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H.B. No. 3000

A BILL TO BE ENTITLED

AN ACT

relating to creating the offense of continuous trafficking of persons; providing a penalty and other civil consequences.

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

SECTION 1. Chapter 20A, Penal Code, is amended by adding Section 20A.03 to read as follows:

Sec. 20A.03. CONTINUOUS TRAFFICKING OF PERSONS. (a) A person commits an offense if, during a period that is 30 or more days in duration, the person engages two or more times in conduct that constitutes an offense under Section 20A.02.

(b) If a jury is the trier of fact, members of the jury are not required to agree unanimously on which specific conduct engaged in by the defendant constituted an offense under Section 20A.02 or on which exact date the defendant engaged in that conduct. The jury must agree unanimously that the defendant, during a period that is 30 or more days in duration, engaged in conduct that constituted an offense under Section 20A.02.

(c) If the victim of an offense under Subsection (a) is the same victim as a victim of an offense under Section 20A.02, a defendant may not be convicted of the offense under Section 20A.02 in the same criminal action as the offense under Subsection (a), unless the offense under Section 20A.02:

(1) is charged in the alternative;

(2) occurred outside the period in which the offense

1 alleged under Subsection (a) was committed; or

2 (3) is considered by the trier of fact to be a lesser  
3 included offense of the offense alleged under Subsection (a).

4 (d) A defendant may not be charged with more than one count  
5 under Subsection (a) if all of the conduct that constitutes an  
6 offense under Section 20A.02 is alleged to have been committed  
7 against the same victim.

8 (e) An offense under this section is a felony of the first  
9 degree, punishable by imprisonment in the Texas Department of  
10 Criminal Justice for life or for any term of not more than 99 years  
11 or less than 25 years.

12 SECTION 2. Article 12.01, Code of Criminal Procedure, is  
13 amended to read as follows:

14 Art. 12.01. FELONIES. Except as provided in Article 12.03,  
15 felony indictments may be presented within these limits, and not  
16 afterward:

17 (1) no limitation:

18 (A) murder and manslaughter;

19 (B) sexual assault under Section 22.011(a)(2),  
20 Penal Code, or aggravated sexual assault under Section  
21 22.021(a)(1)(B), Penal Code;

22 (C) sexual assault, if during the investigation  
23 of the offense biological matter is collected and subjected to  
24 forensic DNA testing and the testing results show that the matter  
25 does not match the victim or any other person whose identity is  
26 readily ascertained;

27 (D) continuous sexual abuse of young child or

1 children under Section 21.02, Penal Code;

2 (E) indecency with a child under Section 21.11,  
3 Penal Code; [~~or~~]

4 (F) an offense involving leaving the scene of an  
5 accident under Section 550.021, Transportation Code, if the  
6 accident resulted in the death of a person; or

7 (G) continuous trafficking of persons under  
8 Section 20A.03, Penal Code;

9 (2) ten years from the date of the commission of the  
10 offense:

11 (A) theft of any estate, real, personal or mixed,  
12 by an executor, administrator, guardian or trustee, with intent to  
13 defraud any creditor, heir, legatee, ward, distributee,  
14 beneficiary or settlor of a trust interested in such estate;

15 (B) theft by a public servant of government  
16 property over which he exercises control in his official capacity;

17 (C) forgery or the uttering, using or passing of  
18 forged instruments;

19 (D) injury to an elderly or disabled individual  
20 punishable as a felony of the first degree under Section 22.04,  
21 Penal Code;

22 (E) sexual assault, except as provided by  
23 Subdivision (1); or

24 (F) arson;

25 (3) seven years from the date of the commission of the  
26 offense:

27 (A) misapplication of fiduciary property or

1 property of a financial institution;

2 (B) securing execution of document by deception;

3 (C) a felony violation under Chapter 162, Tax  
4 Code;

5 (D) false statement to obtain property or credit  
6 under Section 32.32, Penal Code;

7 (E) money laundering;

8 (F) credit card or debit card abuse under Section  
9 32.31, Penal Code; or

10 (G) fraudulent use or possession of identifying  
11 information under Section 32.51, Penal Code;

