

By: Lozano

H.B. No. 1483

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the offense of commercial sexual exploitation of a child.

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

SECTION 1. Subchapter B, Chapter 43, Penal Code, is amended by adding Section 43.262 to read as follows:

Sec. 43.262. COMMERCIAL SEXUAL EXPLOITATION OF A CHILD.

(a) In this section, "sexual conduct" has the meaning assigned by Section 43.01.

(b) A person commits an offense if the person knowingly purchases advertising space for an advertisement, or places an advertisement, in any medium that:

(1) solicits another to engage in sexual conduct with a person, including the actor, for compensation; and

(2) visually depicts a child younger than 18 years of age at the time the image of the child was made.

(c) It is not a defense to prosecution under this section that the actor:

(1) did not know the age of the person depicted;

(2) relied on an oral or written representation regarding the age of the person depicted; or

(3) relied on the apparent age of the person depicted.

(d) It is an affirmative defense to prosecution under this section that before purchasing the advertising space or placing the

1 advertisement:

2 (1) the actor made a reasonable attempt to verify the
3 age of the person depicted in the advertisement by requiring the
4 person to produce a marriage license, birth certificate, or
5 government-issued or school-issued identification card that
6 identifies the person's age;

7 (2) the documentation identified the person as being
8 18 years of age or older; and

9 (3) the actor retained a copy of the documentation.

10 (e) An offense under this section is a felony of the third
11 degree.

12 (f) If conduct constituting an offense under this section
13 also constitutes an offense under another section of this code, the
14 actor may be prosecuted under either section or both sections.

15 SECTION 2. Article 62.001(5), Code of Criminal Procedure,
16 is amended to read as follows:

17 (5) "Reportable conviction or adjudication" means a
18 conviction or adjudication, including an adjudication of
19 delinquent conduct or a deferred adjudication, that, regardless of
20 the pendency of an appeal, is a conviction for or an adjudication
21 for or based on:

22 (A) a violation of Section 21.02 (Continuous
23 sexual abuse of young child or children), 21.11 (Indecency with a
24 child), 22.011 (Sexual assault), 22.021 (Aggravated sexual
25 assault), or 25.02 (Prohibited sexual conduct), Penal Code;

26 (B) a violation of Section 43.05 (Compelling
27 prostitution), 43.25 (Sexual performance by a child), or 43.26

1 (Possession or promotion of child pornography), Penal Code;

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

6 (D) a violation of Section 30.02 (Burglary),
7 Penal Code, if the offense or conduct is punishable under
8 Subsection (d) of that section and the actor committed the offense
9 or engaged in the conduct with intent to commit a felony listed in
10 Paragraph (A) or (C);

11 (E) a violation of Section 20.02 (Unlawful
12 restraint), 20.03 (Kidnapping), or 20.04 (Aggravated kidnapping),
13 Penal Code, if, as applicable:

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

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

19 (F) the second violation of Section 21.08
20 (Indecent exposure), Penal Code, but not if the second violation
21 results in a deferred adjudication;

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

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

1 containing elements that are substantially similar to the elements
2 of an offense listed under Paragraph (A), (B), (C), (D), (E), (G),
3 (J), or (K), but not if the violation results in a deferred
4 adjudication;

5 (I) the second violation of the laws of another
6 state, federal law, the laws of a foreign country, or the Uniform
7 Code of Military Justice for or based on the violation of an offense
8 containing elements that are substantially similar to the elements
9 of the offense of indecent exposure, but not if the second violation
10 results in a deferred adjudication;

11 (J) a violation of Section 33.021 (Online
12 solicitation of a minor), Penal Code; ~~[or]~~

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

15 (L) a violation of Section 43.262 (Commercial
16 sexual exploitation of a child), Penal Code.

17 SECTION 3. This Act takes effect September 1, 2013.