

AN ACT

relating to the prosecution and punishment of offenses related to trafficking of persons and to certain protections for victims of trafficking of persons.

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

SECTION 1. The heading to Chapter 7A, Code of Criminal Procedure, is amended to read as follows:

CHAPTER 7A. PROTECTIVE ORDER FOR [~~CERTAIN~~] VICTIMS OF [~~TRAFFICKING~~  
~~OR~~] SEXUAL ASSAULT OR ABUSE, STALKING, OR TRAFFICKING

SECTION 2. Article 7A.01(a), Code of Criminal Procedure, as amended by Chapters 1 (S.B. 24) and 135 (S.B. 250), Acts of the 82nd Legislature, Regular Session, 2011, is reenacted and amended to read as follows:

(a) The following persons may file an application for a protective order under this chapter without regard to the relationship between the applicant and the alleged offender:

(1) a person who is the victim of an offense under Section 21.02, 21.11, 22.011, 22.021, or 42.072, Penal Code;

(2) a person who is the victim of an offense under Section 20A.02 [~~20A.02(a)(3), (4), (7), or (8)~~] or [~~Section~~] 43.05, Penal Code;

(3) a parent or guardian acting on behalf of a person younger than 17 [~~18~~] years of age who is the victim of an offense listed in Subdivision (1);

1           (4) a parent or guardian acting on behalf of a person  
2 younger than 18 years of age who is the victim of an offense listed  
3 in Subdivision [~~or~~] (2); or

4           (5) [~~(4)~~] a prosecuting attorney acting on behalf of a  
5 person described by Subdivision (1) or (2).

6           SECTION 3. Article 7A.02, Code of Criminal Procedure, is  
7 amended to read as follows:

8           Art. 7A.02. TEMPORARY EX PARTE ORDER. If the court finds  
9 from the information contained in an application for a protective  
10 order that there is a clear and present danger of sexual assault or  
11 abuse, stalking, trafficking, or other harm to the applicant, the  
12 court, without further notice to the alleged offender and without a  
13 hearing, may enter a temporary ex parte order for the protection of  
14 the applicant or any other member of the applicant's family or  
15 household.

16           SECTION 4. Article 7A.03, Code of Criminal Procedure, as  
17 amended by Chapters 135 (S.B. 250) and 238 (H.B. 649), Acts of the  
18 82nd Legislature, Regular Session, 2011, is reenacted and amended  
19 to read as follows:

20           Art. 7A.03. REQUIRED FINDINGS; ISSUANCE OF PROTECTIVE  
21 ORDER. (a) At the close of a hearing on an application for a  
22 protective order under this chapter, the court shall find whether  
23 there are reasonable grounds to believe that the applicant is the  
24 victim of sexual assault or abuse, [~~or~~] stalking, or trafficking.

25           (b) If the court makes a finding described by Subsection (a)  
26 [~~(a)(1) or (2)~~], the court shall issue a protective order that  
27 includes a statement of the required findings.

1 SECTION 5. Article 7A.07(b), Code of Criminal Procedure, is  
2 amended to read as follows:

3 (b) The following persons may file at any time an  
4 application with the court to rescind the protective order:

5 (1) a victim of an offense listed in Article  
6 7A.01(a)(1) [A-victim] who is 17 years of age or older or a parent or  
7 guardian acting on behalf of a victim who is younger than 17 years  
8 of age; or

9 (2) a victim of an offense listed in Article  
10 7A.01(a)(2) or a parent or guardian acting on behalf of a victim who  
11 is younger than 18 years of age [~~may file at any time an application~~  
12 ~~with the court to rescind the protective order~~].

13 SECTION 6. Section 4(d), Article 42.12, Code of Criminal  
14 Procedure, is amended to read as follows:

15 (d) A defendant is not eligible for community supervision  
16 under this section if the defendant:

17 (1) is sentenced to a term of imprisonment that  
18 exceeds 10 years;

19 (2) is convicted of a state jail felony for which  
20 suspension of the imposition of the sentence occurs automatically  
21 under Section 15(a);

22 (3) does not file a sworn motion under Subsection (e)  
23 of this section or for whom the jury does not enter in the verdict a  
24 finding that the information contained in the motion is true;

25 (4) is convicted of an offense for which punishment is  
26 increased under Section 481.134(c), (d), (e), or (f), Health and  
27 Safety Code, if it is shown that the defendant has been previously

1 convicted of an offense for which punishment was increased under  
2 any one of those subsections;

3 (5) is convicted of an offense listed in Section  
4 3g(a)(1)(C), (E), or (H), if the victim of the offense was younger  
5 than 14 years of age at the time the offense was committed;

6 (6) is convicted of an offense listed in Section  
7 3g(a)(1)(D), if the victim of the offense was younger than 14 years  
8 of age at the time the offense was committed and the actor committed  
9 the offense with the intent to violate or abuse the victim sexually;

10 (7) is convicted of an offense listed in Section  
11 3g(a)(1)(J), (L), or (M); or

12 (8) is adjudged guilty of an offense under Section  
13 19.02, Penal Code.

14 SECTION 7. Chapter 48, Code of Criminal Procedure, is  
15 amended by adding Article 48.06 to read as follows:

16 Art. 48.06. EDUCATIONAL MATERIALS CONCERNING PARDONS FOR  
17 CERTAIN VICTIMS OF TRAFFICKING OF PERSONS. (a) The Board of  
18 Pardons and Paroles shall develop educational materials  
19 specifically for persons convicted of or placed on deferred  
20 adjudication community supervision for an offense the person  
21 committed solely as a victim of trafficking of persons under  
22 Section 20A.02, Penal Code. The board shall include in the  
23 educational materials a detailed description of the process by  
24 which the person may submit a request to the board for a written  
25 signed recommendation advising the governor to grant the person a  
26 pardon.

27 (b) The Board of Pardons and Paroles shall post educational

1 materials described by Subsection (a) on the board's Internet  
2 website.

3 SECTION 8. Article 56.32(a), Code of Criminal Procedure, is  
4 amended by adding Subdivision (14) to read as follows:

5 (14) "Trafficking of persons" means any offense that  
6 results in a person engaging in forced labor or services and that  
7 may be prosecuted under Section 20A.02, 20A.03, 43.03, 43.04,  
8 43.05, 43.25, 43.251, or 43.26, Penal Code.

9 SECTION 9. Article 56.42(d), Code of Criminal Procedure, is  
10 amended to read as follows:

11 (d) A victim who is a victim of family violence, a victim of  
12 trafficking of persons, or a victim of sexual assault who is  
13 assaulted in the victim's place of residence may receive a  
14 onetime-only assistance payment in an amount not to exceed:

15 (1) \$2,000 to be used for relocation expenses,  
16 including expenses for rental deposit, utility connections,  
17 expenses relating to the moving of belongings, motor vehicle  
18 mileage expenses, and for out-of-state moves, transportation,  
19 lodging, and meals; and

20 (2) \$1,800 to be used for housing rental expenses.

21 SECTION 10. Article 56.81, Code of Criminal Procedure, is  
22 amended by adding Subdivision (7) to read as follows:

23 (7) "Trafficking of persons" means any offense that  
24 may be prosecuted under Section 20A.02, 20A.03, 43.03, 43.04,  
25 43.05, 43.25, 43.251, or 43.26, Penal Code, and that results in a  
26 person:

27 (A) engaging in forced labor or services; or

1                   (B) otherwise becoming a victim of the offense.

2           SECTION 11. Article 56.82(a), Code of Criminal Procedure,  
3 is amended to read as follows:

4           (a) The attorney general shall establish an address  
5 confidentiality program, as provided by this subchapter, to assist  
6 a victim of family violence, trafficking of persons, or an offense  
7 under Section 22.011, 22.021, 25.02, or 42.072, Penal Code, in  
8 maintaining a confidential address.

9           SECTION 12. Articles 56.83(a), (b), and (e), Code of  
10 Criminal Procedure, are amended to read as follows:

11           (a) To be eligible to participate in the program, an  
12 applicant must:

13                   (1) meet with a victim's assistance counselor from a  
14 state or local agency or other entity, whether for-profit or  
15 nonprofit that is identified by the attorney general as an entity  
16 that provides counseling and shelter services to victims of family  
17 violence, trafficking of persons, or an offense under Section  
18 22.011, 22.021, 25.02, or 42.072, Penal Code;

19                   (2) file an application for participation with the  
20 attorney general or a state or local agency or other entity  
21 identified by the attorney general under Subdivision (1);

22                   (3) designate the attorney general as agent to receive  
23 service of process and mail on behalf of the applicant; and

24                   (4) live at a residential address, or relocate to a  
25 residential address, that is unknown to the person who committed or  
26 is alleged to have committed the family violence, trafficking of  
27 persons, or an offense under Section 22.011, 22.021, 25.02, or

1 42.072, Penal Code.

2 (b) An application under Subsection (a)(2) must contain:

3 (1) a signed, sworn statement by the applicant stating  
4 that the applicant fears for the safety of the applicant, the  
5 applicant's child, or another person in the applicant's household  
6 because of a threat of immediate or future harm caused by the person  
7 who committed or is alleged to have committed the family violence,  
8 the trafficking of persons, or an offense under Section 22.011,  
9 22.021, 25.02, or 42.072, Penal Code;

10 (2) the applicant's true residential address and, if  
11 applicable, the applicant's business and school addresses; and

12 (3) a statement by the applicant of whether there is an  
13 existing court order or a pending court case for child support or  
14 child custody or visitation that involves the applicant and, if so,  
15 the name and address of:

16 (A) the legal counsel of record; and

17 (B) each parent involved in the court order or  
18 pending case.

19 (e) The attorney general by rule may establish additional  
20 eligibility requirements for participation in the program that are  
21 consistent with the purpose of the program as stated in Article  
22 56.82(a). The attorney general may establish procedures for  
23 requiring an applicant, in appropriate circumstances, to submit  
24 with the application under Subsection (a)(2) independent  
25 documentary evidence of family violence, trafficking of persons, or  
26 an offense under Section 22.011, 22.021, 25.02, or 42.072, Penal  
27 Code, in the form of:

- 1           (1) an active or recently issued protective order;
- 2           (2) an incident report or other record maintained by a  
3 law enforcement agency or official;
- 4           (3) a statement of a physician or other health care  
5 provider regarding the applicant's medical condition as a result of  
6 the family violence, trafficking of persons, or offense; or
- 7           (4) a statement of a mental health professional, a  
8 member of the clergy, an attorney or other legal advocate, a trained  
9 staff member of a family violence center, or another professional  
10 who has assisted the applicant in addressing the effects of the  
11 family violence, trafficking of persons, or offense.

12           SECTION 13. Section 508.145(d)(1), Government Code, is  
13 amended to read as follows:

14           (1) An inmate serving a sentence for an offense  
15 described by Section 3g(a)(1)(A), (C), (D), (E), (F), (G), (H),  
16 (I), (J), [~~or~~] (K), (L), or (M), Article 42.12, Code of Criminal  
17 Procedure, [~~or for~~] an offense for which the judgment contains an  
18 affirmative finding under Section 3g(a)(2) of that article, or  
19 [~~for~~] an offense under Section 20A.03, Penal Code, is not eligible  
20 for release on parole until the inmate's actual calendar time  
21 served, without consideration of good conduct time, equals one-half  
22 of the sentence or 30 calendar years, whichever is less, but in no  
23 event is the inmate eligible for release on parole in less than two  
24 calendar years.

25           SECTION 14. The heading to Section 38.112, Penal Code, is  
26 amended to read as follows:

27           Sec. 38.112. VIOLATION OF PROTECTIVE ORDER ISSUED ON BASIS



1 OF SEXUAL ASSAULT OR ABUSE, STALKING, OR TRAFFICKING.

2 SECTION 15. Section 43.02, Penal Code, is amended by  
3 amending Subsections (a), (b), and (c) and adding Subsection (e) to  
4 read as follows:

5 (a) A person commits an offense if the person [~~he~~]  
6 knowingly:

7 (1) offers to engage, agrees to engage, or engages in  
8 sexual conduct for a fee; or

9 (2) solicits another in a public place to engage with  
10 the person [~~him~~] in sexual conduct for hire.

11 (b) An offense is established under Subsection (a)(1)  
12 whether the actor is to receive or pay a fee. An offense is  
13 established under Subsection (a)(2) whether the actor solicits a  
14 person to hire the actor [~~him~~] or offers to hire the person  
15 solicited.

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

18 (1) a Class A misdemeanor if the actor has previously  
19 been convicted one or two times of an offense under this section;

20 (2) a state jail felony if the actor has previously  
21 been convicted three or more times of an offense under this section;  
22 or

23 [~~a felony of the third degree if the person~~  
24 ~~solicited is 14 years of age or older and younger than 18 years of~~  
25 ~~age, or~~

26 [~~4~~] a felony of the second degree if the person  
27 solicited is younger than 18 [~~14~~] years of age, regardless of

1 whether the actor knows the age of the person solicited at the time  
2 the actor commits the offense.

3 (e) A conviction may be used for purposes of enhancement  
4 under this section or enhancement under Subchapter D, Chapter 12,  
5 but not under both this section and Subchapter D, Chapter 12. For  
6 purposes of enhancement of penalties under this section or  
7 Subchapter D, Chapter 12, a defendant is previously convicted of an  
8 offense under this section if the defendant was adjudged guilty of  
9 the offense or entered a plea of guilty or nolo contendere in return  
10 for a grant of deferred adjudication, regardless of whether the  
11 sentence for the offense was ever imposed or whether the sentence  
12 was probated and the defendant was subsequently discharged from  
13 community supervision.

14 SECTION 16. Section 43.03(b), Penal Code, is amended to  
15 read as follows:

16 (b) An offense under this section is a Class A misdemeanor,  
17 except that the offense is:

18 (1) a state jail felony if the actor has been  
19 previously convicted of an offense under this section; or

20 (2) a felony of the second degree if the actor engages  
21 in conduct described by Subsection (a)(1) or (2) involving a person  
22 younger than 18 years of age engaging in prostitution, regardless  
23 of whether the actor knows the age of the person at the time the  
24 actor commits the offense.

25 SECTION 17. Section 43.04(b), Penal Code, is amended to  
26 read as follows:

27 (b) An offense under this section is a felony of the third

1 degree, except that the offense is a felony of the first degree if  
2 the prostitution enterprise uses as a prostitute one or more  
3 persons younger than 18 years of age, regardless of whether the  
4 actor knows the age of the person at the time the actor commits the  
5 offense.

6 SECTION 18. Section 43.251(c), Penal Code, as amended by  
7 Chapters 515 (H.B. 2014) and 938 (H.B. 290), Acts of the 82nd  
8 Legislature, Regular Session, 2011, is reenacted and amended to  
9 read as follows:

10 (c) An offense under this section is a felony of the second  
11 degree, except that the offense is a felony of the first degree if  
12 the child is younger than 14 years of age at the time the offense is  
13 committed.

14 ~~[(1) a state jail felony if it is shown on the trial of~~  
15 ~~the offense that the defendant has been previously convicted one~~  
16 ~~time of an offense under this section; and~~

17 ~~[(2) a felony of the third degree if it is shown on the~~  
18 ~~trial of the offense that the defendant has been previously~~  
19 ~~convicted two or more times of an offense under this section.]~~

20 SECTION 19. Section 43.23(h), Penal Code, is amended to  
21 read as follows:

22 (h) The punishment for an offense under Subsection (a) or  
23 ~~[is increased to the punishment for a felony of the third degree and~~  
24 ~~the punishment for an offense under Subsection]~~ (c) is increased to  
25 the punishment for a ~~[state jail]~~ felony of the second degree if it  
26 is shown on the trial of the offense that obscene material that is  
27 the subject of the offense visually depicts activities described by

1 Section 43.21(a)(1)(B) engaged in by:

2 (1) a child younger than 18 years of age at the time  
3 the image of the child was made;

4 (2) an image that to a reasonable person would be  
5 virtually indistinguishable from the image of a child younger than  
6 18 years of age; or

7 (3) an image created, adapted, or modified to be the  
8 image of an identifiable child.

9 SECTION 20. Sections 43.26(a) and (h), Penal Code, are  
10 amended to read as follows:

11 (a) A person commits an offense if:

12 (1) the person knowingly or intentionally possesses,  
13 or knowingly or intentionally accesses with intent to view, visual  
14 material that visually depicts a child younger than 18 years of age  
15 at the time the image of the child was made who is engaging in sexual  
16 conduct, including a child who engages in sexual conduct as a victim  
17 of an offense under Section 20A.02(a)(5), (6), (7), or (8); and

18 (2) the person knows that the material depicts the  
19 child as described by Subdivision (1).

20 (h) It is a defense to prosecution under Subsection (a) or  
21 (e) that the actor is a law enforcement officer or a school  
22 administrator who:

23 (1) possessed or accessed the visual material in good  
24 faith solely as a result of an allegation of a violation of Section  
25 43.261;

26 (2) allowed other law enforcement or school  
27 administrative personnel to possess or access the material only as

1 appropriate based on the allegation described by Subdivision (1);  
2 and

3 (3) took reasonable steps to destroy the material  
4 within an appropriate period following the allegation described by  
5 Subdivision (1).

