

By: Thompson

H.B. No. 2014

A BILL TO BE ENTITLED

AN ACT

1
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. Section 19(e), Article 42.12, Code of
26 Criminal Procedure, is amended to read as follows:

27 (e) If the judge grants community supervision to a defendant

1 convicted of an offense under Section 21.08, 21.11, 22.011, 22.021,
2 25.02, 43.05(a)(2), 43.25, or 43.26, Penal Code, or under Section
3 20A.02, Penal Code, if the defendant committed the offense in the
4 manner described by Section 13B(b)(5), regardless of the age of the
5 victim of the offense, the judge shall require as a condition of
6 community supervision that the defendant pay to the community
7 corrections and supervision department officer supervising the
8 defendant a community supervision fee of \$5 each month during the
9 period of community supervision. The fee is in addition to court
10 costs or any other fee imposed on the defendant.

11 SECTION 2.05. Article 59.01(2), Code of Criminal Procedure,
12 as amended by Chapters 153 (S.B. 2225), 1130 (H.B. 2086), and 1357
13 (S.B. 554), Acts of the 81st Legislature, Regular Session, 2009, is
14 reenacted and amended to read as follows:

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

17 (A) used in the commission of:

18 (i) any first or second degree felony under
19 the Penal Code;

20 (ii) any felony under Section 15.031(b),
21 20.05, 21.11, 38.04, or [~~Subchapter B of~~] Chapter 43, 20A, [~~or~~
22 ~~Chapter~~] 29, 30, 31, 32, 33, 33A, or 35, Penal Code;

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

25 (iv) any offense under Chapter 49, Penal
26 Code, that is punishable as a felony of the third degree or state
27 jail felony, if the defendant has been previously convicted three

1 times of an offense under that chapter;

2 (B) used or intended to be used in the commission
3 of:

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

6 (ii) any felony under Chapter 483, Health
7 and Safety Code;

8 (iii) a felony under Chapter 153, Finance
9 Code;

10 (iv) any felony under Chapter 34, Penal
11 Code;

12 (v) a Class A misdemeanor under Subchapter
13 B, Chapter 365, Health and Safety Code, if the defendant has been
14 previously convicted twice of an offense under that subchapter;

15 (vi) any felony under Chapter 152, Finance
16 Code;

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

20 (viii) a Class B misdemeanor under Chapter
21 522, Business & Commerce Code;

22 (ix) a Class A misdemeanor under Section
23 306.051, Business & Commerce Code; ~~or~~

24 (x) any offense under Section 42.10, Penal
25 Code;

26 (xi) ~~[(*)]~~ any offense under Section
27 46.06(a)(1) or 46.14, Penal Code; or

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

3 (C) the proceeds gained from the commission of a
4 felony listed in Paragraph (A) or (B) of this subdivision, a
5 misdemeanor listed in Paragraph (B)(viii), (x), (xi), or (xii)
6 [~~(B)(viii) or (x)~~] of this subdivision, or a crime of violence;

7 (D) acquired with proceeds gained from the
8 commission of a felony listed in Paragraph (A) or (B) of this
9 subdivision, a misdemeanor listed in Paragraph (B)(viii), (x),
10 (xi), or (xii) [~~(B)(viii) or (x)~~] of this subdivision, or a crime of
11 violence; [~~or~~]

12 (E) used to facilitate or intended to be used to
13 facilitate the commission of a felony under Section 15.031 or
14 43.25, Penal Code; or

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

18 SECTION 2.06. Article 60.051(g), Code of Criminal
19 Procedure, is amended to read as follows:

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

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

26 (2) Section 21.11 (Indecency with a child), Penal
27 Code;

1 (3) Section 22.011 (Sexual assault) or 22.021
2 (Aggravated sexual assault), Penal Code;

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

5 (5) Section 20.04(a)(4) (Aggravated kidnapping),
6 Penal Code, if the defendant committed the offense with intent to
7 violate or abuse the victim sexually; ~~[or]~~

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

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

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

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

20 (8) Section 43.05(a)(2) (Compelling prostitution).

21 SECTION 2.07. The heading to Article 102.0186, Code of
22 Criminal Procedure, is amended to read as follows:

23 Art. 102.0186. ADDITIONAL COSTS ATTENDANT TO CERTAIN SEXUAL
24 OFFENSES COMMITTED AGAINST CHILDREN [~~CHILD SEXUAL ASSAULT AND~~
25 ~~RELATED CONVICTIONS~~].

26 SECTION 2.08. Article 102.0186(a), Code of Criminal
27 Procedure, is amended to read as follows:

1 (a) A person convicted of an offense under any of the
2 following provisions of the Penal Code shall pay \$100 on
3 conviction:

4 (1) Section 21.02, 21.11, 22.011(a)(2),
5 22.021(a)(1)(B), 43.05(a)(2), 43.25, 43.251, or 43.26; or

6 (2) Section 20A.02 if the defendant:

7 (A) trafficked a person younger than 18 years of
8 age with the intent or knowledge that the person would engage in
9 sexual conduct, as defined by Section 43.25, Penal Code; or

10 (B) benefited from participating in a venture
11 that involved a trafficked person younger than 18 years of age
12 engaging in sexual conduct, as defined by Section 43.25, Penal
13 Code~~[, shall pay \$100 on conviction of the offense].~~

14 SECTION 2.09. Subchapter A, Chapter 102, Code of Criminal
15 Procedure, is amended by adding Article 102.0187 to read as
16 follows:

17 Art. 102.0187. ADDITIONAL COSTS ATTENDANT TO CERTAIN
18 TRAFFICKING OF PERSONS AND COMPELLING PROSTITUTION CONVICTIONS.

19 (a) A person convicted of an offense under Section 20A.02 or 43.05,
20 Penal Code, shall pay \$100 on conviction of the offense.

21 (b) Costs imposed under this article are imposed without
22 regard to whether the defendant is placed on community supervision
23 after being convicted of the offense or receives deferred
24 adjudication for the offense.

25 (c) Court costs under this article are collected in the same
26 manner as other fines or costs. An officer collecting the costs
27 shall keep separate records of the money collected as costs under

1 this article and shall deposit the money in the county treasury.

2 (d) The custodian of a county treasury shall:

3 (1) keep records of the amount of money on deposit
4 collected under this article;

5 (2) send to the comptroller, before the last day of the
6 first month following each calendar quarter, 50 percent of the
7 money collected under this article during the preceding quarter;
8 and

9 (3) deposit the remaining 50 percent of the money
10 collected under this article during the preceding quarter in a
11 trafficking of persons and compelling prostitution prevention fund
12 to be used only to pay for programs related to the prevention of
13 offenses involving the trafficking of persons or compelling
14 prostitution that are operated in the county in which the court is
15 located.

16 (e) The trafficking of persons and compelling prostitution
17 prevention fund shall be administered by or under the direction of
18 the commissioners court.

19 ARTICLE 3. CHANGES RELATING TO GOVERNMENT CODE

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

22 Sec. 71.0353. TRAFFICKING OF PERSONS INFORMATION. As a
23 component of the official monthly report submitted to the Office of
24 Court Administration of the Texas Judicial System, a district court
25 shall report the number of cases filed for the following offenses:

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

1 (2) prostitution under Section 43.02, Penal Code; and
2 (3) compelling prostitution under Section 43.05,
3 Penal Code.

4 SECTION 3.02. Subchapter B, Chapter 102, Government Code,
5 is amended by adding Section 102.0219 to read as follows:

6 Sec. 102.0219. ADDITIONAL COURT COSTS: CODE OF CRIMINAL
7 PROCEDURE. A defendant who is convicted of an offense under Section
8 20A.02 or 43.05, Penal Code, shall pay a cost on conviction, in
9 addition to all other costs, to help fund the prevention of offenses
10 involving the trafficking of persons or compelling prostitution
11 (Art. 102.0187, Code of Criminal Procedure) . . . \$100.

12 SECTION 3.03. Section 411.042(b), Government Code, is
13 amended to read as follows:

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

15 (1) procure and file for record photographs, pictures,
16 descriptions, fingerprints, measurements, and other pertinent
17 information of all persons arrested for or charged with a criminal
18 offense or convicted of a criminal offense, regardless of whether
19 the conviction is probated;

20 (2) collect information concerning the number and
21 nature of offenses reported or known to have been committed in the
22 state and the legal steps taken in connection with the offenses, and
23 other information useful in the study of crime and the
24 administration of justice, including information that enables the
25 bureau to create a statistical breakdown of:

26 (A) offenses in which family violence was
27 involved;

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

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

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

8 (4) cooperate with identification and crime records
9 bureaus in other states and the United States Department of
10 Justice;

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

16 (6) collect information concerning the number and
17 nature of protective orders and all other pertinent information
18 about all persons on active protective orders. Information in the
19 law enforcement information system relating to an active protective
20 order shall include:

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

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

27 (C) the name and county of residence of the

1 person protected by the order;

2 (D) the residence address and place of employment
3 or business of the person protected by the order, unless that
4 information is excluded from the order under Section 85.007, Family
5 Code;

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

10 (F) the relationship or former relationship
11 between the person who is protected by the order and the person to
12 whom the order is directed; and

13 (G) the date the order expires;

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

16 (8) collect and disseminate information regarding
17 offenders with mental impairments in compliance with Chapter 614,
18 Health and Safety Code; and

19 (9) record data and maintain a state database for a
20 computerized criminal history record system and computerized
21 juvenile justice information system that serves:

22 (A) as the record creation point for criminal
23 history record information and juvenile justice information
24 maintained by the state; and

25 (B) as the control terminal for the entry of
26 records, in accordance with federal law and regulations, federal
27 executive orders, and federal policy, into the federal database

1 maintained by the Federal Bureau of Investigation.

2 SECTION 3.04. Section 508.187(a), Government Code, is
3 amended to read as follows:

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

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

7 (2) Section 21.02, 21.11, 22.011, 22.021, or 25.02,
8 Penal Code;

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

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

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

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

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

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

24 SECTION 3.05. Sections 772.006(e) and (f), Government Code,
25 are amended to read as follows:

26 (e) The legislature may appropriate money from the
27 trafficking of persons investigation and prosecution account

1 created under Subsection (d) only to the criminal justice division
2 for the purposes of this subsection. The division may use the
3 appropriated money solely to distribute grants to qualified
4 applicants, as determined by the division, that:

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

9 (2) [~~nongovernmental organizations that apply for the~~
10 ~~grants and that~~] provide comprehensive services in this state to
11 prevent the commission of offenses under Chapter 20A, Penal Code,
12 or to address the needs of victims of those offenses, including
13 public awareness activities, community outreach and training,
14 victim identification services, legal services, and other services
15 designed to assist victims.

16 (f) The total amount of grants that may be distributed under
17 this section [~~to counties and nongovernmental organizations~~] from
18 the trafficking of persons investigation and prosecution account
19 during each state fiscal year may not exceed \$10 million.

20 ARTICLE 4. CHANGES RELATING TO PENAL CODE

21 SECTION 4.01. Section 15.031(b), Penal Code, is amended to
22 read as follows:

23 (b) A person commits an offense if, with intent that an
24 offense under Section 20A.02, 21.02, 21.11, 22.011, 22.021, 43.02,
25 43.05, or 43.25 be committed, the person by any means requests,
26 commands, or attempts to induce a minor or another whom the person
27 believes to be a minor to engage in specific conduct that, under the

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

5 SECTION 4.02. Section 25.08(c), Penal Code, is amended to
6 read as follows:

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

11 SECTION 4.03. Section 43.02(c), Penal Code, is amended to
12 read as follows:

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

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

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

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

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

27 SECTION 4.04. Section 43.251(c), Penal Code, is amended to

1 read as follows:

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

6 ARTICLE 5. TRANSITION; EFFECTIVE DATE

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

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

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

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