

1-1 By: Thompson, et al. (Senate Sponsor - Van de Putte) H.B. No. 2014
1-2 (In the Senate - Received from the House April 11, 2011;
1-3 April 14, 2011, read first time and referred to Committee on
1-4 Criminal Justice; May 10, 2011, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 6, Nays 0;
1-6 May 10, 2011, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 2014 By: Hinojosa

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to certain criminal and civil consequences of trafficking
1-11 of persons, compelling prostitution, and certain other related
1-12 criminal offenses and to the prevention, prosecution, and
1-13 punishment of those offenses.

1-14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-15 ARTICLE 1. CHANGES RELATING TO ALCOHOLIC BEVERAGE CODE

1-16 SECTION 1.01. Section 11.44(b), Alcoholic Beverage Code, is
1-17 amended to read as follows:

1-18 (b) The commission or administrator shall refuse to issue
1-19 for a period of three years a permit or license for any location to
1-20 an applicant who submitted a prior application that expired or was
1-21 voluntarily surrendered before the hearing on the application was
1-22 held on a protest involving allegations of prostitution, a
1-23 shooting, stabbing, or other violent act, or an offense involving
1-24 drugs or trafficking of persons. The three-year period commences
1-25 on the date the prior application expired or was voluntarily
1-26 surrendered.

1-27 SECTION 1.02. Section 11.46(c), Alcoholic Beverage Code, is
1-28 amended to read as follows:

1-29 (c) The commission or administrator shall refuse to issue
1-30 for a period of one year after cancellation a mixed beverage permit
1-31 or private club registration permit for a premises where a license
1-32 or permit has been canceled during the preceding 12 months as a
1-33 result of a shooting, stabbing, or other violent act, or as a result
1-34 of an offense involving drugs, prostitution, or trafficking of
1-35 persons.

1-36 SECTION 1.03. Section 11.64(a), Alcoholic Beverage Code, is
1-37 amended to read as follows:

1-38 (a) When the commission or administrator is authorized to
1-39 suspend a permit or license under this code, the commission or
1-40 administrator shall give the permittee or licensee the opportunity
1-41 to pay a civil penalty rather than have the permit or license
1-42 suspended, unless the basis for the suspension is a violation of
1-43 Section 11.61(b)(14), 22.12, 28.11, 32.17(a)(2), 32.17(a)(3),
1-44 61.71(a)(5), 61.71(a)(6), 61.74(a)(14), 69.13, 71.09, 101.04,
1-45 101.63, 106.03, 106.06, or 106.15, the sale or offer for sale of an
1-46 alcoholic beverage during hours prohibited by Chapter 105,
1-47 consumption or the permitting of consumption of an alcoholic
1-48 beverage on the person's licensed or permitted premises during
1-49 hours prohibited by Chapter 105 or Section 32.17(a)(7), or an
1-50 offense relating to prostitution, trafficking of persons, or
1-51 gambling, in which case the commission or administrator shall
1-52 determine whether the permittee or licensee may have the
1-53 opportunity to pay a civil penalty rather than have the permit or
1-54 license suspended. The commission shall adopt rules addressing
1-55 when suspension may be imposed pursuant to this section without the
1-56 opportunity to pay a civil penalty. In adopting rules under this
1-57 subsection, the commission shall consider the type of license or
1-58 permit held, the type of violation, any aggravating or ameliorating
1-59 circumstances concerning the violation, and any past violations of
1-60 this code by the permittee or licensee. In cases in which a civil
1-61 penalty is assessed, the commission or administrator shall
1-62 determine the amount of the penalty. The amount of the civil
1-63 penalty may not be less than \$150 or more than \$25,000 for each day
1-64 the permit or license was to have been suspended. If the licensee
1-65 or permittee does not pay the penalty before the sixth day after the

2-1 commission or administrator notifies him of the amount, the
2-2 commission or administrator shall impose the suspension.

2-3 SECTION 1.04. Section 61.42(c), Alcoholic Beverage Code, is
2-4 amended to read as follows:

2-5 (c) The county judge, commission, or administrator shall
2-6 refuse to approve or issue for a period of one year a retail
2-7 dealer's on-premise license or a wine and beer retailer's permit for
2-8 a premises where a license or permit has been canceled during the
2-9 preceding 12 months as a result of a shooting, stabbing, or other
2-10 violent act, or as a result of an offense involving drugs,
2-11 prostitution, or trafficking of persons.

2-12 ARTICLE 2. CHANGES RELATING TO CODE OF CRIMINAL PROCEDURE

2-13 SECTION 2.01. Article 17.153(a), Code of Criminal
2-14 Procedure, is amended to read as follows:

2-15 (a) This article applies to a defendant charged with a
2-16 felony offense under any of the following provisions of the Penal
2-17 Code, if committed against a child younger than 14 years of age:

- 2-18 (1) Chapter 21 (Sexual Offenses);
- 2-19 (2) Section 25.02 (Prohibited Sexual Conduct); [~~or~~]
- 2-20 (3) Section 43.25 (Sexual Performance by a Child);
- 2-21 (4) Section 20A.02 (Trafficking of Persons), if the
2-22 defendant is alleged to have:

2-23 (A) trafficked the child with the intent or
2-24 knowledge that the child would engage in sexual conduct, as defined
2-25 by Section 43.25, Penal Code; or

2-26 (B) benefited from participating in a venture
2-27 that involved a trafficked child engaging in sexual conduct, as
2-28 defined by Section 43.25, Penal Code; or

- 2-29 (5) Section 43.05(a)(2) (Compelling Prostitution).

2-30 SECTION 2.02. Chapter 42, Code of Criminal Procedure, is
2-31 amended by adding Article 42.0372 to read as follows:

2-32 Art. 42.0372. MANDATORY RESTITUTION FOR CHILD VICTIMS OF
2-33 TRAFFICKING OF PERSONS OR COMPELLING PROSTITUTION. (a) The court
2-34 shall order a defendant convicted of an offense under Section
2-35 20A.02 or 43.05(a)(2), Penal Code, to pay restitution in an amount
2-36 equal to the cost of necessary rehabilitation, including medical,
2-37 psychiatric, and psychological care and treatment, for any victim
2-38 of the offense who is younger than 18 years of age.

2-39 (b) The court shall, after considering the financial
2-40 circumstances of the defendant, specify in a restitution order
2-41 issued under Subsection (a) the manner in which the defendant must
2-42 pay the restitution.

2-43 (c) A restitution order issued under Subsection (a) may be
2-44 enforced by the state, or by a victim named in the order to receive
2-45 the restitution, in the same manner as a judgment in a civil action.

2-46 (d) The court may hold a hearing, make findings of fact, and
2-47 amend a restitution order issued under Subsection (a) if the
2-48 defendant fails to pay the victim named in the order in the manner
2-49 specified by the court.

2-50 SECTION 2.03. Section 13B(b), Article 42.12, Code of
2-51 Criminal Procedure, is amended to read as follows:

2-52 (b) This section applies to a defendant placed on community
2-53 supervision for an offense:

- 2-54 (1) under Section 43.05(a)(2), 43.25, or 43.26, Penal
2-55 Code;
- 2-56 (2) under Section 21.08, 21.11, 22.011, 22.021, or
2-57 25.02, Penal Code;
- 2-58 (3) under Section 20.04(a)(4), Penal Code, if the
2-59 defendant committed the offense with the intent to violate or abuse
2-60 the victim sexually; [~~or~~]
- 2-61 (4) under Section 30.02, Penal Code, punishable under
2-62 Subsection (d) of that section, if the defendant committed the
2-63 offense with the intent to commit a felony listed in Subdivision (2)
2-64 or (3) of this subsection; or
- 2-65 (5) under Section 20A.02, Penal Code, if the
2-66 defendant:

2-67 (A) trafficked the victim with the intent or
2-68 knowledge that the victim would engage in sexual conduct, as
2-69 defined by Section 43.25, Penal Code; or

3-1 (B) benefited from participating in a venture
3-2 that involved a trafficked victim engaging in sexual conduct, as
3-3 defined by Section 43.25, Penal Code.

3-4 SECTION 2.04. Article 59.01(2), Code of Criminal Procedure,
3-5 as amended by Chapters 153 (S.B. 2225), 1130 (H.B. 2086), and 1357
3-6 (S.B. 554), Acts of the 81st Legislature, Regular Session, 2009, is
3-7 reenacted and amended to read as follows:

3-8 (2) "Contraband" means property of any nature,
3-9 including real, personal, tangible, or intangible, that is:

3-10 (A) used in the commission of:
3-11 (i) any first or second degree felony under
3-12 the Penal Code;

3-13 (ii) any felony under Section 15.031(b),
3-14 20.05, 21.11, 38.04, or [~~Subchapter B of~~] Chapter 43, 20A, [~~or~~
3-15 ~~Chapter~~] 29, 30, 31, 32, 33, 33A, or 35, Penal Code;

3-16 (iii) any felony under The Securities Act
3-17 (Article 581-1 et seq., Vernon's Texas Civil Statutes); or

3-18 (iv) any offense under Chapter 49, Penal
3-19 Code, that is punishable as a felony of the third degree or state
3-20 jail felony, if the defendant has been previously convicted three
3-21 times of an offense under that chapter;

3-22 (B) used or intended to be used in the commission
3-23 of:

3-24 (i) any felony under Chapter 481, Health
3-25 and Safety Code (Texas Controlled Substances Act);

3-26 (ii) any felony under Chapter 483, Health
3-27 and Safety Code;

3-28 (iii) a felony under Chapter 153, Finance
3-29 Code;

3-30 (iv) any felony under Chapter 34, Penal
3-31 Code;

3-32 (v) a Class A misdemeanor under Subchapter
3-33 B, Chapter 365, Health and Safety Code, if the defendant has been
3-34 previously convicted twice of an offense under that subchapter;

3-35 (vi) any felony under Chapter 152, Finance
3-36 Code;

3-37 (vii) any felony under Chapter 32, Human
3-38 Resources Code, or Chapter 31, 32, 35A, or 37, Penal Code, that
3-39 involves the state Medicaid program;

3-40 (viii) a Class B misdemeanor under Chapter
3-41 522, Business & Commerce Code;

3-42 (ix) a Class A misdemeanor under Section
3-43 306.051, Business & Commerce Code; [~~or~~]

3-44 (x) any offense under Section 42.10, Penal
3-45 Code;

3-46 (xi) [~~(x)~~] any offense under Section
3-47 46.06(a)(1) or 46.14, Penal Code; or

3-48 (xii) [~~(x)~~] any offense under Chapter 71,
3-49 Penal Code;

3-50 (C) the proceeds gained from the commission of a
3-51 felony listed in Paragraph (A) or (B) of this subdivision, a
3-52 misdemeanor listed in Paragraph (B)(viii), (x), (xi), or (xii)
3-53 [~~(B)(viii) or (x)~~] of this subdivision, or a crime of violence;

3-54 (D) acquired with proceeds gained from the
3-55 commission of a felony listed in Paragraph (A) or (B) of this
3-56 subdivision, a misdemeanor listed in Paragraph (B)(viii), (x),
3-57 (xi), or (xii) [~~(B)(viii) or (x)~~] of this subdivision, or a crime of
3-58 violence; [~~or~~]

3-59 (E) used to facilitate or intended to be used to
3-60 facilitate the commission of a felony under Section 15.031 or
3-61 43.25, Penal Code; or

3-62 (F) used to facilitate or intended to be used to
3-63 facilitate the commission of a felony under Section 20A.02 or
3-64 Chapter 43, Penal Code.

3-65 SECTION 2.05. Article 60.051(g), Code of Criminal
3-66 Procedure, is amended to read as follows:

3-67 (g) In addition to the information described by Subsections
3-68 (a)-(f), information in the computerized criminal history system
3-69 must include the age of the victim of the offense if the defendant

4-1 was arrested for or charged with an offense under:
 4-2 (1) Section 21.02 (Continuous sexual abuse of young
 4-3 child or children), Penal Code;
 4-4 (2) Section 21.11 (Indecency with a child), Penal
 4-5 Code;
 4-6 (3) Section 22.011 (Sexual assault) or 22.021
 4-7 (Aggravated sexual assault), Penal Code;
 4-8 (4) Section 43.25 (Sexual performance by a child),
 4-9 Penal Code;
 4-10 (5) Section 20.04(a)(4) (Aggravated kidnapping),
 4-11 Penal Code, if the defendant committed the offense with intent to
 4-12 violate or abuse the victim sexually; ~~[or]~~
 4-13 (6) Section 30.02 (Burglary), Penal Code, if the
 4-14 offense is punishable under Subsection (d) of that section and the
 4-15 defendant committed the offense with intent to commit an offense
 4-16 described by Subdivision (2), (3), or (5);
 4-17 (7) Section 20A.02 (Trafficking of persons), Penal
 4-18 Code, if the defendant:
 4-19 (A) trafficked a person with the intent or
 4-20 knowledge that the person would engage in sexual conduct, as
 4-21 defined by Section 43.25, Penal Code; or
 4-22 (B) benefited from participating in a venture
 4-23 that involved a trafficked person engaging in sexual conduct, as
 4-24 defined by Section 43.25, Penal Code; or
 4-25 (8) Section 43.05(a)(2) (Compelling prostitution),
 4-26 Penal Code.
 4-27 ARTICLE 3. CHANGES RELATING TO GOVERNMENT CODE
 4-28 SECTION 3.01. Subchapter C, Chapter 71, Government Code, is
 4-29 amended by adding Section 71.0353 to read as follows:
 4-30 Sec. 71.0353. TRAFFICKING OF PERSONS INFORMATION. As a
 4-31 component of the official monthly report submitted to the Office of
 4-32 Court Administration of the Texas Judicial System, a district court
 4-33 or county court at law shall report the number of cases filed for
 4-34 the following offenses:
 4-35 (1) trafficking of persons under Section 20A.02, Penal
 4-36 Code;
 4-37 (2) prostitution under Section 43.02, Penal Code; and
 4-38 (3) compelling prostitution under Section 43.05,
 4-39 Penal Code.
 4-40 SECTION 3.02. Section 411.042(b), Government Code, is
 4-41 amended to read as follows:
 4-42 (b) The bureau of identification and records shall:
 4-43 (1) procure and file for record photographs, pictures,
 4-44 descriptions, fingerprints, measurements, and other pertinent
 4-45 information of all persons arrested for or charged with a criminal
 4-46 offense or convicted of a criminal offense, regardless of whether
 4-47 the conviction is probated;
 4-48 (2) collect information concerning the number and
 4-49 nature of offenses reported or known to have been committed in the
 4-50 state and the legal steps taken in connection with the offenses, and
 4-51 other information useful in the study of crime and the
 4-52 administration of justice, including information that enables the
 4-53 bureau to create a statistical breakdown of:
 4-54 (A) offenses in which family violence was
 4-55 involved;
 4-56 (B) ~~[and a statistical breakdown of]~~ offenses
 4-57 under Sections 22.011 and 22.021, Penal Code; and
 4-58 (C) offenses under Sections 20A.02 and 43.05,
 4-59 Penal Code;
 4-60 (3) make ballistic tests of bullets and firearms and
 4-61 chemical analyses of bloodstains, cloth, materials, and other
 4-62 substances for law enforcement officers of the state;
 4-63 (4) cooperate with identification and crime records
 4-64 bureaus in other states and the United States Department of
 4-65 Justice;
 4-66 (5) maintain a list of all previous background checks
 4-67 for applicants for any position regulated under Chapter 1702,
 4-68 Occupations Code, who have undergone a criminal history background
 4-69 check under Section 411.119, if the check indicates a Class B

5-1 misdemeanor or equivalent offense or a greater offense;

5-2 (6) collect information concerning the number and

5-3 nature of protective orders and all other pertinent information

5-4 about all persons on active protective orders. Information in the

5-5 law enforcement information system relating to an active protective

5-6 order shall include:

5-7 (A) the name, sex, race, date of birth, personal

5-8 descriptors, address, and county of residence of the person to whom

5-9 the order is directed;

5-10 (B) any known identifying number of the person to

5-11 whom the order is directed, including the person's social security

5-12 number or driver's license number;

5-13 (C) the name and county of residence of the

5-14 person protected by the order;

5-15 (D) the residence address and place of employment

5-16 or business of the person protected by the order, unless that

5-17 information is excluded from the order under Section 85.007, Family

5-18 Code;

5-19 (E) the child-care facility or school where a

5-20 child protected by the order normally resides or which the child

5-21 normally attends, unless that information is excluded from the

5-22 order under Section 85.007, Family Code;

5-23 (F) the relationship or former relationship

5-24 between the person who is protected by the order and the person to

5-25 whom the order is directed; and

5-26 (G) the date the order expires;

5-27 (7) grant access to criminal history record

5-28 information in the manner authorized under Subchapter F;

5-29 (8) collect and disseminate information regarding

5-30 offenders with mental impairments in compliance with Chapter 614,

5-31 Health and Safety Code; and

5-32 (9) record data and maintain a state database for a

5-33 computerized criminal history record system and computerized

5-34 juvenile justice information system that serves:

5-35 (A) as the record creation point for criminal

5-36 history record information and juvenile justice information

5-37 maintained by the state; and

5-38 (B) as the control terminal for the entry of

5-39 records, in accordance with federal law and regulations, federal

5-40 executive orders, and federal policy, into the federal database

5-41 maintained by the Federal Bureau of Investigation.

5-42 SECTION 3.03. Section 508.187(a), Government Code, is

5-43 amended to read as follows:

5-44 (a) This section applies only to a releasee serving a

5-45 sentence for an offense under:

5-46 (1) Section 43.25 or 43.26, Penal Code;

5-47 (2) Section 21.02, 21.11, 22.011, 22.021, or 25.02,

5-48 Penal Code;

5-49 (3) Section 20.04(a)(4), Penal Code, if the releasee

5-50 committed the offense with the intent to violate or abuse the victim

5-51 sexually; ~~or~~

5-52 (4) Section 30.02, Penal Code, punishable under

5-53 Subsection (d) of that section, if the releasee committed the

5-54 offense with the intent to commit a felony listed in Subdivision (2)

5-55 or (3);

5-56 (5) Section 43.05(a)(2), Penal Code; or

5-57 (6) Section 20A.02, Penal Code, if the defendant:

5-58 (A) trafficked the victim with the intent or

5-59 knowledge that the victim would engage in sexual conduct, as

5-60 defined by Section 43.25, Penal Code; or

5-61 (B) benefited from participating in a venture

5-62 that involved a trafficked victim engaging in sexual conduct, as

5-63 defined by Section 43.25, Penal Code.

5-64 SECTION 3.04. Sections 772.006(e) and (f), Government Code,

5-65 are amended to read as follows:

5-66 (e) The legislature may appropriate money from the

5-67 trafficking of persons investigation and prosecution account

5-68 created under Subsection (d) only to the criminal justice division

5-69 for the purposes of this subsection. The division may use the

6-1 appropriated money solely to distribute grants to qualified
6-2 applicants, as determined by the division, that:

6-3 (1) ~~[counties that apply for the grants and that]~~ have
6-4 dedicated full-time or part-time personnel to identify, prevent,
6-5 investigate, or prosecute offenses under Chapter 20A, Penal Code;
6-6 or [and]

6-7 (2) ~~[nongovernmental organizations that apply for the~~
6-8 ~~grants and that]~~ provide comprehensive services in this state to
6-9 prevent the commission of offenses under Chapter 20A, Penal Code,
6-10 or to address the needs of victims of those offenses, including
6-11 public awareness activities, community outreach and training,
6-12 victim identification services, legal services, and other services
6-13 designed to assist victims.

6-14 (f) The total amount of grants that may be distributed under
6-15 this section [to counties and nongovernmental organizations] from
6-16 the trafficking of persons investigation and prosecution account
6-17 during each state fiscal year may not exceed \$10 million.

6-18 ARTICLE 4. CHANGES RELATING TO PENAL CODE

6-19 SECTION 4.01. Section 25.08(c), Penal Code, is amended to
6-20 read as follows:

6-21 (c) An offense under this section is a felony of the third
6-22 degree, except that the offense is a felony of the second degree if
6-23 the actor commits the offense with intent to commit an offense under
6-24 Section 20A.02, 43.02, 43.05, or 43.25.

6-25 SECTION 4.02. Section 43.02(c), Penal Code, is amended to
6-26 read as follows:

6-27 (c) An offense under this section is a Class B misdemeanor,
6-28 except that the offense is:

6-29 (1) a Class A misdemeanor if [unless] the actor has
6-30 previously been convicted one or two times of an offense under this
6-31 section;

6-32 (2) a state jail felony if[, in which event it is a
6-33 Class A misdemeanor. If] the actor has previously been convicted
6-34 three or more times of an offense under this section;

6-35 (3) a felony of the third degree if the person
6-36 solicited is 14 years of age or older and younger than 18 years of
6-37 age; or

6-38 (4) a felony of the second degree if the person
6-39 solicited is younger than 14 years of age[, the offense is a state
6-40 jail felony].

6-41 SECTION 4.03. Section 43.251(c), Penal Code, is amended to
6-42 read as follows:

6-43 (c) An offense under this section is a felony of the second
6-44 degree, except that the offense is a felony of the first degree if
6-45 the child is younger than 14 years of age at the time the offense is
6-46 committed [Class A misdemeanor].

6-47 ARTICLE 5. TRANSITION; EFFECTIVE DATE

6-48 SECTION 5.01. Except as provided by Section 5.02 of this
6-49 Act, the changes in law made by this Act apply only to an offense
6-50 committed on or after the effective date of this Act. An offense
6-51 committed before the effective date of this Act is covered by the
6-52 law in effect when the offense was committed, and the former law is
6-53 continued in effect for that purpose. For purposes of this section,
6-54 an offense was committed before the effective date of this Act if
6-55 any element of the offense occurred before that date.

6-56 SECTION 5.02. The changes in law made by this Act to
6-57 Sections 11.44, 11.46, 11.64, and 61.42, Alcoholic Beverage Code,
6-58 apply only to an application for a license filed on or after the
6-59 effective date of this Act. An application for a license filed
6-60 before the effective date of this Act is governed by the law in
6-61 effect on the date the application was filed, and the former law is
6-62 continued in effect for that purpose.

6-63 SECTION 5.03. To the extent of any conflict, this Act
6-64 prevails over another Act of the 82nd Legislature, Regular Session,
6-65 2011, relating to nonsubstantive additions to and corrections in
6-66 enacted codes.

6-67 SECTION 5.04. This Act takes effect September 1, 2011.

6-68 * * * * *