

House Bill 8
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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);

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

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

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

Art. 7A.02. TEMPORARY EX PARTE ORDER. If the court

SENATE VERSION (IE)

SECTION 1. Same as House version.

SECTION 2. Same as House version.

SECTION 3. Same as House version.

CONFERENCE

House Bill 8
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

finds from the information contained in an application for a protective order that there is a clear and present danger of sexual assault or abuse, stalking, trafficking, or other harm to the applicant, the court, without further notice to the alleged offender and without a hearing, may enter a temporary ex parte order for the protection of the applicant or any other member of the applicant's family or household.

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

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

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

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

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

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

SENATE VERSION (IE)

SECTION 4. Same as House version.

SECTION 5. Same as House version.

CONFERENCE

House Bill 8
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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

SECTION 6. Article 12.01, Code of Criminal Procedure, as amended by Chapters 1 (S.B. 24), 122 (H.B. 3000), 222 (H.B. 253), and 620 (S.B. 688), Acts of the 82nd Legislature, Regular Session, 2011, is reenacted and amended to read as follows:

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

(1) no limitation:

(A) murder and manslaughter;

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

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

(D) continuous sexual abuse of young child or children under Section 21.02, Penal Code;

(E) indecency with a child under Section 21.11, Penal Code;

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

(G) trafficking of persons under Section 20A.02(a)(7) or (8), Penal Code;

SENATE VERSION (IE)

No equivalent provision.

CONFERENCE

House Bill 8
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

(H) [(G)] continuous trafficking of persons under Section 20A.03, Penal Code; or

(I) compelling prostitution under Section 43.05(a)(2), Penal Code;

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

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

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

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

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

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

(F) arson;

(G) trafficking of persons under Section 20A.02(a)(1), (2), (3), or (4), Penal Code; or

(H) compelling prostitution under Section 43.05(a)(1), Penal Code;

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

(A) misapplication of fiduciary property or property of a financial institution;

(B) securing execution of document by deception;

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

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

(E) money laundering;

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

SENATE VERSION (IE)

CONFERENCE

House Bill 8
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

- (G) fraudulent use or possession of identifying information under Section 32.51, Penal Code; [ø#]
- (H) Medicaid fraud under Section 35A.02, Penal Code; or
- (I) [~~(H)~~] bigamy under Section 25.01, Penal Code, except as provided by Subdivision (6);
- (4) five years from the date of the commission of the offense:
 - (A) theft or robbery;
 - (B) except as provided by Subdivision (5), kidnapping or burglary;
 - (C) injury to an elderly or disabled individual that is not punishable as a felony of the first degree under Section 22.04, Penal Code;
 - (D) abandoning or endangering a child; or
 - (E) insurance fraud;
- (5) if the investigation of the offense shows that the victim is younger than 17 years of age at the time the offense is committed, 20 years from the 18th birthday of the victim of one of the following offenses:
 - (A) sexual performance by a child under Section 43.25, Penal Code;
 - (B) aggravated kidnapping under Section 20.04(a)(4), Penal Code, if the defendant committed the offense with the intent to violate or abuse the victim sexually; or
 - (C) burglary under Section 30.02, Penal Code, if the offense is punishable under Subsection (d) of that section and the defendant committed the offense with the intent to commit an offense described by Subdivision (1)(B) or (D) of this article or Paragraph (B) of this subdivision;
- (6) ten years from the 18th birthday of the victim of the offense:
 - (A) trafficking of persons under Section 20A.02(a)(5) or (6), Penal Code;

SENATE VERSION (IE)

CONFERENCE

House Bill 8
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

- (B) injury to a child under Section 22.04, Penal Code; or
(C) ~~[compelling prostitution under Section 43.05(a)(2), Penal Code; or~~
~~[(B)]~~ bigamy under Section 25.01, Penal Code, if the investigation of the offense shows that the person, other than the legal spouse of the defendant, whom the defendant marries or purports to marry or with whom the defendant lives under the appearance of being married is younger than 18 years of age at the time the offense is committed; or
(7) three years from the date of the commission of the offense: all other felonies.

SECTION 7. Section 4(d), Article 42.12, Code of Criminal Procedure, is amended to read as follows:

- (d) A defendant is not eligible for community supervision under this section if the defendant:
- (1) is sentenced to a term of imprisonment that exceeds 10 years;
 - (2) is convicted of a state jail felony for which suspension of the imposition of the sentence occurs automatically under Section 15(a);
 - (3) does not file a sworn motion under Subsection (e) of this section or for whom the jury does not enter in the verdict a finding that the information contained in the motion is true;
 - (4) is convicted of an offense for which punishment is increased under Section 481.134(c), (d), (e), or (f), Health and Safety Code, if it is shown that the defendant has been previously convicted of an offense for which punishment was increased under any one of those subsections;
 - (5) is convicted of an offense listed in Section 3g(a)(1)(C), (E), or (H), if the victim of the offense was younger than 14

SENATE VERSION (IE)

SECTION 6. Same as House version.

CONFERENCE

House Bill 8
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

years of age at the time the offense was committed;
(6) is convicted of an offense listed in Section 3g(a)(1)(D), if the victim of the offense was younger than 14 years of age at the time the offense was committed and the actor committed the offense with the intent to violate or abuse the victim sexually;
(7) is convicted of an offense listed in Section 3g(a)(1)(J), (L), or (M); or
(8) is adjudged guilty of an offense under Section 19.02, Penal Code.

No equivalent provision.

SENATE VERSION (IE)

SECTION 7. Chapter 48, Code of Criminal Procedure, is amended by adding Article 48.06 to read as follows:
Art. 48.06. EDUCATIONAL MATERIALS CONCERNING PARDONS FOR CERTAIN VICTIMS OF TRAFFICKING OF PERSONS. (a) The Board of Pardons and Paroles shall develop educational materials specifically for persons convicted of or placed on deferred adjudication community supervision for an offense the person committed solely as a victim of trafficking of persons under Section 20A.02, Penal Code. The board shall include in the educational materials a detailed description of the process by which the person may submit a request to the board for a written signed recommendation advising the governor to grant the person a pardon.
(b) The Board of Pardons and Paroles shall post educational materials described by Subsection (a) on the board's Internet website.

CONFERENCE

House Bill 8
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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

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

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

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

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

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

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

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

SENATE VERSION (IE)

SECTION 8. Same as House version.

SECTION 9. Same as House version.

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

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

(A) engaging in forced labor or services; or
(B) otherwise becoming a victim of the offense.

CONFERENCE

House Bill 8
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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

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

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

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

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

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

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

(4) live at a residential address, or relocate to a residential address, that is unknown to the person who committed or is alleged to have committed the family violence, trafficking of persons, or an offense under Section 22.011, 22.021, 25.02, or 42.072, Penal Code.

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

(1) a signed, sworn statement by the applicant stating that the applicant fears for the safety of the applicant, the applicant's

SENATE VERSION (IE)

SECTION 11. Same as House version.

SECTION 12. Same as House version.

CONFERENCE

House Bill 8
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

child, or another person in the applicant's household because of a threat of immediate or future harm caused by the person who committed or is alleged to have committed the family violence, the trafficking of persons, or an offense under Section 22.011, 22.021, 25.02, or 42.072, Penal Code;

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

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

(A) the legal counsel of record; and

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

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

(1) an active or recently issued protective order;

(2) an incident report or other record maintained by a law enforcement agency or official;

(3) a statement of a physician or other health care provider regarding the applicant's medical condition as a result of the family violence, trafficking of persons, or offense; or

(4) a statement of a mental health professional, a member of the clergy, an attorney or other legal advocate, a trained staff member of a family violence center, or another professional

House Bill 8
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

who has assisted the applicant in addressing the effects of the family violence, trafficking of persons, or offense.

SECTION 13. Article 62.001(5), Code of Criminal Procedure, is amended to read as follows:

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

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

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

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

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

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

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

No equivalent provision.

House Bill 8
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

- (ii) the order in the hearing or the papers in the case contain an affirmative finding that the victim or intended victim was younger than 17 years of age;
- (F) the second violation of Section 21.08 (Indecent exposure), Penal Code, but not if the second violation results in a deferred adjudication;
- (G) an attempt, conspiracy, or solicitation, as defined by Chapter 15, Penal Code, to commit an offense or engage in conduct listed in Paragraph (A), (B), (C), (D), (E), or (K);
- (H) a violation of the laws of another state, federal law, the laws of a foreign country, or the Uniform Code of Military Justice for or based on the violation of an offense containing elements that are substantially similar to the elements of an offense listed under Paragraph (A), (B), (C), (D), (E), (G), (J), or (K), but not if the violation results in a deferred adjudication;
- (I) the second violation of the laws of another state, federal law, the laws of a foreign country, or the Uniform Code of Military Justice for or based on the violation of an offense containing elements that are substantially similar to the elements of the offense of indecent exposure, but not if the second violation results in a deferred adjudication;
- (J) a violation of Section 33.021 (Online solicitation of a minor), Penal Code; ~~[ø]~~
- (K) a violation of Section 20A.02(a)(3), (4), (7), or (8) (Trafficking of persons), Penal Code;
- (L) a violation of Section 43.02(a)(2) (Prostitution), Penal Code, if the offense was punishable under Section 43.02(c)(3) of that code; or
- (M) a violation of Section 43.05(a)(2) (Compelling prostitution), Penal Code.

SENATE VERSION (IE)

CONFERENCE

House Bill 8
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SECTION 14. Section 508.145(d)(1), Government Code, is amended to read as follows:

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

SECTION 15. The heading to Section 38.112, Penal Code, is amended to read as follows:

Sec. 38.112. VIOLATION OF PROTECTIVE ORDER ISSUED ON BASIS OF SEXUAL ASSAULT OR ABUSE, STALKING, OR TRAFFICKING.

SECTION 16. Section 43.02(c), Penal Code, is amended to read as follows:

SENATE VERSION (IE)

SECTION 13. Same as House version.

SECTION 14. Same as House version.

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

- (a) A person commits an offense if the person ~~he~~ knowingly:
- (1) offers to engage, agrees to engage, or engages in sexual conduct for a fee; or
 - (2) solicits another in a public place to engage with the person ~~him~~ in sexual conduct for hire.
- (b) An offense is established under Subsection (a)(1) whether

CONFERENCE

House Bill 8
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

- (c) An offense under this section is a Class B misdemeanor, except that the offense is:
- (1) a Class A misdemeanor if the actor has previously been convicted one or two times of an offense under this section;
 - (2) a state jail felony if the actor has previously been convicted three or more times of an offense under this section;
- or
- (3) ~~[a felony of the third degree if the person solicited is 14 years of age or older and younger than 18 years of age; or~~ [(4)] a felony of the second degree if the person solicited is younger than 18 [14] years of age, regardless of whether the actor knows the age of the person solicited at the time the actor commits the offense.

SECTION 17. Section 43.03(b), Penal Code, is amended to read as follows:

SENATE VERSION (IE)

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

- (c) An offense under this section is a Class B misdemeanor, except that the offense is:
- (1) a Class A misdemeanor if the actor has previously been convicted one or two times of an offense under this section;
 - (2) a state jail felony if the actor has previously been convicted three or more times of an offense under this section;
- or
- (3) ~~[a felony of the third degree if the person solicited is 14 years of age or older and younger than 18 years of age; or~~ [(4)] a felony of the second degree if the person solicited is younger than 18 [14] years of age, regardless of whether the actor knows the age of the person solicited at the time the actor commits the offense.

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

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

CONFERENCE

House Bill 8
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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

a felony of the second degree if the actor:

(1) solicits a person younger than 18 years of age to engage in prostitution with another; or

(2) receives money or other property pursuant to an agreement to participate in the proceeds of prostitution services rendered by a person younger than 18 years of age.

SECTION 18. 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, except that the offense is a felony of the first degree if the prostitution enterprise uses as a prostitute one or more persons younger than 18 years of age.

SECTION 19. Section 43.251(c), Penal Code, as amended by Chapters 515 (H.B. 2014) and 938 (H.B. 290), Acts of the 82nd Legislature, Regular Session, 2011, is reenacted and amended to read as follows:

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

~~[(1) a state jail felony if it is shown on the trial of the offense that the defendant has been previously convicted one time of~~

SENATE VERSION (IE)

(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 been previously convicted of an offense under this section; or

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

SECTION 17. 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, except that the offense is a felony of the first degree if the prostitution enterprise uses as a prostitute one or more persons younger than 18 years of age, regardless of whether the actor knows the age of the person at the time the actor commits the offense.

SECTION 18. Same as House version.

CONFERENCE

House Bill 8
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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

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

(h) The punishment for an offense under Subsection (a) or ~~is increased to the punishment for a felony of the third degree and the punishment for an offense under Subsection~~ (c) is increased to the punishment for a ~~[state-jail]~~ felony of the second degree if it is shown on the trial of the offense that obscene material that is the subject of the offense visually depicts activities described by Section 43.21(a)(1)(B) engaged in by:

- (1) a child younger than 18 years of age at the time the image of the child was made;
- (2) an image that to a reasonable person would be virtually indistinguishable from the image of a child younger than 18 years of age; or
- (3) an image created, adapted, or modified to be the image of an identifiable child.

SECTION 21. Sections 43.26(a) and (h), Penal Code, are amended to read as follows:

- (a) A person commits an offense if:
- (1) the person knowingly or intentionally possesses, or knowingly or intentionally accesses with intent to view, visual material that visually depicts a child younger than 18 years of age at the time the image of the child was made who is

SENATE VERSION (IE)

SECTION 19. Same as House version.

SECTION __. Same as House version. [FA1]

CONFERENCE

House Bill 8
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

engaging in sexual conduct, including a child who engages in sexual conduct as a victim of an offense under Section 20A.02(a)(5), (6), (7), or (8); and

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

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

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

(2) allowed other law enforcement or school administrative personnel to possess or access the material only as appropriate based on the allegation described by Subdivision (1); and

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

SECTION 22. Section 71.02(a), Penal Code, as amended by Chapters 68 (S.B. 934) and 223 (H.B. 260), Acts of the 82nd Legislature, Regular Session, 2011, is reenacted and amended to read as follows:

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

(1) murder, capital murder, arson, aggravated robbery, robbery, burglary, theft, aggravated kidnapping, kidnapping, aggravated assault, aggravated sexual assault, sexual assault, continuous sexual abuse of young child or children,

SENATE VERSION (IE)

CONFERENCE

SECTION 20. Same as House version.

House Bill 8
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

- solicitation of a minor, forgery, deadly conduct, assault punishable as a Class A misdemeanor, burglary of a motor vehicle, or unauthorized use of a motor vehicle;
- (2) any gambling offense punishable as a Class A misdemeanor;
- (3) promotion of prostitution, aggravated promotion of prostitution, or compelling prostitution;
- (4) unlawful manufacture, transportation, repair, or sale of firearms or prohibited weapons;
- (5) unlawful manufacture, delivery, dispensation, or distribution of a controlled substance or dangerous drug, or unlawful possession of a controlled substance or dangerous drug through forgery, fraud, misrepresentation, or deception;
- (5-a) causing the unlawful delivery, dispensation, or distribution of a controlled substance or dangerous drug in violation of Subtitle B, Title 3, Occupations Code;
- (6) any unlawful wholesale promotion or possession of any obscene material or obscene device with the intent to wholesale promote the same;
- (7) any offense under Subchapter B, Chapter 43, depicting or involving conduct by or directed toward a child younger than 18 years of age;
- (8) any felony offense under Chapter 32;
- (9) any offense under Chapter 36;
- (10) any offense under Chapter 34, 35, or 35A;
- (11) any offense under Section 37.11(a);
- (12) any offense under Chapter 20A;
- (13) any offense under Section 37.10;
- (14) any offense under Section 38.06, 38.07, 38.09, or 38.11;
- (15) any offense under Section 42.10;
- (16) any offense under Section 46.06(a)(1) or 46.14; ~~[or]~~
- (17) any offense under Section 20.05; or

SENATE VERSION (IE)

CONFERENCE

House Bill 8
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

~~(18)~~ [(47)] any offense classified as a felony under the Tax Code.

SECTION 23. Chapter 7B, Code of Criminal Procedure, is repealed.

SECTION 24. (a) The changes in law made by this Act in amending Chapter 7A, Code of Criminal Procedure, and repealing Chapter 7B, Code of Criminal Procedure, apply only to a protective order issued on or after the effective date of this Act. A protective order issued before the effective date of this Act is governed by the law in effect on the date the order is issued, and the former law is continued in effect for that purpose.

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

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

SENATE VERSION (IE)

SECTION 21. Same as House version.

SECTION 22. Same as House version.

SECTION __. Same as House version. [FA1]

CONFERENCE

House Bill 8
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

No equivalent provision.

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

SENATE VERSION (IE)

SECTION 23. The Board of Pardons and Paroles not later than October 1, 2013, shall post on its Internet website the educational materials described by Article 48.06(a), Code of Criminal Procedure, as added by this Act.

SECTION 24. Same as House version.

CONFERENCE