

AN ACT

relating to the prosecution and punishment of certain trafficking and sexual offenses; creating a criminal offense.

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

SECTION 1. Section 20A.02(b), Penal Code, is amended to read as follows:

(b) Except as otherwise provided by this subsection, an offense under this section is a felony of the second degree. An offense under this section is a felony of the first degree if:

(1) the applicable conduct constitutes an offense under Subsection (a)(5), (6), (7), or (8), regardless of whether the actor knows the age of the child at the time of [~~the actor commits~~] the offense; or

(2) the commission of the offense results in the death of the person who is trafficked.

SECTION 2. Section 21.02(b), Penal Code, is amended to read as follows:

(b) A person commits an offense if:

(1) during a period that is 30 or more days in duration, the person commits two or more acts of sexual abuse, regardless of whether the acts of sexual abuse are committed against one or more victims; and

(2) at the time of the commission of each of the acts of sexual abuse, the actor is 17 years of age or older and the victim

1 is a child younger than 14 years of age, regardless of whether the  
2 actor knows the age of the victim at the time of the offense.

3 SECTION 3. Section 21.11(a), Penal Code, is amended to read  
4 as follows:

5 (a) A person commits an offense if, with a child younger  
6 than 17 years of age, whether the child is of the same or opposite  
7 sex and regardless of whether the person knows the age of the child  
8 at the time of the offense, the person:

9 (1) engages in sexual contact with the child or causes  
10 the child to engage in sexual contact; or

11 (2) with intent to arouse or gratify the sexual desire  
12 of any person:

13 (A) exposes the person's anus or any part of the  
14 person's genitals, knowing the child is present; or

15 (B) causes the child to expose the child's anus  
16 or any part of the child's genitals.

17 SECTION 4. (a) This section takes effect only if the Act of  
18 the 85th Legislature, Regular Session, 2017, relating to  
19 nonsubstantive additions to and corrections in enacted codes  
20 becomes law.

21 (b) Chapter 21, Penal Code, is amended by adding Section  
22 21.18 to read as follows:

23 Sec. 21.18. SEXUAL COERCION. (a) In this section:

24 (1) "Intimate visual material" means the visual  
25 material described by Section 21.16(b)(1) or (c).

26 (2) "Sexual conduct" has the meaning assigned by  
27 Section 43.25.

1       (b) A person commits an offense if the person intentionally  
2 threatens, including by coercion or extortion, to commit an offense  
3 under Chapter 43 or Section 20A.02(a)(3), (4), (7), or (8), 21.02,  
4 21.08, 21.11, 21.12, 21.15, 21.16, 21.17, 22.011, or 22.021 to  
5 obtain, in return for not committing the threatened offense or in  
6 connection with the threatened offense, any of the following  
7 benefits:

8           (1) intimate visual material;

9           (2) an act involving sexual conduct causing arousal or  
10 gratification; or

11           (3) a monetary benefit or other benefit of value.

12       (c) A person commits an offense if the person intentionally  
13 threatens, including by coercion or extortion, to commit an offense  
14 under Chapter 19 or 20 or Section 20A.02(a)(1), (2), (5), or (6) to  
15 obtain, in return for not committing the threatened offense or in  
16 connection with the threatened offense, either of the following  
17 benefits:

18           (1) intimate visual material; or

19           (2) an act involving sexual conduct causing arousal or  
20 gratification.

21       (d) This section applies to a threat regardless of how that  
22 threat is communicated, including a threat transmitted through  
23 e-mail or an Internet website, social media account, or chat room  
24 and a threat made by other electronic or technological means.

25       (e) An offense under this section is a state jail felony,  
26 except that the offense is a felony of the third degree if it is  
27 shown on the trial of the offense that the defendant has previously

1 been convicted of an offense under this section.

2 SECTION 5. (a) This section takes effect only if the Act of  
3 the 85th Legislature, Regular Session, 2017, relating to  
4 nonsubstantive additions to and corrections in enacted codes does  
5 not become law.

