

1 AN ACT

2 relating to certain criminal and civil consequences of trafficking
3 of persons, compelling prostitution, and certain other related
4 criminal offenses and to the prevention, prosecution, and
5 punishment of those offenses.

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

7 ARTICLE 1. CHANGES RELATING TO ALCOHOLIC BEVERAGE CODE

8 SECTION 1.01. Section 11.44(b), Alcoholic Beverage Code, is
9 amended to read as follows:

10 (b) The commission or administrator shall refuse to issue
11 for a period of three years a permit or license for any location to
12 an applicant who submitted a prior application that expired or was
13 voluntarily surrendered before the hearing on the application was
14 held on a protest involving allegations of prostitution, a
15 shooting, stabbing, or other violent act, or an offense involving
16 drugs or trafficking of persons. The three-year period commences
17 on the date the prior application expired or was voluntarily
18 surrendered.

19 SECTION 1.02. Section 11.46(c), Alcoholic Beverage Code, is
20 amended to read as follows:

21 (c) The commission or administrator shall refuse to issue
22 for a period of one year after cancellation a mixed beverage permit
23 or private club registration permit for a premises where a license
24 or permit has been canceled during the preceding 12 months as a

1 result of a shooting, stabbing, or other violent act, or as a result
2 of an offense involving drugs, prostitution, or trafficking of
3 persons.

4 SECTION 1.03. Section 11.64(a), Alcoholic Beverage Code, is
5 amended to read as follows:

6 (a) When the commission or administrator is authorized to
7 suspend a permit or license under this code, the commission or
8 administrator shall give the permittee or licensee the opportunity
9 to pay a civil penalty rather than have the permit or license
10 suspended, unless the basis for the suspension is a violation of
11 Section 11.61(b)(14), 22.12, 28.11, 32.17(a)(2), 32.17(a)(3),
12 61.71(a)(5), 61.71(a)(6), 61.74(a)(14), 69.13, 71.09, 101.04,
13 101.63, 106.03, 106.06, or 106.15, the sale or offer for sale of an
14 alcoholic beverage during hours prohibited by Chapter 105,
15 consumption or the permitting of consumption of an alcoholic
16 beverage on the person's licensed or permitted premises during
17 hours prohibited by Chapter 105 or Section 32.17(a)(7), or an
18 offense relating to prostitution, trafficking of persons, or
19 gambling, in which case the commission or administrator shall
20 determine whether the permittee or licensee may have the
21 opportunity to pay a civil penalty rather than have the permit or
22 license suspended. The commission shall adopt rules addressing
23 when suspension may be imposed pursuant to this section without the
24 opportunity to pay a civil penalty. In adopting rules under this
25 subsection, the commission shall consider the type of license or
26 permit held, the type of violation, any aggravating or ameliorating
27 circumstances concerning the violation, and any past violations of

1 this code by the permittee or licensee. In cases in which a civil
2 penalty is assessed, the commission or administrator shall
3 determine the amount of the penalty. The amount of the civil
4 penalty may not be less than \$150 or more than \$25,000 for each day
5 the permit or license was to have been suspended. If the licensee
6 or permittee does not pay the penalty before the sixth day after the
7 commission or administrator notifies him of the amount, the
8 commission or administrator shall impose the suspension.

9 SECTION 1.04. Section 61.42(c), Alcoholic Beverage Code, is
10 amended to read as follows:

11 (c) The county judge, commission, or administrator shall
12 refuse to approve or issue for a period of one year a retail
13 dealer's on-premise license or a wine and beer retailer's permit for
14 a premises where a license or permit has been canceled during the
15 preceding 12 months as a result of a shooting, stabbing, or other
16 violent act, or as a result of an offense involving drugs,
17 prostitution, or trafficking of persons.

18 ARTICLE 2. CHANGES RELATING TO CODE OF CRIMINAL PROCEDURE

19 SECTION 2.01. Article 17.153(a), Code of Criminal
20 Procedure, is amended to read as follows:

21 (a) This article applies to a defendant charged with a
22 felony offense under any of the following provisions of the Penal
23 Code, if committed against a child younger than 14 years of age:

- 24 (1) Chapter 21 (Sexual Offenses);
25 (2) Section 25.02 (Prohibited Sexual Conduct); [~~or~~]
26 (3) Section 43.25 (Sexual Performance by a Child);
27 (4) Section 20A.02 (Trafficking of Persons), if the

1 defendant is alleged to have:

2 (A) trafficked the child with the intent or
3 knowledge that the child would engage in sexual conduct, as defined
4 by Section 43.25, Penal Code; or

5 (B) benefited from participating in a venture
6 that involved a trafficked child engaging in sexual conduct, as
7 defined by Section 43.25, Penal Code; or

8 (5) Section 43.05(a)(2) (Compelling Prostitution).

9 SECTION 2.02. Chapter 42, Code of Criminal Procedure, is
10 amended by adding Article 42.0372 to read as follows:

11 Art. 42.0372. MANDATORY RESTITUTION FOR CHILD VICTIMS OF
12 TRAFFICKING OF PERSONS OR COMPELLING PROSTITUTION. (a) The court
13 shall order a defendant convicted of an offense under Section
14 20A.02 or 43.05(a)(2), Penal Code, to pay restitution in an amount
15 equal to the cost of necessary rehabilitation, including medical,
16 psychiatric, and psychological care and treatment, for any victim
17 of the offense who is younger than 18 years of age.

18 (b) The court shall, after considering the financial
19 circumstances of the defendant, specify in a restitution order
20 issued under Subsection (a) the manner in which the defendant must
21 pay the restitution.

22 (c) A restitution order issued under Subsection (a) may be
23 enforced by the state, or by a victim named in the order to receive
24 the restitution, in the same manner as a judgment in a civil action.

25 (d) The court may hold a hearing, make findings of fact, and
26 amend a restitution order issued under Subsection (a) if the
27 defendant fails to pay the victim named in the order in the manner

1 specified by the court.

2 SECTION 2.03. Section 13B(b), Article 42.12, Code of
3 Criminal Procedure, is amended to read as follows:

4 (b) This section applies to a defendant placed on community
5 supervision for an offense:

6 (1) under Section 43.05(a)(2), 43.25, or 43.26, Penal
7 Code;

8 (2) under Section 21.08, 21.11, 22.011, 22.021, or
9 25.02, Penal Code;

10 (3) under Section 20.04(a)(4), Penal Code, if the
11 defendant committed the offense with the intent to violate or abuse
12 the victim sexually; ~~or~~

13 (4) under Section 30.02, Penal Code, punishable under
14 Subsection (d) of that section, if the defendant committed the
15 offense with the intent to commit a felony listed in Subdivision (2)
16 or (3) of this subsection; or

17 (5) under Section 20A.02, Penal Code, if the
18 defendant:

19 (A) trafficked the victim with the intent or
20 knowledge that the victim would engage in sexual conduct, as
21 defined by Section 43.25, Penal Code; or

22 (B) benefited from participating in a venture
23 that involved a trafficked victim engaging in sexual conduct, as
24 defined by Section 43.25, Penal Code.

25 SECTION 2.04. Article 59.01(2), Code of Criminal Procedure,
26 as amended by Chapters 153 (S.B. 2225), 1130 (H.B. 2086), and 1357
27 (S.B. 554), Acts of the 81st Legislature, Regular Session, 2009, is

1 reenacted and amended to read as follows:

2 (2) "Contraband" means property of any nature,
3 including real, personal, tangible, or intangible, that is:

4 (A) used in the commission of:

5 (i) any first or second degree felony under
6 the Penal Code;

7 (ii) any felony under Section 15.031(b),
8 20.05, 21.11, 38.04, or [~~Subchapter B of~~] Chapter 43, 20A, [~~or~~
9 ~~Chapter~~] 29, 30, 31, 32, 33, 33A, or 35, Penal Code;

10 (iii) any felony under The Securities Act
11 (Article 581-1 et seq., Vernon's Texas Civil Statutes); or

12 (iv) any offense under Chapter 49, Penal
13 Code, that is punishable as a felony of the third degree or state
14 jail felony, if the defendant has been previously convicted three
15 times of an offense under that chapter;

16 (B) used or intended to be used in the commission
17 of:

18 (i) any felony under Chapter 481, Health
19 and Safety Code (Texas Controlled Substances Act);

20 (ii) any felony under Chapter 483, Health
21 and Safety Code;

22 (iii) a felony under Chapter 153, Finance
23 Code;

24 (iv) any felony under Chapter 34, Penal
25 Code;

26 (v) a Class A misdemeanor under Subchapter
27 B, Chapter 365, Health and Safety Code, if the defendant has been

1 previously convicted twice of an offense under that subchapter;

2 (vi) any felony under Chapter 152, Finance
3 Code;

4 (vii) any felony under Chapter 32, Human
5 Resources Code, or Chapter 31, 32, 35A, or 37, Penal Code, that
6 involves the state Medicaid program;

7 (viii) a Class B misdemeanor under Chapter
8 522, Business & Commerce Code;

9 (ix) a Class A misdemeanor under Section
10 306.051, Business & Commerce Code; ~~or~~

11 (x) any offense under Section 42.10, Penal
12 Code;

13 (xi) ~~[(x)]~~ any offense under Section
14 46.06(a)(1) or 46.14, Penal Code; or

15 (xii) ~~[(x)]~~ any offense under Chapter 71,
16 Penal Code;

17 (C) the proceeds gained from the commission of a
18 felony listed in Paragraph (A) or (B) of this subdivision, a
19 misdemeanor listed in Paragraph (B)(viii), (x), (xi), or (xii)
20 ~~[(B)(viii) or (x)]~~ of this subdivision, or a crime of violence;

21 (D) acquired with proceeds gained from the
22 commission of a felony listed in Paragraph (A) or (B) of this
23 subdivision, a misdemeanor listed in Paragraph (B)(viii), (x),
24 (xi), or (xii) ~~[(B)(viii) or (x)]~~ of this subdivision, or a crime of
25 violence; ~~or~~

26 (E) used to facilitate or intended to be used to
27 facilitate the commission of a felony under Section 15.031 or

1 43.25, Penal Code; or

2 (F) used to facilitate or intended to be used to
3 facilitate the commission of a felony under Section 20A.02 or
4 Chapter 43, Penal Code.

5 SECTION 2.05. Article 60.051(g), Code of Criminal
6 Procedure, is amended to read as follows:

7 (g) In addition to the information described by Subsections
8 (a)-(f), information in the computerized criminal history system
9 must include the age of the victim of the offense if the defendant
10 was arrested for or charged with an offense under:

11 (1) Section 21.02 (Continuous sexual abuse of young
12 child or children), Penal Code;

13 (2) Section 21.11 (Indecency with a child), Penal
14 Code;

15 (3) Section 22.011 (Sexual assault) or 22.021
16 (Aggravated sexual assault), Penal Code;

17 (4) Section 43.25 (Sexual performance by a child),
18 Penal Code;

19 (5) Section 20.04(a)(4) (Aggravated kidnapping),
20 Penal Code, if the defendant committed the offense with intent to
21 violate or abuse the victim sexually; ~~or~~

22 (6) Section 30.02 (Burglary), Penal Code, if the
23 offense is punishable under Subsection (d) of that section and the
24 defendant committed the offense with intent to commit an offense
25 described by Subdivision (2), (3), or (5);

26 (7) Section 20A.02 (Trafficking of persons), Penal
27 Code, if the defendant:

1 (A) trafficked a person with the intent or
2 knowledge that the person would engage in sexual conduct, as
3 defined by Section 43.25, Penal Code; or

4 (B) benefited from participating in a venture
5 that involved a trafficked person engaging in sexual conduct, as
6 defined by Section 43.25, Penal Code; or

7 (8) Section 43.05(a)(2) (Compelling prostitution),
8 Penal Code.

9 ARTICLE 3. CHANGES RELATING TO GOVERNMENT CODE

10 SECTION 3.01. Subchapter C, Chapter 71, Government Code, is
11 amended by adding Section 71.0353 to read as follows:

12 Sec. 71.0353. TRAFFICKING OF PERSONS INFORMATION. As a
13 component of the official monthly report submitted to the Office of
14 Court Administration of the Texas Judicial System, a district court
15 or county court at law shall report the number of cases filed for
16 the following offenses:

17 (1) trafficking of persons under Section 20A.02, Penal
18 Code;

19 (2) prostitution under Section 43.02, Penal Code; and

20 (3) compelling prostitution under Section 43.05,
21 Penal Code.

22 SECTION 3.02. Section 411.042(b), Government Code, is
23 amended to read as follows:

24 (b) The bureau of identification and records shall:

25 (1) procure and file for record photographs, pictures,
26 descriptions, fingerprints, measurements, and other pertinent
27 information of all persons arrested for or charged with a criminal

1 offense or convicted of a criminal offense, regardless of whether
2 the conviction is probated;

3 (2) collect information concerning the number and
4 nature of offenses reported or known to have been committed in the
5 state and the legal steps taken in connection with the offenses, and
6 other information useful in the study of crime and the
7 administration of justice, including information that enables the
8 bureau to create a statistical breakdown of:

9 (A) offenses in which family violence was
10 involved;

11 (B) ~~[and a statistical breakdown of]~~ offenses
12 under Sections 22.011 and 22.021, Penal Code; and

13 (C) offenses under Sections 20A.02 and 43.05,
14 Penal Code;

15 (3) make ballistic tests of bullets and firearms and
16 chemical analyses of bloodstains, cloth, materials, and other
17 substances for law enforcement officers of the state;

18 (4) cooperate with identification and crime records
19 bureaus in other states and the United States Department of
20 Justice;

21 (5) maintain a list of all previous background checks
22 for applicants for any position regulated under Chapter 1702,
23 Occupations Code, who have undergone a criminal history background
24 check under Section 411.119, if the check indicates a Class B
25 misdemeanor or equivalent offense or a greater offense;

26 (6) collect information concerning the number and
27 nature of protective orders and all other pertinent information

1 about all persons on active protective orders. Information in the
2 law enforcement information system relating to an active protective
3 order shall include:

4 (A) the name, sex, race, date of birth, personal
5 descriptors, address, and county of residence of the person to whom
6 the order is directed;

7 (B) any known identifying number of the person to
8 whom the order is directed, including the person's social security
9 number or driver's license number;

10 (C) the name and county of residence of the
11 person protected by the order;

12 (D) the residence address and place of employment
13 or business of the person protected by the order, unless that
14 information is excluded from the order under Section 85.007, Family
15 Code;

16 (E) the child-care facility or school where a
17 child protected by the order normally resides or which the child
18 normally attends, unless that information is excluded from the
19 order under Section 85.007, Family Code;

20 (F) the relationship or former relationship
21 between the person who is protected by the order and the person to
22 whom the order is directed; and

23 (G) the date the order expires;

24 (7) grant access to criminal history record
25 information in the manner authorized under Subchapter F;

26 (8) collect and disseminate information regarding
27 offenders with mental impairments in compliance with Chapter 614,

1 Health and Safety Code; and

2 (9) record data and maintain a state database for a
3 computerized criminal history record system and computerized
4 juvenile justice information system that serves:

5 (A) as the record creation point for criminal
6 history record information and juvenile justice information
7 maintained by the state; and

8 (B) as the control terminal for the entry of
9 records, in accordance with federal law and regulations, federal
10 executive orders, and federal policy, into the federal database
11 maintained by the Federal Bureau of Investigation.

12 SECTION 3.03. Section 508.187(a), Government Code, is
13 amended to read as follows:

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

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

17 (2) Section 21.02, 21.11, 22.011, 22.021, or 25.02,
18 Penal Code;

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

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

26 (5) Section 43.05(a)(2), Penal Code; or

27 (6) Section 20A.02, Penal Code, if the defendant:

1 (A) trafficked the victim with the intent or
2 knowledge that the victim would engage in sexual conduct, as
3 defined by Section 43.25, Penal Code; or

4 (B) benefited from participating in a venture
5 that involved a trafficked victim engaging in sexual conduct, as
6 defined by Section 43.25, Penal Code.

7 SECTION 3.04. Sections 772.006(e) and (f), Government Code,
8 are amended to read as follows:

9 (e) The legislature may appropriate money from the
10 trafficking of persons investigation and prosecution account
11 created under Subsection (d) only to the criminal justice division
12 for the purposes of this subsection. The division may use the
13 appropriated money solely to distribute grants to qualified
14 applicants, as determined by the division, that:

15 (1) [~~counties that apply for the grants and that~~] have
16 dedicated full-time or part-time personnel to identify, prevent,
17 investigate, or prosecute offenses under Chapter 20A, Penal Code;
18 or [and]

19 (2) [~~nongovernmental organizations that apply for the~~
20 ~~grants and that~~] provide comprehensive services in this state to
21 prevent the commission of offenses under Chapter 20A, Penal Code,
22 or to address the needs of victims of those offenses, including
23 public awareness activities, community outreach and training,
24 victim identification services, legal services, and other services
25 designed to assist victims.

26 (f) The total amount of grants that may be distributed under
27 this section [~~to counties and nongovernmental organizations~~] from

1 the trafficking of persons investigation and prosecution account
2 during each state fiscal year may not exceed \$10 million.

3 ARTICLE 4. CHANGES RELATING TO PENAL CODE

4 SECTION 4.01. Section 25.08(c), Penal Code, is amended to
5 read as follows:

6 (c) An offense under this section is a felony of the third
7 degree, except that the offense is a felony of the second degree if
8 the actor commits the offense with intent to commit an offense under
9 Section 20A.02, 43.02, 43.05, or 43.25.

10 SECTION 4.02. Section 43.02(c), Penal Code, is amended to
11 read as follows:

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

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

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

20 (3) a felony of the third degree if the person
21 solicited is 14 years of age or older and younger than 18 years of
22 age; or

23 (4) a felony of the second degree if the person
24 solicited is younger than 14 years of age [~~, the offense is a state~~
25 jail felony].

26 SECTION 4.03. Section 43.251(c), Penal Code, is amended to
27 read as follows:

1 (c) An offense under this section is a felony of the second
2 degree, except that the offense is a felony of the first degree if
3 the child is younger than 14 years of age at the time the offense is
4 committed [~~Class A misdemeanor~~].

5 ARTICLE 5. TRANSITION; EFFECTIVE DATE

6 SECTION 5.01. Except as provided by Section 5.02 of this
7 Act, the changes in law made by this Act apply only to an offense
8 committed on or after the effective date of this Act. An offense
9 committed before the effective date of this Act is covered by the
10 law in effect when the offense was committed, and the former law is
11 continued in effect for that purpose. For purposes of this section,
12 an offense was committed before the effective date of this Act if
13 any element of the offense occurred before that date.

14 SECTION 5.02. The changes in law made by this Act to
15 Sections 11.44, 11.46, 11.64, and 61.42, Alcoholic Beverage Code,
16 apply only to an application for a license filed on or after the
17 effective date of this Act. An application for a license filed
18 before the effective date of this Act is governed by the law in
19 effect on the date the application was filed, and the former law is
20 continued in effect for that purpose.

21 SECTION 5.03. To the extent of any conflict, this Act
22 prevails over another Act of the 82nd Legislature, Regular Session,
23 2011, relating to nonsubstantive additions to and corrections in
24 enacted codes.

25 SECTION 5.04. This Act takes effect September 1, 2011.

President of the Senate

Speaker of the House

I certify that H.B. No. 2014 was passed by the House on April 7, 2011, by the following vote: Yeas 144, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2014 on May 18, 2011, by the following vote: Yeas 146, Nays 0, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 2014 was passed by the Senate, with amendments, on May 13, 2011, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor