

By: Coleman

H.B. No. 2822

Substitute the following for H.B. No. 2822:

By: Gallego

C.S.H.B. No. 2822

A BILL TO BE ENTITLED

1

AN ACT

2 relating to the penalty for and certain other civil consequences of  
3 engaging in disorderly conduct for certain unlawful purposes.

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

5 SECTION 1. Article 62.001(5), Code of Criminal Procedure,  
6 is amended to read as follows:

7 (5) "Reportable conviction or adjudication" means a  
8 conviction or adjudication, including an adjudication of  
9 delinquent conduct or a deferred adjudication, that, regardless of  
10 the pendency of an appeal, is a conviction for or an adjudication  
11 for or based on:

12 (A) a violation of Section 21.02 (Continuous  
13 sexual abuse of young child or children), 21.11 (Indecency with a  
14 child), 22.011 (Sexual assault), 22.021 (Aggravated sexual  
15 assault), or 25.02 (Prohibited sexual conduct), Penal Code;

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

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

23 (D) a violation of Section 30.02 (Burglary),  
24 Penal Code, if the offense or conduct is punishable under

1 Subsection (d) of that section and the actor committed the offense  
2 or engaged in the conduct with intent to commit a felony listed in  
3 Paragraph (A) or (C);

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

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

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

12 (F) the second violation of Section 21.08  
13 (Indecent exposure) or 42.01(a)(12) (Disorderly conduct), Penal  
14 Code, but not if the second violation results in a deferred  
15 adjudication;

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

19 (H) a violation of the laws of another state,  
20 federal law, the laws of a foreign country, or the Uniform Code of  
21 Military Justice for or based on the violation of an offense  
22 containing elements that are substantially similar to the elements  
23 of an offense listed under Paragraph (A), (B), (C), (D), (E), (G),  
24 or (J), but not if the violation results in a deferred adjudication;

25 (I) the second violation of the laws of another  
26 state, federal law, the laws of a foreign country, or the Uniform  
27 Code of Military Justice for or based on the violation of an offense

1 containing elements that are substantially similar to the elements  
2 of the offense of indecent exposure or the elements of the offense  
3 of disorderly conduct described by Section 42.01(a)(12), Penal  
4 Code, but not if the second violation results in a deferred  
5 adjudication; or

6 (J) a violation of Section 33.021 (Online  
7 solicitation of a minor), Penal Code.

8 SECTION 2. Sections 42.01(a) and (d), Penal Code, are  
9 amended to read as follows:

10 (a) A person commits an offense if he intentionally or  
11 knowingly:

12 (1) uses abusive, indecent, profane, or vulgar  
13 language in a public place, and the language by its very utterance  
14 tends to incite an immediate breach of the peace;

15 (2) makes an offensive gesture or display in a public  
16 place, and the gesture or display tends to incite an immediate  
17 breach of the peace;

18 (3) creates, by chemical means, a noxious and  
19 unreasonable odor in a public place;

20 (4) abuses or threatens a person in a public place in  
21 an obviously offensive manner;

22 (5) makes unreasonable noise in a public place other  
23 than a sport shooting range, as defined by Section 250.001, Local  
24 Government Code, or in or near a private residence that he has no  
25 right to occupy;

26 (6) fights with another in a public place;

27 (7) discharges a firearm in a public place other than a

1 public road or a sport shooting range, as defined by Section  
2 250.001, Local Government Code;

3 (8) displays a firearm or other deadly weapon in a  
4 public place in a manner calculated to alarm;

5 (9) discharges a firearm on or across a public road;

6 (10) exposes his anus or genitals in a public place and  
7 is reckless about whether another may be present who will be  
8 offended or alarmed by his act; ~~or~~

9 (11) for an ~~a lewd or~~ unlawful purpose not otherwise  
10 described by Subdivision (12):

11 (A) enters on the property of another and looks  
12 into a dwelling on the property through any window or other opening  
13 in the dwelling;

14 (B) while on the premises of a hotel or  
15 comparable establishment, looks into a guest room not the person's  
16 own through a window or other opening in the room; or

17 (C) while on the premises of a public place,  
18 looks into an area such as a restroom or shower stall or changing or  
19 dressing room that is designed to provide privacy to a person using  
20 the area; or

21 (12) with intent to arouse or gratify the sexual  
22 desire of any person, engages in conduct described by Subdivision  
23 (11)(A), (B), or (C).

24 (d) An offense under this section is a Class C misdemeanor,  
25 except that the offense is:

26 (1) a Class B misdemeanor if ~~unless~~ committed under  
27 Subsection (a)(7) or (a)(8); or

1           (2) a state jail felony if committed under Subsection  
2 (a)(12) [~~, in which event it is a Class B misdemeanor~~].

3           SECTION 3. The change in law made by this Act applies only  
4 to an offense committed on or after the effective date of this Act.  
5 An offense committed before the effective date of this Act is  
6 governed by the law in effect on the date the offense was committed,  
7 and the former law is continued in effect for that purpose. For  
8 purposes of this section, an offense was committed before the  
9 effective date of this Act if any element of the offense occurred  
10 before that date.

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