6 (b) Chapter 21, Penal Code, is amended by adding Section  
7 21.18 to read as follows:

8 Sec. 21.18. SEXUAL COERCION. (a) In this section:

9 (1) "Intimate visual material" means the visual  
10 material described by Section 21.16(b)(1) or (c), as added by  
11 Chapter 852 (S.B. 1135), Acts of the 84th Legislature, Regular  
12 Session, 2015.

13 (2) "Sexual conduct" has the meaning assigned by  
14 Section 43.25.

15 (b) A person commits an offense if the person intentionally  
16 threatens, including by coercion or extortion, to commit an offense  
17 under Chapter 43 or Section 20A.02(a)(3), (4), (7), or (8), 21.02,  
18 21.08, 21.11, 21.12, 21.15, 21.16, as added by Chapter 852 (S.B.  
19 1135), Acts of the 84th Legislature, Regular Session, 2015, 21.16,  
20 as added by Chapter 676 (H.B. 207), Acts of the 84th Legislature,  
21 Regular Session, 2015, 22.011, or 22.021 to obtain, in return for  
22 not committing the threatened offense or in connection with the  
23 threatened offense, any of the following benefits:

24 (1) intimate visual material;

25 (2) an act involving sexual conduct causing arousal or  
26 gratification; or

27 (3) a monetary benefit or other benefit of value.

1       (c) A person commits an offense if the person intentionally  
2 threatens, including by coercion or extortion, to commit an offense  
3 under Chapter 19 or 20 or Section 20A.02(a)(1), (2), (5), or (6) to  
4 obtain, in return for not committing the threatened offense or in  
5 connection with the threatened offense, either of the following  
6 benefits:

7           (1) intimate visual material; or

8           (2) an act involving sexual conduct causing arousal or  
9 gratification.

10       (d) This section applies to a threat regardless of how that  
11 threat is communicated, including a threat transmitted through  
12 e-mail or an Internet website, social media account, or chat room  
13 and a threat made by other electronic or technological means.

14       (e) An offense under this section is a state jail felony,  
15 except that the offense is a felony of the third degree if it is  
16 shown on the trial of the offense that the defendant has previously  
17 been convicted of an offense under this section.

18       SECTION 6. Sections 22.011(a) and (b), Penal Code, are  
19 amended to read as follows:

20       (a) A person commits an offense if [~~the person~~]:

21           (1) the person intentionally or knowingly:

22               (A) causes the penetration of the anus or sexual  
23 organ of another person by any means, without that person's  
24 consent;

25               (B) causes the penetration of the mouth of  
26 another person by the sexual organ of the actor, without that  
27 person's consent; or

1 (C) causes the sexual organ of another person,  
2 without that person's consent, to contact or penetrate the mouth,  
3 anus, or sexual organ of another person, including the actor; or

4 (2) regardless of whether the person knows the age of  
5 the child at the time of the offense, the person intentionally or  
6 knowingly:

7 (A) causes the penetration of the anus or sexual  
8 organ of a child by any means;

9 (B) causes the penetration of the mouth of a  
10 child by the sexual organ of the actor;

11 (C) causes the sexual organ of a child to contact  
12 or penetrate the mouth, anus, or sexual organ of another person,  
13 including the actor;

14 (D) causes the anus of a child to contact the  
15 mouth, anus, or sexual organ of another person, including the  
16 actor; or

17 (E) causes the mouth of a child to contact the  
18 anus or sexual organ of another person, including the actor.

19 (b) A sexual assault under Subsection (a)(1) is without the  
20 consent of the other person if:

21 (1) the actor compels the other person to submit or  
22 participate by the use of physical force, ~~or~~ violence, or  
23 coercion;

24 (2) the actor compels the other person to submit or  
25 participate by threatening to use force or violence against the  
26 other person or to cause harm to the other person, and the other  
27 person believes that the actor has the present ability to execute

1 the threat;

2 (3) the other person has not consented and the actor  
3 knows the other person is unconscious or physically unable to  
4 resist;

5 (4) the actor knows that as a result of mental disease  
6 or defect the other person is at the time of the sexual assault  
7 incapable either of appraising the nature of the act or of resisting  
8 it;

9 (5) the other person has not consented and the actor  
10 knows the other person is unaware that the sexual assault is  
11 occurring;

12 (6) the actor has intentionally impaired the other  
13 person's power to appraise or control the other person's conduct by  
14 administering any substance without the other person's knowledge;

15 (7) the actor compels the other person to submit or  
16 participate by threatening to use force or violence against any  
17 person, and the other person believes that the actor has the ability  
18 to execute the threat;

19 (8) the actor is a public servant who coerces the other  
20 person to submit or participate;

21 (9) the actor is a mental health services provider or a  
22 health care services provider who causes the other person, who is a  
23 patient or former patient of the actor, to submit or participate by  
24 exploiting the other person's emotional dependency on the actor;

25 (10) the actor is a clergyman who causes the other  
26 person to submit or participate by exploiting the other person's  
27 emotional dependency on the clergyman in the clergyman's

1 professional character as spiritual adviser; or

2 (11) the actor is an employee of a facility where the  
3 other person is a resident, unless the employee and resident are  
4 formally or informally married to each other under Chapter 2,  
5 Family Code.

6 SECTION 7. Section 22.021(a), Penal Code, is amended to  
7 read as follows:

8 (a) A person commits an offense:

9 (1) if the person:

10 (A) intentionally or knowingly:

11 (i) causes the penetration of the anus or  
12 sexual organ of another person by any means, without that person's  
13 consent;

14 (ii) causes the penetration of the mouth of  
15 another person by the sexual organ of the actor, without that  
16 person's consent; or

17 (iii) causes the sexual organ of another  
18 person, without that person's consent, to contact or penetrate the  
19 mouth, anus, or sexual organ of another person, including the  
20 actor; or

21 (B) regardless of whether the person knows the  
22 age of the child at the time of the offense, intentionally or  
23 knowingly:

24 (i) causes the penetration of the anus or  
25 sexual organ of a child by any means;

26 (ii) causes the penetration of the mouth of  
27 a child by the sexual organ of the actor;



1 (iii) causes the sexual organ of a child to  
2 contact or penetrate the mouth, anus, or sexual organ of another  
3 person, including the actor;

4 (iv) causes the anus of a child to contact  
5 the mouth, anus, or sexual organ of another person, including the  
6 actor; or

7 (v) causes the mouth of a child to contact  
8 the anus or sexual organ of another person, including the actor; and

9 (2) if:

10 (A) the person:

11 (i) causes serious bodily injury or  
12 attempts to cause the death of the victim or another person in the  
13 course of the same criminal episode;

14 (ii) by acts or words places the victim in  
15 fear that any person will become the victim of an offense under  
16 Section 20A.02(a)(3), (4), (7), or (8) or that death, serious  
17 bodily injury, or kidnapping will be imminently inflicted on any  
18 person;

19 (iii) by acts or words occurring in the  
20 presence of the victim threatens to cause any person to become the  
21 victim of an offense under Section 20A.02(a)(3), (4), (7), or (8) or  
22 to cause the death, serious bodily injury, or kidnapping of any  
23 person;

24 (iv) uses or exhibits a deadly weapon in the  
25 course of the same criminal episode;

26 (v) acts in concert with another who  
27 engages in conduct described by Subdivision (1) directed toward the

1 same victim and occurring during the course of the same criminal  
2 episode; or

3 (vi) with the intent of facilitating the  
4 commission of the offense, administers or provides [~~flunitrazepam,~~  
5 ~~otherwise known as rohypnol, gamma hydroxybutyrate, or ketamine~~] to  
6 the victim of the offense any substance capable of impairing the  
7 victim's ability to appraise the nature of the act or to resist the  
8 act [~~with the intent of facilitating the commission of the~~  
9 ~~offense~~];

10 (B) the victim is younger than 14 years of age,  
11 regardless of whether the person knows the age of the victim at the  
12 time of the offense; or

13 (C) the victim is an elderly individual or a  
14 disabled individual.

15 SECTION 8. Section 43.02, Penal Code, as amended by  
16 Chapters 332 (H.B. 10) and 1273 (S.B. 825), Acts of the 84th  
17 Legislature, Regular Session, 2015, is amended by reenacting  
18 Subsection (c) and reenacting and amending Subsection (c-1) to read  
19 as follows:

20 (c) An offense under Subsection (a) is a Class B  
21 misdemeanor, except that the offense is:

22 (1) a Class A misdemeanor if the actor has previously  
23 been convicted one or two times of an offense under Subsection (a);  
24 or

25 (2) a state jail felony if the actor has previously  
26 been convicted three or more times of an offense under Subsection  
27 (a).

1 (c-1) An offense under Subsection (b) is a Class B  
2 misdemeanor, except that the offense is:

3 (1) a Class A misdemeanor if the actor has previously  
4 been convicted one or two times of an offense under Subsection (b);

5 (2) a state jail felony if the actor has previously  
6 been convicted three or more times of an offense under Subsection  
7 (b); or

8 (3) a felony of the second degree if the person  
9 solicited is:

10 (A) younger than 18 years of age, regardless of  
11 whether the actor knows the age of the person solicited at the time  
12 of [~~the actor commits~~] the offense;

13 (B) represented to the actor as being younger  
14 than 18 years of age; or

15 (C) believed by the actor to be younger than 18  
16 years of age.

17 SECTION 9. Section 43.03(b), Penal Code, is amended to read  
18 as follows:

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

21 (1) a state jail felony if the actor has been  
22 previously convicted of an offense under this section; or

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

1 SECTION 10. Section 43.04(b), Penal Code, is amended to  
2 read as follows:

3 (b) An offense under this section is a felony of the third  
4 degree, except that the offense is a felony of the first degree if  
5 the prostitution enterprise uses as a prostitute one or more  
6 persons younger than 18 years of age, regardless of whether the  
7 actor knows the age of the person at the time of [~~the actor commits~~]  
8 the offense.

9 SECTION 11. Section 43.05(a), Penal Code, is amended to  
10 read as follows:

11 (a) A person commits an offense if the person knowingly:

12 (1) causes another by force, threat, or fraud to  
13 commit prostitution; or

14 (2) causes by any means a child younger than 18 years  
15 to commit prostitution, regardless of whether the actor knows the  
16 age of the child at the time of [~~the actor commits~~] the offense.

17 SECTION 12. Section 43.25, Penal Code, is amended by  
18 amending Subsections (c) and (e) and adding Subsection (h) to read  
19 as follows:

20 (c) An offense under Subsection (b) is a felony of the  
21 second degree, except that the offense is a felony of the first  
22 degree if the victim is younger than 14 years of age at the time the  
23 offense is committed, regardless of whether the actor knows the age  
24 of the victim at the time of the offense.

25 (e) An offense under Subsection (d) is a felony of the third  
26 degree, except that the offense is a felony of the second degree if  
27 the victim is younger than 14 years of age at the time the offense is

1 committed, regardless of whether the actor knows the age of the  
2 victim at the time of the offense.

3 (h) Conduct under this section constitutes an offense  
4 regardless of whether the actor knows the age of the victim at the  
5 time of the offense.

6 SECTION 13. Section 43.251, Penal Code, is amended by  
7 amending Subsection (c) and adding Subsection (d) to read as  
8 follows:

9 (c) An offense under this section is a felony of the second  
10 degree, except that the offense is a felony of the first degree if  
11 the victim [~~child~~] is younger than 14 years of age at the time the  
12 offense is committed, regardless of whether the actor knows the age  
13 of the victim at the time of the offense.

14 (d) Conduct under this section constitutes an offense  
15 regardless of whether the actor knows the age of the victim at the  
16 time of the offense.

17 SECTION 14. The changes in law made by this Act apply only  
18 to an offense committed on or after the effective date of this Act.  
19 An offense committed before the effective date of this Act is  
20 governed by the law in effect on the date the offense was committed,  
21 and the former law is continued in effect for that purpose. For  
22 purposes of this section, an offense was committed before the  
23 effective date of this Act if any element of the offense occurred  
24 before that date.

25 SECTION 15. This Act takes effect September 1, 2017.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 1808 was passed by the House on May 4, 2017, by the following vote: Yeas 146, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1808 on May 26, 2017, by the following vote: Yeas 142, Nays 0, 1 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 1808 was passed by the Senate, with amendments, on May 24, 2017, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor