

By: Minjarez, Anchia, et al.

H.B. No. 415

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the prosecution of the offense of aggravated
3 kidnapping.

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

5 SECTION 1. Section 20.04(a), Penal Code, is amended to read
6 as follows:

7 (a) A person commits an offense if the actor [~~he~~]
8 intentionally or knowingly abducts another person with the intent
9 to:

- 10 (1) hold the person [~~him~~] for ransom or reward;
- 11 (2) use the person [~~him~~] as a shield or hostage;
- 12 (3) facilitate the commission of a felony or the
13 flight after the attempt or commission of a felony;
- 14 (4) inflict bodily injury on the person [~~him or~~
15 ~~violate or abuse him sexually~~];
- 16 (5) terrorize the person [~~him~~] or a third person; [~~or~~]
- 17 (6) interfere with the performance of any governmental
18 or political function; or
- 19 (7) violate or abuse the person sexually.

20 SECTION 2. Article 12.01, Code of Criminal Procedure, is
21 amended to read as follows:

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

- 1 (1) no limitation:
- 2 (A) murder and manslaughter;
- 3 (B) sexual assault under Section 22.011(a)(2),
- 4 Penal Code, or aggravated sexual assault under Section
- 5 22.021(a)(1)(B), Penal Code;
- 6 (C) sexual assault, if:
- 7 (i) during the investigation of the offense
- 8 biological matter is collected and subjected to forensic DNA
- 9 testing and the testing results show that the matter does not match
- 10 the victim or any other person whose identity is readily
- 11 ascertained; or
- 12 (ii) probable cause exists to believe that
- 13 the defendant has committed the same or a similar sexual offense
- 14 against five or more victims;
- 15 (D) continuous sexual abuse of young child or
- 16 children under Section 21.02, Penal Code;
- 17 (E) indecency with a child under Section 21.11,
- 18 Penal Code;
- 19 (F) an offense involving leaving the scene of an
- 20 accident under Section 550.021, Transportation Code, if the
- 21 accident resulted in the death of a person;
- 22 (G) trafficking of persons under Section
- 23 20A.02(a)(7) or (8), Penal Code;
- 24 (H) continuous trafficking of persons under
- 25 Section 20A.03, Penal Code; or
- 26 (I) compelling prostitution under Section
- 27 43.05(a)(2), Penal Code;

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

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

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

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

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

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

16 (F) arson;

17 (G) trafficking of persons under Section
18 20A.02(a)(1), (2), (3), or (4), Penal Code; or

19 (H) compelling prostitution under Section
20 43.05(a)(1), Penal Code;

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

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

25 (B) securing execution of document by deception;

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

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

3 (E) money laundering;

4 (F) credit card or debit card abuse under Section
5 32.31, Penal Code;

6 (G) fraudulent use or possession of identifying
7 information under Section 32.51, Penal Code;

8 (H) Medicaid fraud under Section 35A.02, Penal
9 Code; or

10 (I) bigamy under Section 25.01, Penal Code,
11 except as provided by Subdivision (6);

12 (4) five years from the date of the commission of the
13 offense:

14 (A) theft or robbery;

15 (B) except as provided by Subdivision (5),
16 kidnapping or burglary;

17 (C) injury to an elderly or disabled individual
18 that is not punishable as a felony of the first degree under Section
19 22.04, Penal Code;

20 (D) abandoning or endangering a child; or

21 (E) insurance fraud;

22 (5) if the investigation of the offense shows that the
23 victim is younger than 17 years of age at the time the offense is
24 committed, 20 years from the 18th birthday of the victim of one of
25 the following offenses:

26 (A) sexual performance by a child under Section
27 43.25, Penal Code;

1 (B) aggravated kidnapping under Section
2 20.04(a)(7) [~~20.04(a)(4)~~], Penal Code [~~, if the defendant committed~~
3 ~~the offense with the intent to violate or abuse the victim~~
4 ~~sexually~~]; or

5 (C) burglary under Section 30.02, Penal Code, if
6 the offense is punishable under Subsection (d) of that section and
7 the defendant committed the offense with the intent to commit an
8 offense described by Subdivision (1)(B) or (D) of this article or
9 Paragraph (B) of this subdivision;

10 (6) ten years from the 18th birthday of the victim of
11 the offense:

12 (A) trafficking of persons under Section
13 20A.02(a)(5) or (6), Penal Code;

14 (B) injury to a child under Section 22.04, Penal
15 Code; or

16 (C) bigamy under Section 25.01, Penal Code, if
17 the investigation of the offense shows that the person, other than
18 the legal spouse of the defendant, whom the defendant marries or
19 purports to marry or with whom the defendant lives under the
20 appearance of being married is younger than 18 years of age at the
21 time the offense is committed; or

22 (7) three years from the date of the commission of the
23 offense: all other felonies.

24 SECTION 3. Article 42A.056, Code of Criminal Procedure, is
25 amended to read as follows:

26 Art. 42A.056. LIMITATION ON JURY-RECOMMENDED COMMUNITY
27 SUPERVISION. A defendant is not eligible for community

1 supervision under Article 42A.055 if the defendant:

2 (1) is sentenced to a term of imprisonment that
3 exceeds 10 years;

4 (2) is convicted of a state jail felony for which
5 suspension of the imposition of the sentence occurs automatically
6 under Article 42A.551;

7 (3) is adjudged guilty of an offense under Section
8 19.02, Penal Code;

9 (4) is convicted of an offense under Section
10 21.11(a)(1), 22.011, or 22.021, Penal Code, if the victim of the
11 offense was younger than 14 years of age at the time the offense was
12 committed;

13 (5) is convicted of an offense under Section
14 20.04(a)(7) [20.04], Penal Code, if [+

15 [~~(A)~~] the victim of the offense was younger than
16 14 years of age at the time the offense was committed [~~, and~~

17 [~~(B) the actor committed the offense with the~~
18 ~~intent to violate or abuse the victim sexually]~~;

19 (6) is convicted of an offense under Section 20A.02,
20 43.05, or 43.25, Penal Code; or

21 (7) is convicted of an offense for which punishment is
22 increased under Section 481.134(c), (d), (e), or (f), Health and
23 Safety Code, if it is shown that the defendant has been previously
24 convicted of an offense for which punishment was increased under
25 any of those subsections.

26 SECTION 4. Article 42A.251(2), Code of Criminal Procedure,
27 is amended to read as follows:

1 (2) "Sex offender" means a person who has been
2 convicted of, or has entered a plea of guilty or nolo contendere
3 for, an offense under any one of the following provisions of the
4 Penal Code:

5 (A) Section 20.04(a)(7) [~~20.04(a)(4)~~]
6 (Aggravated Kidnapping) [~~if the person committed the offense with~~
7 ~~the intent to violate or abuse the victim sexually~~];

8 (B) Section 21.08 (Indecent Exposure);

9 (C) Section 21.11 (Indecency with a Child);

10 (D) Section 22.011 (Sexual Assault);

11 (E) Section 22.021 (Aggravated Sexual Assault);

12 (F) Section 25.02 (Prohibited Sexual Conduct);

13 (G) Section 30.02 (Burglary), if:

14 (i) the offense is punishable under
15 Subsection (d) of that section; and

16 (ii) the person committed the offense with
17 the intent to commit a felony listed in this subdivision;

18 (H) Section 43.25 (Sexual Performance by a
19 Child); or

20 (I) Section 43.26 (Possession or Promotion of
21 Child Pornography).

22 SECTION 5. Article 42A.453(b), Code of Criminal Procedure,
23 is amended to read as follows:

24 (b) This article applies to a defendant placed on community
25 supervision for an offense under:

26 (1) Section 20.04(a)(7) [~~20.04(a)(4)~~], Penal Code [~~if~~
27 ~~the defendant committed the offense with the intent to violate or~~

1 ~~abuse the victim sexually];~~

2 (2) Section 20A.02, Penal Code, if the defendant:

3 (A) trafficked the victim with the intent or
4 knowledge that the victim would engage in sexual conduct, as
5 defined by Section 43.25, Penal Code; or

6 (B) benefited from participating in a venture
7 that involved a trafficked victim engaging in sexual conduct, as
8 defined by Section 43.25, Penal Code;

9 (3) Section 21.08, 21.11, 22.011, 22.021, or 25.02,
10 Penal Code;

11 (4) Section 30.02, Penal Code, punishable under
12 Subsection (d) of that section, if the defendant committed the
13 offense with the intent to commit a felony listed in Subdivision (1)
14 or (3); or

15 (5) Section 43.05(a)(2), 43.25, or 43.26, Penal Code.

