

By: Miller of Comal

H.B. No. 2789

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to creating a presumption regarding the possession of a  
3 controlled substance by a person who gives birth to a child who  
4 tests positive for the substance.

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

6 SECTION 1. Section 481.115, Health and Safety Code, is  
7 amended by adding Subsection (g) to read as follows:

8 (g) If it is shown on the trial of an offense under this  
9 section that a person gave birth to a child and, within 72 hours  
10 after the birth, a controlled substance listed in Penalty Group 1  
11 was found present in the body of the child, there is a rebuttable  
12 presumption that the person knowingly possessed less than one gram  
13 of that controlled substance in the county in which the child was  
14 born within the 30 days preceding the date of the birth.

15 SECTION 2. The change in law made by this Act applies only  
16 to an offense committed on or after the effective date of this Act.  
17 An offense committed before the effective date of this Act is  
18 covered by the law in effect when the offense was committed, and the  
19 former law is continued in effect for that purpose. For purposes of  
20 this section, an offense was committed before the effective date of  
21 this Act if any element of the offense was committed before that  
22 date.

23 SECTION 3. This Act takes effect September 1, 2009.