

By: Dale

H.B. No. 861

A BILL TO BE ENTITLED

AN ACT

relating to the prosecution of the offense of online solicitation of a minor.

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

SECTION 1. Section 33.021(a)(1), Penal Code, is amended to read as follows:

(1) "Minor" means:

(A) an individual who is ~~[represents himself or herself to be]~~ younger than 17 years of age; or

(B) an individual whom the actor believes to be younger than 17 years of age.

SECTION 2. Section 33.021, Penal Code, is amended by amending Subsections (b), (d), and (e) to read as follows:

(b) A person who is 17 years of age or older commits an offense if, with the intent to commit an offense listed in Article 62.001(5)(A), (B), or (K), Code of Criminal Procedure ~~[arouse or gratify the sexual desire of any person]~~, the person, over the Internet, by electronic mail or text message or other electronic message service or system, or through a commercial online service, intentionally:

(1) communicates in a sexually explicit manner with a minor; or

(2) distributes sexually explicit material to a minor.

(d) It is not a defense to prosecution under Subsection (c)

1 that[+]

2 [~~(1)~~] the meeting did not occur[+]

3 [~~(2) the actor did not intend for the meeting to occur,~~

4 ~~or~~

5 [~~(3) the actor was engaged in a fantasy at the time of~~
6 ~~commission of the offense~~].

7 (e) It is a defense to prosecution under this section that
8 at the time conduct described by Subsection [~~(b) or~~] (c) was
9 committed:

10 (1) the actor was married to the minor; or

11 (2) the actor was not more than three years older than
12 the minor and the minor consented to the conduct.

13 SECTION 3. The change in law made by this Act applies only
14 to an offense committed on or after the effective date of this Act.
15 An offense committed before the effective date of this Act is
16 governed by the law in effect on the date the offense was committed,
17 and the former law is continued in effect for that purpose. For
18 purposes of this section, an offense was committed before the
19 effective date of this Act if any element of the offense occurred
20 before that date.

21 SECTION 4. This Act takes effect September 1, 2015.