16 SECTION 6. Article 60.051(g), Code of Criminal Procedure,
17 is amended to read as follows:

18 (g) In addition to the information described by Subsections
19 (a)-(f), information in the computerized criminal history system
20 must include the age of the victim of the offense if the defendant
21 was arrested for or charged with an offense under:

22 (1) Section 21.02 (Continuous sexual abuse of young
23 child or children), Penal Code;

24 (2) Section 21.11 (Indecency with a child), Penal
25 Code;

26 (3) Section 22.011 (Sexual assault) or 22.021
27 (Aggravated sexual assault), Penal Code;

1 (4) Section 43.25 (Sexual performance by a child),
2 Penal Code;

3 (5) Section 20.04(a)(7) [~~20.04(a)(4)~~] (Aggravated
4 kidnapping), Penal Code [~~, if the defendant committed the offense~~
5 ~~with intent to violate or abuse the victim sexually~~];

6 (6) Section 30.02 (Burglary), Penal Code, if the
7 offense is punishable under Subsection (d) of that section and the
8 defendant committed the offense with intent to commit an offense
9 described by Subdivision (2), (3), or (5);

10 (7) Section 20A.02 (Trafficking of persons), Penal
11 Code, if the defendant:

12 (A) trafficked a person with the intent or
13 knowledge that the person would engage in sexual conduct, as
14 defined by Section 43.25, Penal Code; or

15 (B) benefited from participating in a venture
16 that involved a trafficked person engaging in sexual conduct, as
17 defined by Section 43.25, Penal Code; or

18 (8) Section 43.05(a)(2) (Compelling prostitution),
19 Penal Code.

20 SECTION 7. Articles 62.001(5) and (6), Code of Criminal
21 Procedure, are amended to read as follows:

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

27 (A) a violation of Section 21.02 (Continuous

1 sexual abuse of young child or children), 21.11 (Indecency with a
2 child), 22.011 (Sexual assault), 22.021 (Aggravated sexual
3 assault), or 25.02 (Prohibited sexual conduct), Penal Code;

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

7 (B-1) a violation of Section 43.02
8 (Prostitution), Penal Code, if the offense is punishable under
9 Subsection (c)(3) of that section;

10 (C) a violation of Section 20.04(a)(7)
11 [~~20.04(a)(4)~~] (Aggravated kidnapping), Penal Code [~~, if the actor~~
12 ~~committed the offense or engaged in the conduct with intent to~~
13 ~~violate or abuse the victim sexually]~~;

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

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

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

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

27 (F) the second violation of Section 21.08

1 (Indecent exposure), Penal Code, but not if the second violation
2 results in a deferred adjudication;

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

6 (H) a violation of the laws of another state,
7 federal law, the laws of a foreign country, or the Uniform Code of
8 Military Justice for or based on the violation of an offense
9 containing elements that are substantially similar to the elements
10 of an offense listed under Paragraph (A), (B), (B-1), (C), (D), (E),
11 (G), (J), or (K), but not if the violation results in a deferred
12 adjudication;

13 (I) the second violation of the laws of another
14 state, federal law, the laws of a foreign country, or the Uniform
15 Code of Military Justice for or based on the violation of an offense
16 containing elements that are substantially similar to the elements
17 of the offense of indecent exposure, but not if the second violation
18 results in a deferred adjudication;

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

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

23 (6) "Sexually violent offense" means any of the
24 following offenses committed by a person 17 years of age or older:

25 (A) an offense under Section 21.02 (Continuous
26 sexual abuse of young child or children), 21.11(a)(1) (Indecency
27 with a child), 22.011 (Sexual assault), or 22.021 (Aggravated

1 sexual assault), Penal Code;

2 (B) an offense under Section 43.25 (Sexual
3 performance by a child), Penal Code;

4 (C) an offense under Section 20.04(a)(7)
5 [~~20.04(a)(4)~~] (Aggravated kidnapping), Penal Code [~~, if the~~
6 ~~defendant committed the offense with intent to violate or abuse the~~
7 ~~victim sexually~~];

8 (D) an offense under Section 30.02 (Burglary),
9 Penal Code, if the offense is punishable under Subsection (d) of
10 that section and the defendant committed the offense with intent to
11 commit a felony listed in Paragraph (A) or (C) of Subdivision (5);
12 or

13 (E) an offense under the laws of another state,
14 federal law, the laws of a foreign country, or the Uniform Code of
15 Military Justice if the offense contains elements that are
16 substantially similar to the elements of an offense listed under
17 Paragraph (A), (B), (C), or (D).

18 SECTION 8. Section 411.1471(a), Government Code, is amended
19 to read as follows:

20 (a) This section applies to a defendant who is:

21 (1) indicted or waives indictment for a felony
22 prohibited or punishable under any of the following Penal Code
23 sections:

24 (A) Section 20.04(a)(4) or (7);

25 (B) Section 21.11;

26 (C) Section 22.011;

27 (D) Section 22.021;

- 1 (E) Section 25.02;
- 2 (F) Section 30.02(d);
- 3 (G) Section 43.05;
- 4 (H) Section 43.25;
- 5 (I) Section 43.26;
- 6 (J) Section 21.02; or
- 7 (K) Section 20A.03;

8 (2) arrested for a felony described by Subdivision (1)
9 after having been previously convicted of or placed on deferred
10 adjudication for an offense described by Subdivision (1) or an
11 offense punishable under Section 30.02(c)(2), Penal Code; or

12 (3) convicted of an offense:

13 (A) under Title 5, Penal Code, other than an
14 offense described by Subdivision (1), that is punishable as a Class
15 A misdemeanor or any higher category of offense, except for an
16 offense punishable as a Class A misdemeanor under Section 20.02,
17 22.01, or 22.05, Penal Code; or

18 (B) under Section 21.08, 25.04, 43.03, or 43.24,
19 Penal Code.

20 SECTION 9. Section 508.187(a), Government Code, is amended
21 to read as follows:

22 (a) This section applies only to a releasee serving a
23 sentence for an offense under:

- 24 (1) Section 43.25 or 43.26, Penal Code;
- 25 (2) Section 21.02, 21.11, 22.011, 22.021, or 25.02,
26 Penal Code;
- 27 (3) Section 20.04(a)(7) [~~20.04(a)(4)~~], Penal Code [~~7~~

1 ~~if the releasee committed the offense with the intent to violate or~~
2 ~~abuse the victim sexually];~~

3 (4) Section 30.02, Penal Code, punishable under
4 Subsection (d) of that section, if the releasee committed the
5 offense with the intent to commit a felony listed in Subdivision (2)
6 or (3);

7 (5) Section 43.05(a)(2), Penal Code; or

8 (6) Section 20A.02, Penal Code, if the defendant:

9 (A) trafficked the victim with the intent or
10 knowledge that the victim would engage in sexual conduct, as
11 defined by Section 43.25, Penal Code; or

12 (B) benefited from participating in a venture
13 that involved a trafficked victim engaging in sexual conduct, as
14 defined by Section 43.25, Penal Code.

15 SECTION 10. Section 841.002(8), Health and Safety Code, is
16 amended to read as follows:

17 (8) "Sexually violent offense" means:

18 (A) an offense under Section 21.02, 21.11(a)(1),
19 22.011, or 22.021, Penal Code;

20 (B) an offense under Section 20.04(a)(7)
21 [~~20.04(a)(4)~~], Penal Code [~~, if the person committed the offense~~
22 ~~with the intent to violate or abuse the victim sexually];~~

23 (C) an offense under Section 30.02, Penal Code,
24 if the offense is punishable under Subsection (d) of that section
25 and the person committed the offense with the intent to commit an
26 offense listed in Paragraph (A) or (B);

27 (D) an offense under Section 19.02 or 19.03,

1 Penal Code, that, during the guilt or innocence phase or the
2 punishment phase for the offense, during the adjudication or
3 disposition of delinquent conduct constituting the offense, or
4 subsequently during a civil commitment proceeding under Subchapter
5 D, is determined beyond a reasonable doubt to have been based on
6 sexually motivated conduct;

7 (E) an attempt, conspiracy, or solicitation, as
8 defined by Chapter 15, Penal Code, to commit an offense listed in
9 Paragraph (A), (B), (C), or (D);

10 (F) an offense under prior state law that
11 contains elements substantially similar to the elements of an
12 offense listed in Paragraph (A), (B), (C), (D), or (E); or

13 (G) an offense under the law of another state,
14 federal law, or the Uniform Code of Military Justice that contains
15 elements substantially similar to the elements of an offense listed
16 in Paragraph (A), (B), (C), (D), or (E).

17 SECTION 11. Section 12.42(c)(2), Penal Code, is amended to
18 read as follows:

19 (2) Notwithstanding Subdivision (1), a defendant
20 shall be punished by imprisonment in the Texas Department of
21 Criminal Justice for life if:

22 (A) the defendant is convicted of an offense:

23 (i) under Section 20A.02(a)(7) or (8),
24 21.11(a)(1), 22.021, or 22.011 [~~Penal Code~~];

25 (ii) under Section 20.04(a)(7)
26 [~~20.04(a)(4), Penal Code, if the defendant committed the offense~~
27 ~~with the intent to violate or abuse the victim sexually~~]; or

1 (iii) under Section 30.02, [~~Penal Code,~~
2 punishable under Subsection (d) of that section, if the defendant
3 committed the offense with the intent to commit a felony described
4 by Subparagraph (i) or (ii) or a felony under Section 21.11 [~~, Penal~~
5 ~~Code~~]; and

6 (B) the defendant has been previously convicted
7 of an offense:

8 (i) under Section 43.25 or 43.26 [~~, Penal~~
9 ~~Code~~], or [~~an offense~~] under Section 43.23 if [~~, Penal Code,~~
10 punishable under Subsection (h) of that section;

11 (ii) under Section 20A.02(a)(7) or (8),
12 21.02, 21.11, 22.011, 22.021, or 25.02 [~~, Penal Code~~];

13 (iii) under Section 20.04(a)(7)
14 [~~20.04(a)(4), Penal Code, if the defendant committed the offense~~
15 ~~with the intent to violate or abuse the victim sexually~~];

16 (iv) under Section 30.02, [~~Penal Code,~~
17 punishable under Subsection (d) of that section, if the defendant
18 committed the offense with the intent to commit a felony described
19 by Subparagraph (ii) or (iii); or

20 (v) under the laws of another state
21 containing elements that are substantially similar to the elements
22 of an offense listed in Subparagraph (i), (ii), (iii), or (iv).

23 SECTION 12. Section 21.02(c), Penal Code, is amended to
24 read as follows:

25 (c) For purposes of this section, "act of sexual abuse"
26 means any act that is a violation of one or more of the following
27 penal laws:

1 (1) aggravated kidnapping under Section 20.04(a)(7)
2 [~~20.04(a)(4), if the actor committed the offense with the intent to~~
3 ~~violate or abuse the victim sexually~~];

4 (2) indecency with a child under Section 21.11(a)(1),
5 if the actor committed the offense in a manner other than by
6 touching, including touching through clothing, the breast of a
7 child;

8 (3) sexual assault under Section 22.011;

9 (4) aggravated sexual assault under Section 22.021;

10 (5) burglary under Section 30.02, if the offense is
11 punishable under Subsection (d) of that section and the actor
12 committed the offense with the intent to commit an offense listed in
13 Subdivisions (1)-(4);

14 (6) sexual performance by a child under Section 43.25;

15 (7) trafficking of persons under Section 20A.02(a)(7)
16 or (8); and

17 (8) compelling prostitution under Section
18 43.05(a)(2).

19 SECTION 13. The change in law made by this Act applies only
20 to an offense committed on or after the effective date of this Act.
21 An offense committed before the effective date of this Act is
22 governed by the law in effect on the date the offense was committed,
23 and the former law is continued in effect for that purpose. For
24 purposes of this section, an offense was committed before the
25 effective date of this Act if any element of the offense occurred
26 before that date.

27 SECTION 14. This Act takes effect September 1, 2017.