6 SECTION 21. Section 71.02(a), Penal Code, as amended by  
7 Chapters 68 (S.B. 934) and 223 (H.B. 260), Acts of the 82nd  
8 Legislature, Regular Session, 2011, is reenacted and amended to  
9 read as follows:

10 (a) A person commits an offense if, with the intent to  
11 establish, maintain, or participate in a combination or in the  
12 profits of a combination or as a member of a criminal street gang,  
13 the person commits or conspires to commit one or more of the  
14 following:

15 (1) murder, capital murder, arson, aggravated  
16 robbery, robbery, burglary, theft, aggravated kidnapping,  
17 kidnapping, aggravated assault, aggravated sexual assault, sexual  
18 assault, continuous sexual abuse of young child or children,  
19 solicitation of a minor, forgery, deadly conduct, assault  
20 punishable as a Class A misdemeanor, burglary of a motor vehicle, or  
21 unauthorized use of a motor vehicle;

22 (2) any gambling offense punishable as a Class A  
23 misdemeanor;

24 (3) promotion of prostitution, aggravated promotion  
25 of prostitution, or compelling prostitution;

26 (4) unlawful manufacture, transportation, repair, or  
27 sale of firearms or prohibited weapons;

1           (5) unlawful manufacture, delivery, dispensation, or  
2 distribution of a controlled substance or dangerous drug, or  
3 unlawful possession of a controlled substance or dangerous drug  
4 through forgery, fraud, misrepresentation, or deception;

5           (5-a) causing the unlawful delivery, dispensation, or  
6 distribution of a controlled substance or dangerous drug in  
7 violation of Subtitle B, Title 3, Occupations Code;

8           (6) any unlawful wholesale promotion or possession of  
9 any obscene material or obscene device with the intent to wholesale  
10 promote the same;

11           (7) any offense under Subchapter B, Chapter 43,  
12 depicting or involving conduct by or directed toward a child  
13 younger than 18 years of age;

14           (8) any felony offense under Chapter 32;

15           (9) any offense under Chapter 36;

16           (10) any offense under Chapter 34, 35, or 35A;

17           (11) any offense under Section 37.11(a);

18           (12) any offense under Chapter 20A;

19           (13) any offense under Section 37.10;

20           (14) any offense under Section 38.06, 38.07, 38.09, or  
21 38.11;

22           (15) any offense under Section 42.10;

23           (16) any offense under Section 46.06(a)(1) or 46.14;

24 [~~or~~]

25           (17) any offense under Section 20.05; or

26           (18) [~~(17)~~] any offense classified as a felony under  
27 the Tax Code.

1 SECTION 22. Chapter 7B, Code of Criminal Procedure, is  
2 repealed.

3 SECTION 23. (a) The changes in law made by this Act in  
4 amending Chapter 7A, Code of Criminal Procedure, and repealing  
5 Chapter 7B, Code of Criminal Procedure, apply only to a protective  
6 order issued on or after the effective date of this Act. A  
7 protective order issued before the effective date of this Act is  
8 governed by the law in effect on the date the order is issued, and  
9 the former law is continued in effect for that purpose.

10 (b) The changes in law made by this Act apply only to an  
11 offense committed on or after the effective date of this Act. An  
12 offense committed before the effective date of this Act is governed  
13 by the law in effect on the date the offense was committed, and the  
14 former law is continued in effect for that purpose. For purposes of  
15 this subsection, an offense was committed before the effective date  
16 of this Act if any element of the offense occurred before that date.

17 SECTION 24. The Board of Pardons and Paroles not later than  
18 October 1, 2013, shall post on its Internet website the educational  
19 materials described by Article 48.06(a), Code of Criminal  
20 Procedure, as added by this Act.

21 SECTION 25. The change in law made by this Act to Section  
22 43.26, Penal Code, applies only to an offense committed on or after  
23 the effective date of this Act. An offense committed before the  
24 effective date of this Act is governed by the law in effect on the  
25 date the offense was committed, and the former law is continued in  
26 effect for that purpose. For purposes of this section, an offense  
27 was committed before the effective date of this Act if any element

1 of the offense occurred before that date.

2 SECTION 26. This Act takes effect September 1, 2013.



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President of the Senate

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Speaker of the House

I certify that H.B. No. 8 was passed by the House on April 17, 2013, by the following vote: Yeas 147, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 8 on May 23, 2013, by the following vote: Yeas 146, Nays 0, 2 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 8 was passed by the Senate, with amendments, on May 21, 2013, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor