

By: Meyer, Thompson of Harris, Parker

H.B. No. 1808

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the prosecution and punishment of certain trafficking
3 and sexual offenses.

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

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

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

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

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

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

18 (b) A person commits an offense if:

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

23 (2) at the time of the commission of each of the acts
24 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. Section 22.011(a), Penal Code, is amended to
18 read as follows:

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

20 (1) the person intentionally or knowingly:

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

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

27 (C) causes the sexual organ of another person,

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

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

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

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

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

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

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

18 SECTION 5. Section [22.021\(a\)](#), Penal Code, is amended to
19 read as follows:

20 (a) A person commits an offense:

21 (1) if the person:

22 (A) intentionally or knowingly:

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

26 (ii) causes the penetration of the mouth of
27 another person by the sexual organ of the actor, without that

1 person's consent; or

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

6 (B) regardless of whether the person knows the
7 age of the child at the time of the offense, intentionally or
8 knowingly:

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

11 (ii) causes the penetration of the mouth of
12 a child by the sexual organ of the actor;

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

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

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

21 (2) if:

22 (A) the person:

23 (i) causes serious bodily injury or
24 attempts to cause the death of the victim or another person in the
25 course of the same criminal episode;

26 (ii) by acts or words places the victim in
27 fear that any person will become the victim of an offense under

1 Section 20A.02(a)(3), (4), (7), or (8) or that death, serious
2 bodily injury, or kidnapping will be imminently inflicted on any
3 person;

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

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

11 (v) acts in concert with another who
12 engages in conduct described by Subdivision (1) directed toward the
13 same victim and occurring during the course of the same criminal
14 episode; or

15 (vi) administers or provides
16 flunitrazepam, otherwise known as rohypnol, gamma hydroxybutyrate,
17 or ketamine to the victim of the offense with the intent of
18 facilitating the commission of the offense;

19 (B) the victim is younger than 14 years of age,
20 regardless of whether the person knows the age of the victim at the
21 time of the offense; or

22 (C) the victim is an elderly individual or a
23 disabled individual.

24 SECTION 6. Section 43.02, Penal Code, as amended by
25 Chapters 332 (H.B. 10) and 1273 (S.B. 825), Acts of the 84th
26 Legislature, Regular Session, 2015, is amended by reenacting
27 Subsection (c) and reenacting and amending Subsection (c-1) to read

1 as follows:

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

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

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

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

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

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

17 (3) a felony of the second degree if the person
18 solicited is:

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

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

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

26 SECTION 7. Section 43.03(b), Penal Code, is amended to read
27 as follows:

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

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

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

10 SECTION 8. Section 43.04(b), Penal Code, is amended to read
11 as follows:

12 (b) An offense under this section is a felony of the third
13 degree, except that the offense is a felony of the first degree if
14 the prostitution enterprise uses as a prostitute one or more
15 persons younger than 18 years of age, regardless of whether the
16 actor knows the age of the person at the time of [~~the actor commits~~]
17 the offense.

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

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

21 (1) causes another by force, threat, or fraud to
22 commit prostitution; or

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

26 SECTION 10. Section 43.25, Penal Code, is amended by
27 amending Subsections (c) and (e) and adding Subsection (h) to read

1 as follows:

2 (c) An offense under Subsection (b) is a felony of the
3 second degree, except that the offense is a felony of the first
4 degree if the victim is younger than 14 years of age at the time the
5 offense is committed, regardless of whether the actor knows the age
6 of the victim at the time of the offense.

7 (e) An offense under Subsection (d) is a felony of the third
8 degree, except that the offense is a felony of the second degree if
9 the victim is younger than 14 years of age at the time the offense is
10 committed, regardless of whether the actor knows the age of the
11 victim at the time of the offense.

12 (h) Conduct under this section constitutes an offense
13 regardless of whether the actor knows the age of the victim at the
14 time of the offense.

15 SECTION 11. Section [43.251](#), Penal Code, is amended by
16 amending Subsection (c) and adding Subsection (d) to read as
17 follows:

18 (c) An offense under this section is a felony of the second
19 degree, except that the offense is a felony of the first degree if
20 the victim [~~child~~] is younger than 14 years of age at the time the
21 offense is committed, regardless of whether the actor knows the age
22 of the victim at the time of the offense.

23 (d) Conduct under this section constitutes an offense
24 regardless of whether the actor knows the age of the victim at the
25 time of the offense.

26 SECTION 12. The changes in law made by this Act apply only
27 to an offense committed on or after the effective date of this Act.

1 An offense committed before the effective date of this Act is
2 governed by the law in effect on the date the offense was committed,
3 and the former law is continued in effect for that purpose. For
4 purposes of this section, an offense was committed before the
5 effective date of this Act if any element of the offense occurred
6 before that date.

7 SECTION 13. This Act takes effect September 1, 2017.