

By: Menendez

H.B. No. 36

Substitute the following for H.B. No. 36:

By: Gallego

C.S.H.B. No. 36

A BILL TO BE ENTITLED

AN ACT

relating to the punishment for and certain civil consequences of committing the offense of prostitution.

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

SECTION 1. Section 43.02(c), Penal Code, is amended to read as follows:

(c) An offense under this section is a Class B misdemeanor, except that the offense is:

(1) a Class A misdemeanor if [unless] the actor has previously been convicted one or two times of an offense under this section;

(2) a state jail felony if [, in which event it is a Class A misdemeanor. If] the actor has previously been convicted three or more times of an offense under this section; or

(3) a felony of the third degree if:

(A) the actor is the person who is to pay the fee or who solicits another for hire; and

(B) the person who is to receive the fee or who is solicited to be hired is younger than 17 years of age at the time of the offense [ , the offense is a state jail felony].

SECTION 2. Section 43.03(b), Penal Code, is amended to read as follows:

(b) An offense under this section is a Class A misdemeanor, except that the offense is:

1           (1) a state jail felony if the actor has previously  
2 been convicted of an offense under this section; or

3           (2) a felony of the third degree if:

4                 (A) the person who provides prostitution  
5 services from which the actor receives money or other property is  
6 younger than 17 years of age at the time of the offense; or

7                 (B) the actor solicits another to engage in  
8 sexual conduct with a person who is younger than 17 years of age.

9           SECTION 3. Section 43.04(b), Penal Code, is amended to read  
10 as follows:

11           (b) An offense under this section is a felony of the third  
12 degree, unless any prostitute that is part of the actor's  
13 prostitution enterprise is younger than 17 years of age at the time  
14 of the offense, in which event it is a felony of the second degree.

15           SECTION 4. Article 62.001(5), Code of Criminal Procedure,  
16 is amended to read as follows:

17           (5) "Reportable conviction or adjudication" means a  
18 conviction or adjudication, including an adjudication of  
19 delinquent conduct or a deferred adjudication, that, regardless of  
20 the pendency of an appeal, is a conviction for or an adjudication  
21 for or based on:

22                 (A) a violation of Section 21.02 (Continuous  
23 sexual abuse of young child or children), 21.11 (Indecency with a  
24 child), 22.011 (Sexual assault), 22.021 (Aggravated sexual  
25 assault), or 25.02 (Prohibited sexual conduct), Penal Code;

26                 (B) a violation of Section 43.05 (Compelling  
27 prostitution), 43.25 (Sexual performance by a child), or 43.26

(Possession or promotion of child pornography), Penal Code;

(B-1) a violation of Section 43.02 (Prostitution), Penal Code, if the offense is punishable under Subsection (c)(3) of that section;

(B-2) a violation of Section 43.03 (Promotion of prostitution), Penal Code, if the offense is punishable under Subsection (b)(2) of that section;

(B-3) a violation of Section 43.04 (Aggravated promotion of prostitution), Penal Code, if the offense is punishable as a felony of the second degree;

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

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

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

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

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

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

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

7 (H) a violation of the laws of another state,  
8 federal law, the laws of a foreign country, or the Uniform Code of  
9 Military Justice for or based on the violation of an offense  
10 containing elements that are substantially similar to the elements  
11 of an offense listed under Paragraph (A), (B), (B-1), (B-2), (B-3),  
12 (C), (D), (E), (G), or (J), but not if the violation results in a  
13 deferred adjudication;

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

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

22 SECTION 5. The change in law made by this Act applies only  
23 to an offense committed on or after the effective date of this Act.  
24 An offense committed before the effective date of this Act is  
25 governed by the law in effect on the date the offense was committed,  
26 and the former law is continued in effect for that purpose. For  
27 purposes of this section, an offense was committed before the

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1 effective date of this Act if any element of the offense occurred  
2 before that date.

3 SECTION 6. This Act takes effect September 1, 2011.