

By: Menendez

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 the person who is to receive the fee from the actor or who is solicited to be hired by the actor was, at the time of the offense, younger than 17 years of age ~~[, the offense is a state jail felony].~~

SECTION 2. Article 62.001(5), Code of Criminal Procedure, is amended to read as follows:

(5) "Reportable conviction or adjudication" means a conviction or adjudication, including an adjudication of delinquent conduct or a deferred adjudication, that, regardless of the pendency of an appeal, is a conviction for or an adjudication

1 for or based on:

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

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

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

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), (B-1), (C), (D),
13 (E), (G), or (J), but not if the violation results in a deferred
14 adjudication;

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 SECTION 3. The change in law made by this Act applies only
24 to the punishment for an offense committed on or after the effective
25 date of this Act. The punishment for an offense committed before
26 the effective date of this Act is governed by the law in effect on
27 the date that the offense was committed, and the former law is

1 continued in effect for that purpose. For purposes of this section,
2 an offense was committed before the effective date of this Act if
3 any element of the offense occurred before that date.

4 SECTION 4. This Act takes effect September 1, 2011.