

1-1 By: Huffman S.B. No. 825
 1-2 (In the Senate - Filed February 26, 2015; March 3, 2015,
 1-3 read first time and referred to Committee on Criminal Justice;
 1-4 March 23, 2015, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 6, Nays 0; March 23, 2015,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14			X	
1-15	X			

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 825 By: Huffman

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to the prosecution of the offense of prostitution.
 1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
 1-21 SECTION 1. Section 43.02, Penal Code, is amended by
 1-22 amending Subsections (a), (b), (c), and (d) and adding Subsections
 1-23 (b-1) and (c-1) to read as follows:
 1-24 (a) A person commits an offense if, in return for receipt of
 1-25 a fee, the person knowingly:
 1-26 (1) offers to engage, agrees to engage, or engages in
 1-27 sexual conduct [~~for a fee~~]; or
 1-28 (2) solicits another in a public place to engage with
 1-29 the actor [~~person~~] in sexual conduct for hire.
 1-30 (b) A person commits an offense if, based on the payment of a
 1-31 fee by the actor or another person on behalf of the actor, the
 1-32 person knowingly:
 1-33 (1) offers to engage, agrees to engage, or engages in
 1-34 sexual conduct; or
 1-35 (2) solicits another in a public place to engage with
 1-36 the actor in sexual conduct for hire.
 1-37 (b-1) An offense is established under Subsection (a)
 1-38 regardless of [~~(a)(1)~~] whether the actor is offered or actually
 1-39 receives the [~~is to receive or pay a~~] fee. An offense is
 1-40 established under Subsection (b) regardless of [~~(a)(2)~~] whether the
 1-41 actor or another person on behalf of the actor offers or actually
 1-42 pays the fee [~~solicits a person to hire the actor or offers to hire~~
 1-43 ~~the person solicited~~].
 1-44 (c) An offense under Subsection (a) [~~this section~~] is a
 1-45 Class B misdemeanor, except that the offense is:
 1-46 (1) a Class A misdemeanor if the actor has previously
 1-47 been convicted one or two times of an offense under Subsection (a)
 1-48 [~~this section~~]; or
 1-49 (2) a state jail felony if the actor has previously
 1-50 been convicted three or more times of an offense under Subsection
 1-51 (a).
 1-52 (c-1) An offense under Subsection (b) is a Class B
 1-53 misdemeanor, except that the offense is:
 1-54 (1) a Class A misdemeanor if the actor has previously
 1-55 been convicted one or two times of an offense under Subsection (b);
 1-56 (2) a state jail felony if the actor has previously
 1-57 been convicted three or more times of an offense under Subsection
 1-58 (b) [~~this section~~]; or
 1-59 (3) a felony of the second degree if the person
 1-60 solicited is younger than 18 years of age, regardless of whether the

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

2-3 (d) It is a defense to prosecution for an offense under
2-4 Subsection (a) [~~under this section~~] that the actor engaged in the
2-5 conduct that constitutes the offense because the actor was the
2-6 victim of conduct that constitutes an offense under Section 20A.02
2-7 or 43.05.

2-8 SECTION 2. Section 43.05, Penal Code, is amended by adding
2-9 Subsection (c) to read as follows:

2-10 (c) If conduct constituting an offense under this section
2-11 also constitutes an offense under another section of this code, the
2-12 actor may be prosecuted under either section or under both
2-13 sections.

2-14 SECTION 3. Section 51.03(b), Family Code, is amended to
2-15 read as follows:

2-16 (b) Conduct indicating a need for supervision is:

2-17 (1) subject to Subsection (f), conduct, other than a
2-18 traffic offense, that violates:

2-19 (A) the penal laws of this state of the grade of
2-20 misdemeanor that are punishable by fine only; or

2-21 (B) the penal ordinances of any political
2-22 subdivision of this state;

2-23 (2) the absence of a child on 10 or more days or parts
2-24 of days within a six-month period in the same school year or on
2-25 three or more days or parts of days within a four-week period from
2-26 school;

2-27 (3) the voluntary absence of a child from the child's
2-28 home without the consent of the child's parent or guardian for a
2-29 substantial length of time or without intent to return;

2-30 (4) conduct prohibited by city ordinance or by state
2-31 law involving the inhalation of the fumes or vapors of paint and
2-32 other protective coatings or glue and other adhesives and the
2-33 volatile chemicals itemized in Section 485.001, Health and Safety
2-34 Code;

2-35 (5) an act that violates a school district's
2-36 previously communicated written standards of student conduct for
2-37 which the child has been expelled under Section 37.007(c),
2-38 Education Code;

2-39 (6) conduct that violates a reasonable and lawful
2-40 order of a court entered under Section 264.305;

2-41 (7) notwithstanding Subsection (a)(1), conduct
2-42 described by Section 43.02(a) or (b) [~~43.02(a)(1) or (2)~~], Penal
2-43 Code; or

2-44 (8) notwithstanding Subsection (a)(1), conduct that
2-45 violates Section 43.261, Penal Code.

2-46 SECTION 4. Section 261.001(1), Family Code, is amended to
2-47 read as follows:

2-48 (1) "Abuse" includes the following acts or omissions
2-49 by a person:

2-50 (A) mental or emotional injury to a child that
2-51 results in an observable and material impairment in the child's
2-52 growth, development, or psychological functioning;

2-53 (B) causing or permitting the child to be in a
2-54 situation in which the child sustains a mental or emotional injury
2-55 that results in an observable and material impairment in the
2-56 child's growth, development, or psychological functioning;

2-57 (C) physical injury that results in substantial
2-58 harm to the child, or the genuine threat of substantial harm from
2-59 physical injury to the child, including an injury that is at
2-60 variance with the history or explanation given and excluding an
2-61 accident or reasonable discipline by a parent, guardian, or
2-62 managing or possessory conservator that does not expose the child
2-63 to a substantial risk of harm;

2-64 (D) failure to make a reasonable effort to
2-65 prevent an action by another person that results in physical injury
2-66 that results in substantial harm to the child;

2-67 (E) sexual conduct harmful to a child's mental,
2-68 emotional, or physical welfare, including conduct that constitutes
2-69 the offense of continuous sexual abuse of young child or children

3-1 under Section 21.02, Penal Code, indecency with a child under
3-2 Section 21.11, Penal Code, sexual assault under Section 22.011,
3-3 Penal Code, or aggravated sexual assault under Section 22.021,
3-4 Penal Code;

3-5 (F) failure to make a reasonable effort to
3-6 prevent sexual conduct harmful to a child;

3-7 (G) compelling or encouraging the child to engage
3-8 in sexual conduct as defined by Section 43.01, Penal Code,
3-9 including conduct that constitutes an offense of trafficking of
3-10 persons under Section 20A.02(a)(7) or (8), Penal Code, prostitution
3-11 under Section 43.02(a) [~~43.02(a)(2)~~], Penal Code, or compelling
3-12 prostitution under Section 43.05(a)(2), Penal Code;

3-13 (H) causing, permitting, encouraging, engaging
3-14 in, or allowing the photographing, filming, or depicting of the
3-15 child if the person knew or should have known that the resulting
3-16 photograph, film, or depiction of the child is obscene as defined by
3-17 Section 43.21, Penal Code, or pornographic;

3-18 (I) the current use by a person of a controlled
3-19 substance as defined by Chapter 481, Health and Safety Code, in a
3-20 manner or to the extent that the use results in physical, mental, or
3-21 emotional injury to a child;

3-22 (J) causing, expressly permitting, or
3-23 encouraging a child to use a controlled substance as defined by
3-24 Chapter 481, Health and Safety Code;

3-25 (K) causing, permitting, encouraging, engaging
3-26 in, or allowing a sexual performance by a child as defined by
3-27 Section 43.25, Penal Code; or

3-28 (L) knowingly causing, permitting, encouraging,
3-29 engaging in, or allowing a child to be trafficked in a manner
3-30 punishable as an offense under Section 20A.02(a)(5), (6), (7), or
3-31 (8), Penal Code, or the failure to make a reasonable effort to
3-32 prevent a child from being trafficked in a manner punishable as an
3-33 offense under any of those sections.

3-34 SECTION 5. Section 169.002(a), Health and Safety Code, is
3-35 amended to read as follows:

3-36 (a) The commissioners court of a county or governing body of
3-37 a municipality may establish a first offender prostitution
3-38 prevention program for defendants charged with an offense under
3-39 Section 43.02(b) [~~43.02(a)(2)~~], Penal Code[~~, in which the defendant~~
3-40 ~~offered or agreed to hire a person to engage in sexual conduct~~].

3-41 SECTION 6. Section 169A.002(a), Health and Safety Code, is
3-42 amended to read as follows:

3-43 (a) The commissioners court of a county or governing body of
3-44 a municipality may establish a prostitution prevention program for
3-45 defendants charged with an offense under Section 43.02(a)
3-46 [~~43.02(a)(1)~~], Penal Code[~~, in which the defendant offered or~~
3-47 ~~agreed to engage in or engaged in sexual conduct for a fee~~].

3-48 SECTION 7. The changes in law made by this Act to Section
3-49 43.02, Penal Code, apply only to an offense committed on or after
3-50 the effective date of this Act. An offense committed before the
3-51 effective date of this Act is governed by the law in effect when the
3-52 offense was committed, and the former law is continued in effect for
3-53 that purpose. For purposes of this section, an offense was
3-54 committed before the effective date of this Act if any element of
3-55 the offense occurred before that date.

3-56 SECTION 8. This Act takes effect September 1, 2015.

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