 Penal Code;

21 (11) aggravated sexual assault as described by Section
22 22.021, Penal Code;

23 (12) robbery as described by Section 29.02, Penal
24 Code;

25 (13) aggravated robbery as described by Section 29.03,
26 Penal Code;

27 (14) unlawfully carrying a weapon as described by

1 Section 46.02, Penal Code;

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

3 [~~or~~]

4 (16) capital murder as described by Section 19.03,
5 Penal Code; or

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

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

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

15 SECTION 2.06. Article 12.01, Code of Criminal Procedure, is
16 amended to read as follows:

17 Art. 12.01. FELONIES. Except as provided in Article 12.03,
18 felony indictments may be presented within these limits, and not
19 afterward:

20 (1) no limitation:

21 (A) murder and manslaughter;

22 (B) continuous sexual abuse of young child or
23 children under Section 21.02, Penal Code, or sexual assault, if
24 during the investigation of the applicable offense biological
25 matter is collected and subjected to forensic DNA testing and the
26 testing results show that the matter does not match the victim or
27 any other person whose identity is readily ascertained; or

1 (C) an offense involving leaving the scene of an
2 accident under Section 550.021, Transportation Code, if the
3 accident resulted in the death of a person;

4 (2) ten years from the date of the commission of the
5 offense:

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

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

12 (C) forgery or the uttering, using or passing of
13 forged instruments;

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

17 (E) sexual assault, except as provided by
18 Subdivision (1) or (5); or

19 (F) arson;

20 (3) seven years from the date of the commission of the
21 offense:

22 (A) misapplication of fiduciary property or
23 property of a financial institution;

24 (B) securing execution of document by deception;
25 or

26 (C) a violation under Sections 162.403(22)-(39),
27 Tax Code;

1 (4) five years from the date of the commission of the
2 offense:

3 (A) theft, burglary, robbery;

4 (B) kidnapping;

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

8 (D) abandoning or endangering a child; or

9 (E) insurance fraud;

10 (5) ten years from the 18th birthday of the victim of
11 the offense:

12 (A) indecency with a child under Section
13 21.11(a)(1) or (2), Penal Code; or

14 (B) except as provided by Subdivision (1), sexual
15 assault under Section 22.011(a)(2), Penal Code, ~~or~~ aggravated
16 sexual assault under Section 22.021(a)(1)(B), Penal Code, or
17 continuous sexual abuse of young child or children under Section
18 21.02, Penal Code; or

19 (6) three years from the date of the commission of the
20 offense: all other felonies.

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

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

27 SECTION 2.08. Subsection (b), Article 17.03, Code of

1 Criminal Procedure, is amended to read as follows:

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

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

6 (A) Section 19.03 (Capital Murder);

7 (B) Section 20.04 (Aggravated Kidnapping);

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

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

12 (E) Section 22.04 (Injury to a Child, Elderly
13 Individual, or Disabled Individual);

14 (F) Section 29.03 (Aggravated Robbery);

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

16 (H) Section 71.02 (Engaging in Organized
17 Criminal Activity); or

18 (I) Section 21.02 (Continuous Sexual Abuse of
19 Young Child or Children);

20 (2) is charged with a felony under Chapter 481, Health
21 and Safety Code, or Section 485.033, Health and Safety Code,
22 punishable by imprisonment for a minimum term or by a maximum fine
23 that is more than a minimum term or maximum fine for a first degree
24 felony; or

25 (3) does not submit to testing for the presence of a
26 controlled substance in the defendant's body as requested by the
27 court or magistrate under Subsection (c) of this article or submits

1 to testing and the test shows evidence of the presence of a
2 controlled substance in the defendant's body.

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

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

- 7 (1) Section 19.02 (murder);
- 8 (2) Section 19.03 (capital murder);
- 9 (3) Section 20.03 (kidnapping);
- 10 (4) Section 20.04 (aggravated kidnapping);
- 11 (5) Section 21.11 (indecent with a child);
- 12 (6) Section 22.01(a)(1) (assault);
- 13 (7) Section 22.011 (sexual assault);
- 14 (8) Section 22.02 (aggravated assault);
- 15 (9) Section 22.021 (aggravated sexual assault);
- 16 (10) Section 22.04 (injury to a child, elderly
17 individual, or disabled individual); ~~[or]~~
- 18 (11) Section 29.03 (aggravated robbery); or
- 19 (12) Section 21.02 (continuous sexual abuse of young
20 child or children).

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

23 Art. 17.091. NOTICE OF CERTAIN BAIL REDUCTIONS REQUIRED.
24 Before a judge or magistrate reduces the amount of bail set for a
25 defendant charged with an offense listed in Section 3g, Article
26 42.12, or an offense described by Article 62.001(5) [~~62.01(5)~~], the
27 judge or magistrate shall provide:

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

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

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

8 (a) A search warrant may be issued to search for and
9 photograph a child who is alleged to be the victim of the offenses
10 of injury to a child as prohibited [~~defined~~] by Section 22.04, Penal
11 Code[~~, as amended~~]; sexual assault of a child as prohibited
12 [~~defined~~] by Section 22.011(a), Penal Code[~~, as amended~~]; [~~or~~]
13 aggravated sexual assault of a child as prohibited [~~defined~~] by
14 Section 22.021, Penal Code; or continuous sexual abuse of young
15 child or children as prohibited by Section 21.02, Penal Code.

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

18 (a) A person who is indicted for or who waives indictment
19 for an offense under Section 21.02, 21.11(a)(1), 22.011, or 22.021,
20 Penal Code, shall, at the direction of the court, undergo a medical
21 procedure or test designed to show or help show whether the person
22 has a sexually transmitted disease or has acquired immune
23 deficiency syndrome (AIDS) or human immunodeficiency virus (HIV)
24 infection, antibodies to HIV, or infection with any other probable
25 causative agent of AIDS. The court may direct the person to undergo
26 the procedure or test on its own motion or on the request of the
27 victim of the alleged offense. If the person refuses to submit

1 voluntarily to the procedure or test, the court shall require the
2 person to submit to the procedure or test. The court may require a
3 defendant previously required under this article to undergo a
4 medical procedure or test on indictment for an offense to undergo a
5 subsequent medical procedure or test following conviction of the
6 offense. The person performing the procedure or test shall make the
7 test results available to the local health authority, and the local
8 health authority shall be required to make the notification of the
9 test result to the victim of the alleged offense and to the
10 defendant.

11 SECTION 2.13. Section 4, Article 37.07, Code of Criminal
12 Procedure, is amended by amending Subsections (a) and (b) and
13 adding Subsection (e) to read as follows:

14 (a) In the penalty phase of the trial of a felony case in
15 which the punishment is to be assessed by the jury rather than the
16 court, if the offense of which the jury has found the defendant
17 guilty is listed in Section 3g(a)(1), Article 42.12, of this code or
18 if the judgment contains an affirmative finding under Section
19 3g(a)(2), Article 42.12, of this code, unless the defendant has
20 been convicted of an offense under Section 21.02, Penal Code, or a
21 capital felony, the court shall charge the jury in writing as
22 follows:

23 "Under the law applicable in this case, the defendant, if
24 sentenced to a term of imprisonment, may earn time off the period of
25 incarceration imposed through the award of good conduct time.
26 Prison authorities may award good conduct time to a prisoner who
27 exhibits good behavior, diligence in carrying out prison work

1 assignments, and attempts at rehabilitation. If a prisoner engages
2 in misconduct, prison authorities may also take away all or part of
3 any good conduct time earned by the prisoner.

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

7 "Under the law applicable in this case, if the defendant is
8 sentenced to a term of imprisonment, he will not become eligible for
9 parole until the actual time served equals one-half of the sentence
10 imposed or 30 years, whichever is less, without consideration of
11 any good conduct time he may earn. If the defendant is sentenced to
12 a term of less than four years, he must serve at least two years
13 before he is eligible for parole. Eligibility for parole does not
14 guarantee that parole will be granted.

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

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

25 (b) In the penalty phase of the trial of a felony case in
26 which the punishment is to be assessed by the jury rather than the
27 court, if the offense is punishable as a felony of the first degree,

1 if a prior conviction has been alleged for enhancement of
2 punishment as provided by Section 12.42(b), (c), or (d), Penal
3 Code, or if the offense is a felony not designated as a capital
4 felony or a felony of the first, second, or third degree and the
5 maximum term of imprisonment that may be imposed for the offense is
6 longer than 60 years, unless the offense of which the jury has found
7 the defendant guilty is an offense under Section 21.02, Penal Code,
8 or is listed in Section 3g(a)(1), Article 42.12, of this code or the
9 judgment contains an affirmative finding under Section 3g(a)(2),
10 Article 42.12, of this code, the court shall charge the jury in
11 writing as follows:

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

20 "It is also possible that the length of time for which the
21 defendant will be imprisoned might be reduced by the award of
22 parole.

23 "Under the law applicable in this case, if the defendant is
24 sentenced to a term of imprisonment, he will not become eligible for
25 parole until the actual time served plus any good conduct time
26 earned equals one-fourth of the sentence imposed or 15 years,
27 whichever is less. Eligibility for parole does not guarantee that

1 parole will be granted.

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

7 "You may consider the existence of the parole law and good
8 conduct time. However, you are not to consider the extent to which
9 good conduct time may be awarded to or forfeited by this particular
10 defendant. You are not to consider the manner in which the parole
11 law may be applied to this particular defendant."

12 (e) In the penalty phase of the trial of an offense under
13 Section 21.02, Penal Code, in which the punishment is to be assessed
14 by the jury rather than the court, if the jury finds the defendant
15 guilty, the court shall charge the jury in writing as follows:

16 "Under the law applicable in this case, it is possible that
17 the length of time for which the defendant will be imprisoned might
18 be reduced by the award of parole.

19 "Under the law applicable in this case, the defendant will
20 not become eligible for parole until the actual time served,
21 without consideration of good conduct time, equals one-half of the
22 sentence imposed or 30 years, whichever is less. If the defendant
23 is sentenced to a term of less than 50 years, the defendant must
24 serve at least 25 years before the defendant is eligible for parole.
25 Eligibility for parole does not guarantee that parole will be
26 granted.

27 "It cannot accurately be predicted how the parole law might

1 be applied to this defendant, because the application of that law
2 will depend on decisions made by parole authorities.

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

6 SECTION 2.14. Section 1, Article 38.071, Code of Criminal
7 Procedure, is amended to read as follows:

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

- 13 (1) Section 19.02 (Murder);
- 14 (2) Section 19.03 (Capital Murder);
- 15 (3) Section 19.04 (Manslaughter);
- 16 (4) Section 20.04 (Aggravated Kidnapping);
- 17 (5) Section 21.11 (Indecency with a Child);
- 18 (6) Section 22.011 (Sexual Assault);
- 19 (7) Section 22.02 (Aggravated Assault);
- 20 (8) Section 22.021 (Aggravated Sexual Assault);
- 21 (9) Section 22.04(e) (Injury to a Child, Elderly
22 Individual, or Disabled Individual);
- 23 (10) Section 22.04(f) (Injury to a Child, Elderly
24 Individual, or Disabled Individual), if the conduct is committed
25 intentionally or knowingly;
- 26 (11) Section 25.02 (Prohibited Sexual Conduct);
- 27 (12) Section 29.03 (Aggravated Robbery); [~~or~~]

- 1 (13) Section 43.25 (Sexual Performance by a Child); or
2 (14) Section 21.02 (Continuous Sexual Abuse of Young
3 Child or Children).

4 SECTION 2.15. Article 42.017, Code of Criminal Procedure,
5 is amended to read as follows:

6 Art. 42.017. FINDING REGARDING AGE-BASED OFFENSE. In the
7 trial of an offense under Section 21.02, 21.11, 22.011, 22.021, or
8 43.25, Penal Code, the judge shall make an affirmative finding of
9 fact and enter the affirmative finding in the judgment in the case
10 if the judge determines that:

11 (1) at the time of the offense, the defendant was
12 younger than 19 years of age and the victim was at least 13 years of
13 age; and

14 (2) the conviction is based solely on the ages of the
15 defendant and the victim or intended victim at the time of the
16 offense.

17 SECTION 2.16. Subsection (d), Section 5, Article 42.12,
18 Code of Criminal Procedure, is amended to read as follows:

19 (d) In all other cases the judge may grant deferred
20 adjudication unless:

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

22 (A) under Section 21.02, Penal Code;

23 (B) under Section 49.04, 49.05, 49.06, 49.07, or
24 49.08, Penal Code; or

25 (C) [~~B~~] for which punishment may be increased
26 under Section 481.134(c), (d), (e), or (f), Health and Safety Code,
27 if it is shown that the defendant has been previously convicted of

1 an offense for which punishment was increased under any one of those
2 subsections; or

3 (2) the defendant:

4 (A) is charged with an offense under Section
5 21.11, 22.011, or 22.021, Penal Code, regardless of the age of the
6 victim, or a felony described by Section 13B(b) of this article; and

7 (B) has previously been placed on community
8 supervision for any offense under Paragraph (A) of this
9 subdivision.

10 SECTION 2.17. Article 56.01, Code of Criminal Procedure, is
11 amended by adding Subdivision (2-a) to read as follows:

12 (2-a) "Sexual assault" includes an offense under
13 Section 21.02, Penal Code.

14 SECTION 2.18. Subsection (a), Article 56.02, Code of
15 Criminal Procedure, is amended to read as follows:

16 (a) A victim, guardian of a victim, or close relative of a
17 deceased victim is entitled to the following rights within the
18 criminal justice system:

19 (1) the right to receive from law enforcement agencies
20 adequate protection from harm and threats of harm arising from
21 cooperation with prosecution efforts;

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

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

26 (A) by the attorney representing the state of
27 relevant court proceedings, including appellate proceedings, and

1 to be informed if those proceedings have been canceled or
2 rescheduled prior to the event; and

3 (B) by an appellate court of decisions of the
4 court, after the decisions are entered but before the decisions are
5 made public;

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

13 (5) the right to provide pertinent information to a
14 probation department conducting a presentencing investigation
15 concerning the impact of the offense on the victim and his family by
16 testimony, written statement, or any other manner prior to any
17 sentencing of the offender;

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

27 (7) the right to be informed, upon request, of parole

1 procedures, to participate in the parole process, to be notified,
2 if requested, of parole proceedings concerning a defendant in the
3 victim's case, to provide to the Board of Pardons and Paroles for
4 inclusion in the defendant's file information to be considered by
5 the board prior to the parole of any defendant convicted of any
6 crime subject to this subchapter, and to be notified, if requested,
7 of the defendant's release;

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

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

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

23 (11) the right to counseling, on request, regarding
24 acquired immune deficiency syndrome (AIDS) and human
25 immunodeficiency virus (HIV) infection and testing for acquired
26 immune deficiency syndrome (AIDS), human immunodeficiency virus
27 (HIV) infection, antibodies to HIV, or infection with any other

1 probable causative agent of AIDS, if the offense is an offense under
2 Section 21.02, 21.11(a)(1), 22.011, or 22.021, Penal Code;

3 (12) the right to request victim-offender mediation
4 coordinated by the victim services division of the Texas Department
5 of Criminal Justice;

6 (13) the right to be informed of the uses of a victim
7 impact statement and the statement's purpose in the criminal
8 justice system, to complete the victim impact statement, and to
9 have the victim impact statement considered:

10 (A) by the attorney representing the state and
11 the judge before sentencing or before a plea bargain agreement is
12 accepted; and

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

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

19 SECTION 2.19. (a) Subdivision (5), Article 62.001, Code of
20 Criminal Procedure, as renumbered from former Subdivision (5),
21 Article 62.01, Code of Criminal Procedure, and amended by Chapter
22 1008, Acts of the 79th Legislature, Regular Session, 2005, is
23 reenacted and amended to conform to an amendment to former
24 Subdivision (5), Article 62.01, by Chapter 1273, Acts of the 79th
25 Legislature, Regular Session, 2005, and is further amended to read
26 as follows:

27 (5) "Reportable conviction or adjudication" means a

1 conviction or adjudication, including an adjudication of
2 delinquent conduct or a deferred adjudication, that, regardless of
3 the pendency of an appeal, is a conviction for or an adjudication
4 for or based on:

5 (A) a violation of Section 21.02 (Continuous
6 sexual abuse of young child or children), 21.11 (Indecency with a
7 child), 22.011 (Sexual assault), 22.021 (Aggravated sexual
8 assault), or 25.02 (Prohibited sexual conduct), Penal Code;

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

12 (C) a violation of Section 20.04(a)(4)
13 (Aggravated kidnapping), Penal Code, if the actor committed the
14 offense or engaged in the conduct with intent to violate or abuse
15 the victim sexually;

16 (D) a violation of Section 30.02 (Burglary),
17 Penal Code, if the offense or conduct is punishable under
18 Subsection (d) of that section and the actor committed the offense
19 or engaged in the conduct with intent to commit a felony listed in
20 Paragraph (A) or (C);

21 (E) a violation of Section 20.02 (Unlawful
22 restraint), 20.03 (Kidnapping), or 20.04 (Aggravated kidnapping),
23 Penal Code, if, as applicable:

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

26 (ii) the order in the hearing or the papers
27 in the case contain an affirmative finding that the victim or

1 intended victim was younger than 17 years of age;

2 (F) the second violation of Section 21.08
3 (Indecent exposure), Penal Code, but not if the second violation
4 results in a deferred adjudication;

5 (G) an attempt, conspiracy, or solicitation, as
6 defined by Chapter 15, Penal Code, to commit an offense or engage in
7 conduct listed in Paragraph (A), (B), (C), (D), or (E);

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

15 (I) the second violation of the laws of another
16 state, federal law, the laws of a foreign country, or the Uniform
17 Code of Military Justice for or based on the violation of an offense
18 containing elements that are substantially similar to the elements
19 of the offense of indecent exposure, but not if the second violation
20 results in a deferred adjudication; or

21 (J) a violation of Section 33.021 (Online
22 solicitation of a minor), Penal Code.

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

25 SECTION 2.20. Subdivision (6), Article 62.001, Code of
26 Criminal Procedure, is amended to read as follows:

27 (6) "Sexually violent offense" means any of the

1 following offenses committed by a person 17 years of age or older:

2 (A) an offense under Section 21.02 (Continuous
3 sexual abuse of young child or children), 21.11(a)(1) (Indecency
4 with a child), 22.011 (Sexual assault), or 22.021 (Aggravated
5 sexual assault), Penal Code;

6 (B) an offense under Section 43.25 (Sexual
7 performance by a child), Penal Code;

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

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

16 (E) an offense under the laws of another state,
17 federal law, the laws of a foreign country, or the Uniform Code of
18 Military Justice if the offense contains elements that are
19 substantially similar to the elements of an offense listed under
20 Paragraph (A), (B), (C), or (D).

21 SECTION 2.21. Subsection (a), Article 102.0186, Code of
22 Criminal Procedure, is amended to read as follows:

23 (a) A person convicted of an offense under Section 21.02,
24 21.11, 22.011(a)(2), 22.021(a)(1)(B), 43.25, 43.251, or 43.26,
25 Penal Code, shall pay \$100 on conviction of the offense.

26 SECTION 2.22. Subsection (a), Section 25.0341, Education
27 Code, as added by Chapter 997, Acts of the 79th Legislature, Regular

1 Session, 2005, is amended to read as follows:

2 (a) This section applies only to:

3 (1) a student:

4 (A) who has been convicted of or placed on
5 deferred adjudication for the offense of continuous sexual abuse of
6 young child or children under Section 21.02, Penal Code, sexual
7 assault under Section 22.011, Penal Code, or aggravated sexual
8 assault under Section 22.021, Penal Code, committed against another
9 student who, at the time the offense occurred, was assigned to the
10 same campus as the student convicted or placed on deferred
11 adjudication;

12 (B) who has been adjudicated under Section 54.03,
13 Family Code, as having engaged in conduct described by Paragraph
14 (A);

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

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

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

23 SECTION 2.23. Subsection (a), Section 37.007, Education
24 Code, is amended to read as follows:

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

- 1 (1) uses, exhibits, or possesses:
- 2 (A) a firearm as defined by Section 46.01(3),
- 3 Penal Code;
- 4 (B) an illegal knife as defined by Section
- 5 46.01(6), Penal Code, or by local policy;
- 6 (C) a club as defined by Section 46.01(1), Penal
- 7 Code; or
- 8 (D) a weapon listed as a prohibited weapon under
- 9 Section 46.05, Penal Code;
- 10 (2) engages in conduct that contains the elements of
- 11 the offense of:
- 12 (A) aggravated assault under Section 22.02,
- 13 Penal Code, sexual assault under Section 22.011, Penal Code, or
- 14 aggravated sexual assault under Section 22.021, Penal Code;
- 15 (B) arson under Section 28.02, Penal Code;
- 16 (C) murder under Section 19.02, Penal Code,
- 17 capital murder under Section 19.03, Penal Code, or criminal
- 18 attempt, under Section 15.01, Penal Code, to commit murder or
- 19 capital murder;
- 20 (D) indecency with a child under Section 21.11,
- 21 Penal Code;
- 22 (E) aggravated kidnapping under Section 20.04,
- 23 Penal Code;
- 24 (F) aggravated robbery under Section 29.03,
- 25 Penal Code;
- 26 (G) manslaughter under Section 19.04, Penal
- 27 Code; [~~or~~]

1 (H) criminally negligent homicide under Section
2 19.05, Penal Code; or

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

5 (3) engages in conduct specified by Section
6 37.006(a)(2)(C) or (D), if the conduct is punishable as a felony.

7 SECTION 2.24. Section 33.009, Family Code, is amended to
8 read as follows:

9 Sec. 33.009. OTHER REPORTS OF SEXUAL ABUSE OF A MINOR. A
10 court or the guardian ad litem or attorney ad litem for the minor
11 shall report conduct reasonably believed to violate Section 21.02,
12 22.011, 22.021, or 25.02, Penal Code, based on information obtained
13 during a confidential court proceeding held under this chapter to:

14 (1) any local or state law enforcement agency;

15 (2) the Department of Family and Protective [~~and~~
16 ~~Regulatory~~] Services, if the alleged conduct involves a person
17 responsible for the care, custody, or welfare of the child;

18 (3) the state agency that operates, licenses,
19 certifies, or registers the facility in which the alleged conduct
20 occurred, if the alleged conduct occurred in a facility operated,
21 licensed, certified, or registered by a state agency; or

22 (4) an appropriate agency designated by the court.

23 SECTION 2.25. Section 33.010, Family Code, is amended to
24 read as follows:

25 Sec. 33.010. CONFIDENTIALITY. Notwithstanding any other
26 law, information obtained by the Department of Family and
27 Protective [~~and Regulatory~~] Services or another entity under

1 Section 33.008 or 33.009 is confidential except to the extent
2 necessary to prove a violation of Section 21.02, 22.011, 22.021, or
3 25.02, Penal Code.

4 SECTION 2.26. Section 156.104, Family Code, is amended to
5 read as follows:

6 Sec. 156.104. MODIFICATION OF ORDER ON CONVICTION FOR CHILD
7 ABUSE; PENALTY. (a) Except as provided by Section 156.1045, the
8 conviction of a conservator, or an order deferring adjudication
9 with regard to the conservator, for an offense involving the abuse
10 of a child under Section 21.02, 21.11, 22.011, or 22.021, Penal
11 Code, is a material and substantial change of circumstances
12 sufficient to justify a temporary order and modification of an
13 existing court order or portion of a decree that provides for the
14 appointment of a conservator or that sets the terms and conditions
15 of conservatorship or for the possession of or access to a child.

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

23 SECTION 2.27. Section 161.001, Family Code, is amended to
24 read as follows:

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

1 (1) that the parent has:

2 (A) voluntarily left the child alone or in the
3 possession of another not the parent and expressed an intent not to
4 return;

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

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

12 (D) knowingly placed or knowingly allowed the
13 child to remain in conditions or surroundings which endanger the
14 physical or emotional well-being of the child;

15 (E) engaged in conduct or knowingly placed the
16 child with persons who engaged in conduct which endangers the
17 physical or emotional well-being of the child;

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

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

25 (H) voluntarily, and with knowledge of the
26 pregnancy, abandoned the mother of the child beginning at a time
27 during her pregnancy with the child and continuing through the

1 birth, failed to provide adequate support or medical care for the
2 mother during the period of abandonment before the birth of the
3 child, and remained apart from the child or failed to support the
4 child since the birth;

5 (I) contumaciously refused to submit to a
6 reasonable and lawful order of a court under Subchapter D, Chapter
7 261;

8 (J) been the major cause of:

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

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

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

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

24 (i) Section 19.02 (murder);

25 (ii) Section 19.03 (capital murder);

26 (iii) Section 19.04 (manslaughter);

27 (iv) Section 21.11 (indecent with a

- 1 child);
- 2 (v) Section 22.01 (assault);
- 3 (vi) Section 22.011 (sexual assault);
- 4 (vii) Section 22.02 (aggravated assault);
- 5 (viii) Section 22.021 (aggravated sexual
- 6 assault);
- 7 (ix) Section 22.04 (injury to a child,
- 8 elderly individual, or disabled individual);
- 9 (x) Section 22.041 (abandoning or
- 10 endangering child);
- 11 (xi) Section 25.02 (prohibited sexual
- 12 conduct);
- 13 (xii) Section 43.25 (sexual performance by
- 14 a child); ~~and~~
- 15 (xiii) Section 43.26 (possession or
- 16 promotion of child pornography); and
- 17 (xiv) Section 21.02 (continuous sexual
- 18 abuse of young child or children);
- 19 (M) had his or her parent-child relationship
- 20 terminated with respect to another child based on a finding that the
- 21 parent's conduct was in violation of Paragraph (D) or (E) or
- 22 substantially equivalent provisions of the law of another state;
- 23 (N) constructively abandoned the child who has
- 24 been in the permanent or temporary managing conservatorship of the
- 25 Department of Family and Protective Services or an authorized
- 26 agency for not less than six months, and:
- 27 (i) the department or authorized agency has

1 made reasonable efforts to return the child to the parent;

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

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

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

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

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

18 (ii) after completion of a court-ordered
19 substance abuse treatment program, continued to abuse a controlled
20 substance;

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

23 (i) conviction of an offense; and

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

27 (R) been the cause of the child being born

1 addicted to alcohol or a controlled substance, other than a
2 controlled substance legally obtained by prescription, as defined
3 by Section 261.001;

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

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

13 (2) that termination is in the best interest of the
14 child.

15 SECTION 2.28. Section 161.007, Family Code, is amended to
16 read as follows:

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

21 (1) the parent has been convicted of an offense
22 committed under Section 21.02, 22.011, 22.021, or 25.02, Penal
23 Code;

24 (2) as a direct result of the commission of the offense
25 by the parent, the victim of the offense became pregnant with the
26 parent's child; and

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

1 SECTION 2.29. Subdivision (1), Section 261.001, Family
2 Code, is amended to read as follows:

3 (1) "Abuse" includes the following acts or omissions
4 by a person:

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

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

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

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

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

1 Penal Code;

2 (F) failure to make a reasonable effort to
3 prevent sexual conduct harmful to a child;

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

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

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

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

18 (K) causing, permitting, encouraging, engaging
19 in, or allowing a sexual performance by a child as defined by
20 Section 43.25, Penal Code.

21 SECTION 2.30. Subsection (b), Section 262.2015, Family
22 Code, is amended to read as follows:

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

25 (1) the parent abandoned the child without
26 identification or a means for identifying the child;

27 (2) the child is a victim of serious bodily injury or

1 sexual abuse inflicted by the parent or by another person with the
2 parent's consent;

3 (3) the parent has engaged in conduct against the
4 child that would constitute an offense under the following
5 provisions of the Penal Code:

6 (A) Section 19.02 (murder);

7 (B) Section 19.03 (capital murder);

8 (C) Section 19.04 (manslaughter);

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

10 (E) Section 22.011 (sexual assault);

11 (F) Section 22.02 (aggravated assault);

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

13 (H) Section 22.04 (injury to a child, elderly
14 individual, or disabled individual);

15 (I) Section 22.041 (abandoning or endangering
16 child);

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

18 (K) Section 43.25 (sexual performance by a
19 child); ~~or~~

20 (L) Section 43.26 (possession or promotion of
21 child pornography); or

22 (M) Section 21.02 (continuous sexual abuse of
23 young child or children);

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

1 (5) the parent's parental rights with regard to
2 another child have been involuntarily terminated based on a finding
3 that the parent's conduct violated Section 161.001(1)(D) or (E) or
4 a substantially equivalent provision of another state's law;

5 (6) the parent has been convicted for:

6 (A) the murder of another child of the parent and
7 the offense would have been an offense under 18 U.S.C. Section
8 1111(a) if the offense had occurred in the special maritime or
9 territorial jurisdiction of the United States;

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

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

16 (D) the felony assault of the child or another
17 child of the parent that resulted in serious bodily injury to the
18 child or another child of the parent; or

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

21 SECTION 2.31. Subsection (a), Section 411.1471, Government
22 Code, is amended to read as follows:

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

24 (1) indicted or waives indictment for a felony
25 prohibited or punishable under any of the following Penal Code
26 sections:

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

- 1 (B) Section 21.11;
- 2 (C) Section 22.011;
- 3 (D) Section 22.021;
- 4 (E) Section 25.02;
- 5 (F) Section 30.02(d);
- 6 (G) Section 43.05;
- 7 (H) Section 43.25; [~~or~~]
- 8 (I) Section 43.26; or
- 9 (J) Section 21.02;

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

14 (3) convicted of an offense under Section 21.07 or
15 21.08, Penal Code.

16 SECTION 2.32. Subdivision (4), Section 420.003, Government
17 Code, is amended to read as follows:

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

21 SECTION 2.33. Subsection (b), Section 499.027, Government
22 Code, is amended to read as follows:

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

25 (1) the inmate is awaiting transfer to the
26 institutional division, or serving a sentence, for an offense for
27 which the judgment contains an affirmative finding under Section

1 3g(a)(2), Article 42.12, Code of Criminal Procedure;

2 (2) the inmate is awaiting transfer to the
3 institutional division, or serving a sentence, for an offense
4 listed in one of the following sections of the Penal Code:

- 5 (A) Section 19.02 (murder);
- 6 (B) Section 19.03 (capital murder);
- 7 (C) Section 19.04 (manslaughter);
- 8 (D) Section 20.03 (kidnapping);
- 9 (E) Section 20.04 (aggravated kidnapping);
- 10 (F) Section 21.11 (indecent with a child);
- 11 (G) Section 22.011 (sexual assault);
- 12 (H) Section 22.02 (aggravated assault);
- 13 (I) Section 22.021 (aggravated sexual assault);
- 14 (J) Section 22.04 (injury to a child or an
15 elderly individual);
- 16 (K) Section 25.02 (prohibited sexual conduct);
- 17 (L) Section 25.08 (sale or purchase of a child);
- 18 (M) Section 28.02 (arson);
- 19 (N) Section 29.02 (robbery);
- 20 (O) Section 29.03 (aggravated robbery);
- 21 (P) Section 30.02 (burglary), if the offense is
22 punished as a first-degree felony under that section;
- 23 (Q) Section 43.04 (aggravated promotion of
24 prostitution);
- 25 (R) Section 43.05 (compelling prostitution);
- 26 (S) Section 43.24 (sale, distribution, or
27 display of harmful material to minor);

1 (T) Section 43.25 (sexual performance by a
2 child);

3 (U) Section 46.10 (deadly weapon in penal
4 institution);

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

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

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

12 (Y) Section 21.02 (continuous sexual abuse of
13 young child or children); or

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

19 SECTION 2.34. Subsection (a), Section 501.061, Government
20 Code, is amended to read as follows:

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

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

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

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

2 (4) the inmate signs a statement admitting the inmate
3 committed the offense described by Subsection (a)(1) for which the
4 inmate has been convicted;

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

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

10 (B) counsel the inmate before the inmate
11 undergoes the procedure;

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

14 (7) the inmate has not previously requested that the
15 department perform the procedure and subsequently withdrawn the
16 request; and

17 (8) the inmate consults with a monitor as provided by
18 Subsection (f).

19 SECTION 2.35. Section 508.046, Government Code, is amended
20 to read as follows:

21 Sec. 508.046. EXTRAORDINARY VOTE REQUIRED. To release on
22 parole an inmate who was convicted of an offense under Section
23 21.02, 21.11(a)(1), or 22.021, Penal Code, or who is required under
24 Section 508.145(c) to serve 35 calendar years before becoming
25 eligible for release on parole, all members of the board must vote
26 on the release on parole of the inmate, and at least two-thirds of
27 the members must vote in favor of the release on parole. A member of

1 the board may not vote on the release unless the member first
2 receives a copy of a written report from the department on the
3 probability that the inmate would commit an offense after being
4 released on parole.

5 SECTION 2.36. Subsection (g), Section 508.117, Government
6 Code, is 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 2.37. Subsection (a), Section 508.151, Government
10 Code, is amended to read as follows:

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

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

18 (2) has never had a conviction with a judgment that
19 contains an affirmative finding under Section 3g(a)(2), Article
20 42.12, Code of Criminal Procedure.

21 SECTION 2.38. Subsection (a), Section 508.187, Government
22 Code, is amended to read as follows:

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

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

26 (2) Section 21.02, 21.11, 22.011, 22.021, or 25.02,
27 Penal Code;

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

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

8 SECTION 2.39. Subsection (a), Section 508.189, Government
9 Code, is amended to read as follows:

10 (a) A parole panel shall require as a condition of parole or
11 mandatory supervision that a releasee convicted of an offense under
12 Section 21.02, 21.08, 21.11, 22.011, 22.021, 25.02, 43.25, or
13 43.26, Penal Code, pay to the division a parole supervision fee of
14 \$5 each month during the period of parole supervision.

15 SECTION 2.40. Subsection (c), Section 242.126, Health and
16 Safety Code, is amended to read as follows:

17 (c) The agency shall begin the investigation:

18 (1) within 24 hours of receipt of the report or other
19 allegation, if the report of abuse or neglect or other complaint
20 alleges that:

21 (A) a resident's health or safety is in imminent
22 danger;

23 (B) a resident has recently died because of
24 conduct alleged in the report of abuse or neglect or other
25 complaint;

26 (C) a resident has been hospitalized or been
27 treated in an emergency room because of conduct alleged in the

1 report of abuse or neglect or other complaint;

2 (D) a resident has been a victim of any act or
3 attempted act described by Section 21.02, 21.11, 22.011, or 22.021,
4 Penal Code; or

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

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

13 SECTION 2.41. Subsection (a), Section 250.006, Health and
14 Safety Code, is amended to read as follows:

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

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

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

23 (3) an offense under Section 21.02, Penal Code
24 (continuous sexual abuse of young child or children), or Section
25 21.11, Penal Code (indecent with a child);

26 (4) an offense under Section 22.011, Penal Code
27 (sexual assault);

1 (5) an offense under Section 22.02, Penal Code
2 (aggravated assault);

3 (6) an offense under Section 22.04, Penal Code (injury
4 to a child, elderly individual, or disabled individual);

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

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

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

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

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

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

17 (13) an offense under Section 29.03, Penal Code
18 (aggravated robbery); or

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

23 SECTION 2.42. Subdivision (8), Section 841.002, Health and
24 Safety Code, is amended to read as follows:

25 (8) "Sexually violent offense" means:

26 (A) an offense under Section 21.02, 21.11(a)(1),
27 22.011, or 22.021, Penal Code;

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

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

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

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

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

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

25 SECTION 2.43. Subsection (a), Section 301.4535,
26 Occupations Code, is amended to read as follows:

27 (a) The board shall suspend a nurse's license or refuse to

1 issue a license to an applicant on proof that the nurse or applicant
2 has been initially convicted of:

3 (1) murder under Section 19.02, Penal Code, capital
4 murder under Section 19.03, Penal Code, or manslaughter under
5 Section 19.04, Penal Code;

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

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

10 (4) aggravated sexual assault under Section 22.021,
11 Penal Code;

12 (5) continuous sexual abuse of young child or children
13 under Section 21.02, Penal Code, or indecency with a child under
14 Section 21.11, Penal Code;

15 (6) aggravated assault under Section 22.02, Penal
16 Code;

17 (7) intentionally, knowingly, or recklessly injuring
18 a child, elderly individual, or disabled individual under Section
19 22.04, Penal Code;

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

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

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

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

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

3 (13) the sale or purchase of a child under Section
4 25.08, Penal Code;

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

6 (15) aggravated robbery under Section 29.03, Penal
7 Code;

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

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

15 SECTION 2.44. Subsection (b), Section 3.03, Penal Code, is
16 amended to read as follows:

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

21 (1) an offense:

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

25 (B) for which a plea agreement was reached in a
26 case in which the accused was charged with more than one offense
27 listed in Paragraph (A), regardless of whether the accused is

1 charged with violations of the same section more than once or is
2 charged with violations of both sections;

3 (2) an offense:

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

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

17 (3) an offense:

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

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

26 SECTION 2.45. Subsection (c), Section 12.35, Penal Code, is
27 amended to read as follows:

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

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

10 (2) the individual has previously been finally
11 convicted of any felony:

12 (A) under Section 21.02 or listed in Section
13 3g(a)(1), Article 42.12, Code of Criminal Procedure; or

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

17 SECTION 2.46. Subdivision (2), Subsection (c), Section
18 12.42, Penal Code, is amended to read as follows:

19 (2) A defendant shall be punished by imprisonment in
20 the Texas Department of Criminal Justice [~~institutional division~~]
21 for life if:

22 (A) the defendant is convicted of an offense:

23 (i) under Section 21.02, 22.021, or 22.011,
24 Penal Code;

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

1 (iii) under Section 30.02, Penal Code,
2 punishable under Subsection (d) of that section, if the defendant
3 committed the offense with the intent to commit a felony described
4 by Subparagraph (i) or (ii) or a felony under Section 21.11 [~~or~~
5 ~~22.011~~], Penal Code; and

6 (B) the defendant has been previously convicted
7 of an offense:

8 (i) under Section 43.25 or 43.26, Penal
9 Code, or an offense under Section 43.23, Penal Code, punishable
10 under Subsection (h) of that section;

11 (ii) under Section 21.02, 21.11, 22.011,
12 22.021, or 25.02, Penal Code;

13 (iii) under Section 20.04(a)(4), Penal
14 Code, if the defendant committed the offense with the intent to
15 violate or abuse the victim sexually;

16 (iv) under Section 30.02, Penal Code,
17 punishable under Subsection (d) of that section, if the defendant
18 committed the offense with the intent to commit a felony described
19 by Subparagraph (ii) or (iii); or

20 (v) under the laws of another state
21 containing elements that are substantially similar to the elements
22 of an offense listed in Subparagraph (i), (ii), (iii), or (iv).

23 SECTION 2.47. Subsection (b), Section 15.031, Penal Code,
24 is amended to read as follows:

25 (b) A person commits an offense if, with intent that an
26 offense under Section 21.02, 21.11, 22.011, 22.021, or 43.25 be
27 committed, the person by any means requests, commands, or attempts

1 to induce a minor or another whom the person believes to be a minor
2 to engage in specific conduct that, under the circumstances
3 surrounding the actor's conduct as the actor believes them to be,
4 would constitute an offense under one of those sections or would
5 make the minor or other believed by the person to be a minor a party
6 to the commission of an offense under one of those sections.

7 SECTION 2.48. Subsection (a), Section 19.03, Penal Code, is
8 amended to read as follows:

9 (a) A person commits an offense if the person commits murder
10 as defined under Section 19.02(b)(1) and:

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

14 (2) the person intentionally commits the murder in the
15 course of committing or attempting to commit kidnapping, burglary,
16 robbery, continuous sexual abuse of young child or children,
17 aggravated sexual assault, arson, obstruction or retaliation, or
18 terroristic threat under Section 22.07(a)(1), (3), (4), (5), or
19 (6);

20 (3) the person commits the murder for remuneration or
21 the promise of remuneration or employs another to commit the murder
22 for remuneration or the promise of remuneration;

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

25 (5) the person, while incarcerated in a penal
26 institution, murders another:

27 (A) who is employed in the operation of the penal

1 institution; or

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

4 (6) the person:

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

7 (B) while serving a sentence of life imprisonment
8 or a term of 99 years for an offense under Section 20.04, 22.021, or
9 29.03, murders another;

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

11 (A) during the same criminal transaction; or

12 (B) during different criminal transactions but
13 the murders are committed pursuant to the same scheme or course of
14 conduct;

15 (8) the person murders an individual under six years
16 of age; or

17 (9) the person murders another person in retaliation
18 for or on account of the service or status of the other person as a
19 judge or justice of the supreme court, the court of criminal
20 appeals, a court of appeals, a district court, a criminal district
21 court, a constitutional county court, a statutory county court, a
22 justice court, or a municipal court.

23 SECTION 2.49. Subsection (a), Section 38.17, Penal Code, is
24 amended to read as follows:

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

27 (1) the actor observes the commission or attempted

1 commission of an offense prohibited by Section 21.02 or
2 22.021(a)(2)(B) under circumstances in which a reasonable person
3 would believe that an offense of a sexual or assaultive nature was
4 being committed or was about to be committed against the child;

5 (2) the actor fails to assist the child or immediately
6 report the commission of the offense to a peace officer or law
7 enforcement agency; and

8 (3) the actor could assist the child or immediately
9 report the commission of the offense without placing the actor in
10 danger of suffering serious bodily injury or death.

11 ARTICLE 3. TRANSITION; EFFECTIVE DATE

12 SECTION 3.01. (a) Except as provided by Subsection (b) of
13 this section, the change in law made by this Act applies only to an
14 offense committed on or after September 1, 2007. An offense
15 committed before September 1, 2007, is covered by the law in effect
16 when the offense was committed, and the former law is continued in
17 effect for that purpose. For the purposes of this section, an
18 offense was committed before September 1, 2007, if any element of
19 the offense occurred before that date.

20 (b) The change in law made by this Act to Section 841.002,
21 Health and Safety Code, applies only to an individual who on or
22 after September 1, 2007, is serving a sentence in the Texas
23 Department of Criminal Justice or is committed to the Department of
24 State Health Services for an offense committed before, on, or after
25 the effective date of this Act.

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