12 (4) five years from the date of the commission of the  
13 offense:

14 (A) theft or robbery;

15 (B) except as provided by Subdivision (5),  
16 kidnapping or burglary;

17 (C) injury to an elderly or disabled individual  
18 that is not punishable as a felony of the first degree under Section  
19 22.04, Penal Code;

20 (D) abandoning or endangering a child; or

21 (E) insurance fraud;

22 (5) if the investigation of the offense shows that the  
23 victim is younger than 17 years of age at the time the offense is  
24 committed, 20 years from the 18th birthday of the victim of one of  
25 the following offenses:

26 (A) sexual performance by a child under Section  
27 43.25, Penal Code;

1 (B) aggravated kidnapping under Section  
2 20.04(a)(4), Penal Code, if the defendant committed the offense  
3 with the intent to violate or abuse the victim sexually; or

4 (C) burglary under Section 30.02, Penal Code, if  
5 the offense is punishable under Subsection (d) of that section and  
6 the defendant committed the offense with the intent to commit an  
7 offense described by Subdivision (1)(B) or (D) of this article or  
8 Paragraph (B) of this subdivision;

9 (6) ten years from the 18th birthday of the victim of  
10 the offense: injury to a child under Section 22.04, Penal Code; or

11 (7) three years from the date of the commission of the  
12 offense: all other felonies.

13 SECTION 3. Article 17.03(b), Code of Criminal Procedure, is  
14 amended to read as follows:

15 (b) Only the court before whom the case is pending may  
16 release on personal bond a defendant who:

17 (1) is charged with an offense under the following  
18 sections of the Penal Code:

19 (A) Section 19.03 (Capital Murder);

20 (B) Section 20.04 (Aggravated Kidnapping);

21 (C) Section 22.021 (Aggravated Sexual Assault);

22 (D) Section 22.03 (Deadly Assault on Law  
23 Enforcement or Corrections Officer, Member or Employee of Board of  
24 Pardons and Paroles, or Court Participant);

25 (E) Section 22.04 (Injury to a Child, Elderly  
26 Individual, or Disabled Individual);

27 (F) Section 29.03 (Aggravated Robbery);

- 1 (G) Section 30.02 (Burglary);  
2 (H) Section 71.02 (Engaging in Organized  
3 Criminal Activity); ~~or~~  
4 (I) Section 21.02 (Continuous Sexual Abuse of  
5 Young Child or Children); or  
6 (J) Section 20A.03 (Continuous Trafficking of  
7 Persons);

8 (2) is charged with a felony under Chapter 481, Health  
9 and Safety Code, or Section 485.033, Health and Safety Code,  
10 punishable by imprisonment for a minimum term or by a maximum fine  
11 that is more than a minimum term or maximum fine for a first degree  
12 felony; or

13 (3) does not submit to testing for the presence of a  
14 controlled substance in the defendant's body as requested by the  
15 court or magistrate under Subsection (c) of this article or submits  
16 to testing and the test shows evidence of the presence of a  
17 controlled substance in the defendant's body.

18 SECTION 4. Article 17.032(a), Code of Criminal Procedure,  
19 is amended to read as follows:

20 (a) In this article, "violent offense" means an offense  
21 under the following sections of the Penal Code:

- 22 (1) Section 19.02 (murder);  
23 (2) Section 19.03 (capital murder);  
24 (3) Section 20.03 (kidnapping);  
25 (4) Section 20.04 (aggravated kidnapping);  
26 (5) Section 21.11 (indecent with a child);  
27 (6) Section 22.01(a)(1) (assault);

- 1           (7) Section 22.011 (sexual assault);
- 2           (8) Section 22.02 (aggravated assault);
- 3           (9) Section 22.021 (aggravated sexual assault);
- 4           (10) Section 22.04 (injury to a child, elderly
- 5 individual, or disabled individual);
- 6           (11) Section 29.03 (aggravated robbery); [~~or~~]
- 7           (12) Section 21.02 (continuous sexual abuse of young
- 8 child or children); or
- 9           (13) Section 20A.03 (continuous trafficking of
- 10 persons).

11           SECTION 5. Article 17.091, Code of Criminal Procedure, is

12 amended to read as follows:

13           Art. 17.091. NOTICE OF CERTAIN BAIL REDUCTIONS REQUIRED.

14 Before a judge or magistrate reduces the amount of bail set for a

15 defendant charged with an offense listed in Section 3g, Article

16 42.12, [~~or~~] an offense described by Article 62.001(5), or an

17 offense under Section 20A.03, Penal Code, the judge or magistrate

18 shall provide:

19           (1) to the attorney representing the state, reasonable

20 notice of the proposed bail reduction; and

21           (2) on request of the attorney representing the state

22 or the defendant or the defendant's counsel, an opportunity for a

23 hearing concerning the proposed bail reduction.

24           SECTION 6. Section 23.101(a), Government Code, is amended

25 to read as follows:

26           (a) The trial courts of this state shall regularly and

27 frequently set hearings and trials of pending matters, giving

1 preference to hearings and trials of the following:

2 (1) temporary injunctions;

3 (2) criminal actions, with the following actions given  
4 preference over other criminal actions:

5 (A) criminal actions against defendants who are  
6 detained in jail pending trial;

7 (B) criminal actions involving a charge that a  
8 person committed an act of family violence, as defined by Section  
9 71.004, Family Code;

10 (C) an offense under:

11 (i) Section 21.02 or 21.11, Penal Code;

12 (ii) Chapter 22, Penal Code, if the victim  
13 of the alleged offense is younger than 17 years of age;

14 (iii) Section 25.02, Penal Code, if the  
15 victim of the alleged offense is younger than 17 years of age;

16 (iv) Section 25.06, Penal Code; ~~or~~

17 (v) Section 43.25, Penal Code; or

18 (vi) Section 20A.03, Penal Code; and

19 (D) an offense described by Article 62.001(6)(C)  
20 or (D), Code of Criminal Procedure;

21 (3) election contests and suits under the Election  
22 Code;

23 (4) orders for the protection of the family under  
24 Subtitle B, Title 4, Family Code;

25 (5) appeals of final rulings and decisions of the  
26 division of workers' compensation of the Texas Department of  
27 Insurance regarding workers' compensation claims and claims under

1 the Federal Employers' Liability Act and the Jones Act;

2 (6) appeals of final orders of the commissioner of the  
3 General Land Office under Section 51.3021, Natural Resources Code;

4 (7) actions in which the claimant has been diagnosed  
5 with malignant mesothelioma, other malignant asbestos-related  
6 cancer, malignant silica-related cancer, or acute silicosis; and

7 (8) appeals brought under Section 42.01 or 42.015, Tax  
8 Code, of orders of appraisal review boards of appraisal districts  
9 established for counties with a population of less than 175,000.

10 SECTION 7. Section 411.1471(a), Government Code, is amended  
11 to read as follows:

12 (a) This section applies to a defendant who is:

13 (1) indicted or waives indictment for a felony  
14 prohibited or punishable under any of the following Penal Code  
15 sections:

16 (A) Section 20.04(a)(4);

17 (B) Section 21.11;

18 (C) Section 22.011;

19 (D) Section 22.021;

20 (E) Section 25.02;

21 (F) Section 30.02(d);

22 (G) Section 43.05;

23 (H) Section 43.25;

24 (I) Section 43.26; ~~or~~

25 (J) Section 21.02; or

26 (K) Section 20A.03;

27 (2) arrested for a felony described by Subdivision (1)

1 after having been previously convicted of or placed on deferred  
2 adjudication for an offense described by Subdivision (1) or an  
3 offense punishable under Section 30.02(c)(2), Penal Code; or

4 (3) convicted of an offense under Section 21.07 or  
5 21.08, Penal Code.

6 SECTION 8. Section 499.027(b), Government Code, is amended  
7 to read as follows:

8 (b) An inmate is not eligible under this subchapter to be  
9 considered for release to intensive supervision parole if:

10 (1) the inmate is awaiting transfer to the  
11 institutional division, or serving a sentence, for an offense for  
12 which the judgment contains an affirmative finding under Section  
13 3g(a)(2), Article 42.12, Code of Criminal Procedure;

14 (2) the inmate is awaiting transfer to the  
15 institutional division, or serving a sentence, for an offense  
16 listed in one of the following sections of the Penal Code:

17 (A) Section 19.02 (murder);

18 (B) Section 19.03 (capital murder);

19 (C) Section 19.04 (manslaughter);

20 (D) Section 20.03 (kidnapping);

21 (E) Section 20.04 (aggravated kidnapping);

22 (F) Section 21.11 (indecent with a child);

23 (G) Section 22.011 (sexual assault);

24 (H) Section 22.02 (aggravated assault);

25 (I) Section 22.021 (aggravated sexual assault);

26 (J) Section 22.04 (injury to a child or an  
27 elderly individual);

- 1 (K) Section 25.02 (prohibited sexual conduct);  
2 (L) Section 25.08 (sale or purchase of a child);  
3 (M) Section 28.02 (arson);  
4 (N) Section 29.02 (robbery);  
5 (O) Section 29.03 (aggravated robbery);  
6 (P) Section 30.02 (burglary), if the offense is  
7 punished as a first-degree felony under that section;  
8 (Q) Section 43.04 (aggravated promotion of  
9 prostitution);  
10 (R) Section 43.05 (compelling prostitution);  
11 (S) Section 43.24 (sale, distribution, or  
12 display of harmful material to minor);  
13 (T) Section 43.25 (sexual performance by a  
14 child);  
15 (U) Section 46.10 (deadly weapon in penal  
16 institution);  
17 (V) Section 15.01 (criminal attempt), if the  
18 offense attempted is listed in this subsection;  
19 (W) Section 15.02 (criminal conspiracy), if the  
20 offense that is the subject of the conspiracy is listed in this  
21 subsection;  
22 (X) Section 15.03 (criminal solicitation), if  
23 the offense solicited is listed in this subsection; ~~or~~  
24 (Y) Section 21.02 (continuous sexual abuse of  
25 young child or children); or  
26 (Z) Section 20A.03 (continuous trafficking of  
27 persons); or

1           (3) the inmate is awaiting transfer to the  
2 institutional division, or serving a sentence, for an offense under  
3 Chapter 481, Health and Safety Code, punishable by a minimum term of  
4 imprisonment or a maximum fine that is greater than the minimum term  
5 of imprisonment or the maximum fine for a first degree felony.

6           SECTION 9. Section 508.046, Government Code, is amended to  
7 read as follows:

8           Sec. 508.046. EXTRAORDINARY VOTE REQUIRED. To release on  
9 parole an inmate who was convicted of an offense under Section  
10 20A.03, 21.02, 21.11(a)(1), or 22.021, Penal Code, or who is  
11 required under Section 508.145(c) to serve 35 calendar years before  
12 becoming eligible for release on parole, all members of the board  
13 must vote on the release on parole of the inmate, and at least  
14 two-thirds of the members must vote in favor of the release on  
15 parole. A member of the board may not vote on the release unless the  
16 member first receives a copy of a written report from the department  
17 on the probability that the inmate would commit an offense after  
18 being released on parole.

19           SECTION 10. Section 508.145(d), Government Code, is amended  
20 to read as follows:

21           (d) An inmate serving a sentence for an offense described by  
22 Section 3g(a)(1)(A), (C), (D), (E), (F), (G), (H), (I), (J), or (K),  
23 Article 42.12, Code of Criminal Procedure, or for an offense for  
24 which the judgment contains an affirmative finding under Section  
25 3g(a)(2) of that article, or for an offense under Section 20A.03,  
26 Penal Code, is not eligible for release on parole until the inmate's  
27 actual calendar time served, without consideration of good conduct

1 time, equals one-half of the sentence or 30 calendar years,  
2 whichever is less, but in no event is the inmate eligible for  
3 release on parole in less than two calendar years.

4 SECTION 11. Section 508.149(a), Government Code, is amended  
5 to read as follows:

6 (a) An inmate may not be released to mandatory supervision  
7 if the inmate is serving a sentence for or has been previously  
8 convicted of:

9 (1) an offense for which the judgment contains an  
10 affirmative finding under Section 3g(a)(2), Article 42.12, Code of  
11 Criminal Procedure;

12 (2) a first degree felony or a second degree felony  
13 under Section 19.02, Penal Code;

14 (3) a capital felony under Section 19.03, Penal Code;

15 (4) a first degree felony or a second degree felony  
16 under Section 20.04, Penal Code;

17 (5) an offense under Section 21.11, Penal Code;

18 (6) a felony under Section 22.011, Penal Code;

19 (7) a first degree felony or a second degree felony  
20 under Section 22.02, Penal Code;

21 (8) a first degree felony under Section 22.021, Penal  
22 Code;

23 (9) a first degree felony under Section 22.04, Penal  
24 Code;

25 (10) a first degree felony under Section 28.02, Penal  
26 Code;

27 (11) a second degree felony under Section 29.02, Penal

1 Code;

2 (12) a first degree felony under Section 29.03, Penal  
3 Code;

4 (13) a first degree felony under Section 30.02, Penal  
5 Code;

6 (14) a felony for which the punishment is increased  
7 under Section 481.134 or Section 481.140, Health and Safety Code;

8 (15) an offense under Section 43.25, Penal Code;

9 (16) an offense under Section 21.02, Penal Code; ~~or~~

10 (17) a first degree felony under Section 15.03, Penal  
11 Code; or

12 (18) an offense under Section 20A.03, Penal Code.

13 SECTION 12. Section 508.151(a), Government Code, is amended  
14 to read as follows:

15 (a) For the purpose of diverting inmates to halfway houses  
16 under Section 508.118, a parole panel, after reviewing all  
17 available pertinent information, may designate a presumptive  
18 parole date for an inmate who:

19 (1) has never been convicted of an offense listed  
20 under Section 3g(a)(1), Article 42.12, Code of Criminal Procedure,  
21 or an offense under Section 20A.03 or 21.02, Penal Code; and

22 (2) has never had a conviction with a judgment that  
23 contains an affirmative finding under Section 3g(a)(2), Article  
24 42.12, Code of Criminal Procedure.

25 SECTION 13. Section 12.35(c), Penal Code, is amended to  
26 read as follows:

27 (c) An individual adjudged guilty of a state jail felony

1 shall be punished for a third degree felony if it is shown on the  
2 trial of the offense that:

3 (1) a deadly weapon as defined by Section 1.07 was used  
4 or exhibited during the commission of the offense or during  
5 immediate flight following the commission of the offense, and that  
6 the individual used or exhibited the deadly weapon or was a party to  
7 the offense and knew that a deadly weapon would be used or  
8 exhibited; or

9 (2) the individual has previously been finally  
10 convicted of any felony:

11 (A) under Section 20A.03 or 21.02 or listed in  
12 Section 3g(a)(1), Article 42.12, Code of Criminal Procedure; or

13 (B) for which the judgment contains an  
14 affirmative finding under Section 3g(a)(2), Article 42.12, Code of  
15 Criminal Procedure.

16 SECTION 14. Section 12.42(c)(4), Penal Code, is amended to  
17 read as follows:

18 (4) Notwithstanding Subdivision (1) or (2), a  
19 defendant shall be punished by imprisonment in the Texas Department  
20 of Criminal Justice for life without parole if it is shown on the  
21 trial of an offense under Section 20A.03 or 21.02 that the defendant  
22 has previously been finally convicted of:

23 (A) an offense under Section 20A.03 or 21.02; or

24 (B) an offense that was committed under the laws  
25 of another state and that contains elements that are substantially  
26 similar to the elements of an offense under Section 20A.03 or 21.02.

27 SECTION 15. The change in law made by this Act applies only

1 to an offense committed on or after the effective date of this Act.  
2 An offense committed before the effective date of this Act is  
3 governed by the law in effect on the date the offense was committed,  
4 and the former law is continued in effect for that purpose. For  
5 purposes of this section, an offense was committed before the  
6 effective date of this Act if any element of the offense occurred  
7 before that date.

8 SECTION 16. This Act takes effect September 1, 2011.