

By: Menendez

H.B. No. 32

A BILL TO BE ENTITLED

AN ACT

relating to the punishment for and certain civil consequences of committing the offense of prostitution.

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

SECTION 1. Section 43.03(b), Penal Code, is amended to read as follows:

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

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

(2) a felony of the third degree if:

(A) the person who provides prostitution services from which the actor receives money or other property is younger than 17 years of age at the time of the offense; or

(B) the actor solicits another to engage in sexual conduct with a person who is younger than 17 years of age.

SECTION 2. Section 43.04(b), Penal Code, is amended to read as follows:

(b) An offense under this section is a felony of the third degree, unless any prostitute that is part of the actor's prostitution enterprise is younger than 17 years of age at the time of the offense, in which event it is a felony of the second degree.

SECTION 3. Article 62.001(5), Code of Criminal Procedure, is amended to read as follows:

1 (5) "Reportable conviction or adjudication" means a
2 conviction or adjudication, including an adjudication of
3 delinquent conduct or a deferred adjudication, that, regardless of
4 the pendency of an appeal, is a conviction for or an adjudication
5 for or based on:

6 (A) a violation of Section 21.02 (Continuous
7 sexual abuse of young child or children), 21.11 (Indecency with a
8 child), 22.011 (Sexual assault), 22.021 (Aggravated sexual
9 assault), or 25.02 (Prohibited sexual conduct), Penal Code;

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

13 (B-1) a violation of Section 43.02
14 (Prostitution), Penal Code, if the offense is punishable under
15 Subsection (c)(3) or (4) of that section;

16 (B-2) a violation of Section 43.03 (Promotion of
17 prostitution), Penal Code, if the offense is punishable under
18 Subsection (b)(2) of that section;

19 (B-3) a violation of Section 43.04 (Aggravated
20 promotion of prostitution), Penal Code, if the offense is
21 punishable as a felony of the second degree;

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

26 (D) a violation of Section 30.02 (Burglary),
27 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), Penal Code, but not if the second violation
14 results in a deferred adjudication;

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

18 (H) a violation of the laws of another state,
19 federal law, the laws of a foreign country, or the Uniform Code of
20 Military Justice for or based on the violation of an offense
21 containing elements that are substantially similar to the elements
22 of an offense listed under Paragraph (A), (B), (B-1), (B-2), (B-3),
23 (C), (D), (E), (G), (J), or (K), but not if the violation results in
24 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, but not if the second violation
3 results in a deferred adjudication;

4 (J) a violation of Section 33.021 (Online
5 solicitation of a minor), Penal Code; or

6 (K) a violation of Section 20A.02(a)(3), (4),
7 (7), or (8) (Trafficking of persons), Penal Code.

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

16 SECTION 5. This Act takes effect September 1, 2013.