

1-1 By: Meyer, et al. (Senate Sponsor - Garcia) H.B. No. 1808
 1-2 (In the Senate - Received from the House May 5, 2017;
 1-3 May 5, 2017, read first time and referred to Committee on Criminal
 1-4 Justice; May 19, 2017, reported adversely, with favorable
 1-5 Committee Substitute by the following vote: Yeas 7, Nays 0;
 1-6 May 19, 2017, 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			X	
1-17			X	

1-18 COMMITTEE SUBSTITUTE FOR H.B. No. 1808 By: Whitmire

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to the prosecution and punishment of certain trafficking
 1-22 and sexual offenses; creating a criminal offense.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section 20A.02(b), Penal Code, is amended to
 1-25 read as follows:

1-26 (b) Except as otherwise provided by this subsection, an
 1-27 offense under this section is a felony of the second degree. An
 1-28 offense under this section is a felony of the first degree if:

1-29 (1) the applicable conduct constitutes an offense
 1-30 under Subsection (a)(5), (6), (7), or (8), regardless of whether
 1-31 the actor knows the age of the child at the time of the actor
 1-32 ~~commits~~ the offense; or

1-33 (2) the commission of the offense results in the death
 1-34 of the person who is trafficked.

1-35 SECTION 2. Section 21.02(b), Penal Code, is amended to read
 1-36 as follows:

1-37 (b) A person commits an offense if:

1-38 (1) during a period that is 30 or more days in
 1-39 duration, the person commits two or more acts of sexual abuse,
 1-40 regardless of whether the acts of sexual abuse are committed
 1-41 against one or more victims; and

1-42 (2) at the time of the commission of each of the acts
 1-43 of sexual abuse, the actor is 17 years of age or older and the victim
 1-44 is a child younger than 14 years of age, regardless of whether the
 1-45 actor knows the age of the victim at the time of the offense.

1-46 SECTION 3. Section 21.11(a), Penal Code, is amended to read
 1-47 as follows:

1-48 (a) A person commits an offense if, with a child younger
 1-49 than 17 years of age, whether the child is of the same or opposite
 1-50 sex and regardless of whether the person knows the age of the child
 1-51 at the time of the offense, the person:

1-52 (1) engages in sexual contact with the child or causes
 1-53 the child to engage in sexual contact; or

1-54 (2) with intent to arouse or gratify the sexual desire
 1-55 of any person:

1-56 (A) exposes the person's anus or any part of the
 1-57 person's genitals, knowing the child is present; or

1-58 (B) causes the child to expose the child's anus
 1-59 or any part of the child's genitals.

1-60 SECTION 4. (a) This section takes effect only if the Act of

2-1 the 85th Legislature, Regular Session, 2017, relating to
2-2 nonsubstantive additions to and corrections in enacted codes
2-3 becomes law.

2-4 (b) Chapter 21, Penal Code, is amended by adding Section
2-5 21.18 to read as follows:

2-6 Sec. 21.18. SEXUAL COERCION. (a) In this section:

2-7 (1) "Intimate visual material" means the visual
2-8 material described by Section 21.16(b)(1) or (c).

2-9 (2) "Sexual conduct" has the meaning assigned by
2-10 Section 43.25.

2-11 (b) A person commits an offense if the person intentionally
2-12 threatens, including by coercion or extortion, to commit an offense
2-13 under Chapter 43 or Section 20A.02(a)(3), (4), (7), or (8), 21.02,
2-14 21.08, 21.11, 21.12, 21.15, 21.16, 21.17, 22.011, or 22.021 to
2-15 obtain, in return for not committing the threatened offense or in
2-16 connection with the threatened offense, any of the following
2-17 benefits:

2-18 (1) intimate visual material;

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

2-21 (3) a monetary benefit or other benefit of value.

2-22 (c) A person commits an offense if the person intentionally
2-23 threatens, including by coercion or extortion, to commit an offense
2-24 under Chapter 19 or 20 or Section 20A.02(a)(1), (2), (5), or (6) to
2-25 obtain, in return for not committing the threatened offense or in
2-26 connection with the threatened offense, either of the following
2-27 benefits:

2-28 (1) intimate visual material; or

2-29 (2) an act involving sexual conduct causing arousal or
2-30 gratification.

2-31 (d) This section applies to a threat regardless of how that
2-32 threat is communicated, including a threat transmitted through
2-33 e-mail or an Internet website, social media account, or chat room
2-34 and a threat made by other electronic or technological means.

2-35 (e) An offense under this section is a state jail felony,
2-36 except that the offense is a felony of the third degree if it is
2-37 shown on the trial of the offense that the defendant has previously
2-38 been convicted of an offense under this section.

2-39 SECTION 5. (a) This section takes effect only if the Act of
2-40 the 85th Legislature, Regular Session, 2017, relating to
2-41 nonsubstantive additions to and corrections in enacted codes does
2-42 not become law.

2-43 (b) Chapter 21, Penal Code, is amended by adding Section
2-44 21.18 to read as follows:

2-45 Sec. 21.18. SEXUAL COERCION. (a) In this section:

2-46 (1) "Intimate visual material" means the visual
2-47 material described by Section 21.16(b)(1) or (c), as added by
2-48 Chapter 852 (S.B. 1135), Acts of the 84th Legislature, Regular
2-49 Session, 2015.

2-50 (2) "Sexual conduct" has the meaning assigned by
2-51 Section 43.25.

2-52 (b) A person commits an offense if the person intentionally
2-53 threatens, including by coercion or extortion, to commit an offense
2-54 under Chapter 43 or Section 20A.02(a)(3), (4), (7), or (8), 21.02,
2-55 21.08, 21.11, 21.12, 21.15, 21.16, as added by Chapter 852 (S.B.
2-56 1135), Acts of the 84th Legislature, Regular Session, 2015, 21.16,
2-57 as added by Chapter 676 (H.B. 207), Acts of the 84th Legislature,
2-58 Regular Session, 2015, 22.011, or 22.021 to obtain, in return for
2-59 not committing the threatened offense or in connection with the
2-60 threatened offense, any of the following benefits:

2-61 (1) intimate visual material;

2-62 (2) an act involving sexual conduct causing arousal or
2-63 gratification; or

2-64 (3) a monetary benefit or other benefit of value.

2-65 (c) A person commits an offense if the person intentionally
2-66 threatens, including by coercion or extortion, to commit an offense
2-67 under Chapter 19 or 20 or Section 20A.02(a)(1), (2), (5), or (6) to
2-68 obtain, in return for not committing the threatened offense or in
2-69 connection with the threatened offense, either of the following

3-1 benefits:
3-2 (1) intimate visual material; or
3-3 (2) an act involving sexual conduct causing arousal or
3-4 gratification.
3-5 (d) This section applies to a threat regardless of how that
3-6 threat is communicated, including a threat transmitted through
3-7 e-mail or an Internet website, social media account, or chat room
3-8 and a threat made by other electronic or technological means.
3-9 (e) An offense under this section is a state jail felony,
3-10 except that the offense is a felony of the third degree if it is
3-11 shown on the trial of the offense that the defendant has previously
3-12 been convicted of an offense under this section.
3-13 SECTION 6. Sections 22.011(a) and (b), Penal Code, are
3-14 amended to read as follows:
3-15 (a) A person commits an offense if [~~the person~~]:
3-16 (1) the person intentionally or knowingly:
3-17 (A) causes the penetration of the anus or sexual
3-18 organ of another person by any means, without that person's
3-19 consent;
3-20 (B) causes the penetration of the mouth of
3-21 another person by the sexual organ of the actor, without that
3-22 person's consent; or
3-23 (C) causes the sexual organ of another person,
3-24 without that person's consent, to contact or penetrate the mouth,
3-25 anus, or sexual organ of another person, including the actor; or
3-26 (2) regardless of whether the person knows the age of
3-27 the child at the time of the offense, the person intentionally or
3-28 knowingly:
3-29 (A) causes the penetration of the anus or sexual
3-30 organ of a child by any means;
3-31 (B) causes the penetration of the mouth of a
3-32 child by the sexual organ of the actor;
3-33 (C) causes the sexual organ of a child to contact
3-34 or penetrate the mouth, anus, or sexual organ of another person,
3-35 including the actor;
3-36 (D) causes the anus of a child to contact the
3-37 mouth, anus, or sexual organ of another person, including the
3-38 actor; or
3-39 (E) causes the mouth of a child to contact the
3-40 anus or sexual organ of another person, including the actor.
3-41 (b) A sexual assault under Subsection (a)(1) is without the
3-42 consent of the other person if:
3-43 (1) the actor compels the other person to submit or
3-44 participate by the use of physical force, ~~or~~ violence, or
3-45 coercion;
3-46 (2) the actor compels the other person to submit or
3-47 participate by threatening to use force or violence against the
3-48 other person or to cause harm to the other person, and the other
3-49 person believes that the actor has the present ability to execute
3-50 the threat;
3-51 (3) the other person has not consented and the actor
3-52 knows the other person is unconscious or physically unable to
3-53 resist;
3-54 (4) the actor knows that as a result of mental disease
3-55 or defect the other person is at the time of the sexual assault
3-56 incapable either of appraising the nature of the act or of resisting
3-57 it;
3-58 (5) the other person has not consented and the actor
3-59 knows the other person is unaware that the sexual assault is
3-60 occurring;
3-61 (6) the actor has intentionally impaired the other
3-62 person's power to appraise or control the other person's conduct by
3-63 administering any substance without the other person's knowledge;
3-64 (7) the actor compels the other person to submit or
3-65 participate by threatening to use force or violence against any
3-66 person, and the other person believes that the actor has the ability
3-67 to execute the threat;
3-68 (8) the actor is a public servant who coerces the other
3-69 person to submit or participate;

4-1 (9) the actor is a mental health services provider or a
4-2 health care services provider who causes the other person, who is a
4-3 patient or former patient of the actor, to submit or participate by
4-4 exploiting the other person's emotional dependency on the actor;

4-5 (10) the actor is a clergyman who causes the other
4-6 person to submit or participate by exploiting the other person's
4-7 emotional dependency on the clergyman in the clergyman's
4-8 professional character as spiritual adviser; or

4-9 (11) the actor is an employee of a facility where the
4-10 other person is a resident, unless the employee and resident are
4-11 formally or informally married to each other under Chapter 2,
4-12 Family Code.

4-13 SECTION 7. Section 22.021(a), Penal Code, is amended to
4-14 read as follows:

4-15 (a) A person commits an offense:

4-16 (1) if the person:

4-17 (A) intentionally or knowingly:

4-18 (i) causes the penetration of the anus or
4-19 sexual organ of another person by any means, without that person's
4-20 consent;

4-21 (ii) causes the penetration of the mouth of
4-22 another person by the sexual organ of the actor, without that
4-23 person's consent; or

4-24 (iii) causes the sexual organ of another
4-25 person, without that person's consent, to contact or penetrate the
4-26 mouth, anus, or sexual organ of another person, including the
4-27 actor; or

4-28 (B) regardless of whether the person knows the
4-29 age of the child at the time of the offense, intentionally or
4-30 knowingly:

4-31 (i) causes the penetration of the anus or
4-32 sexual organ of a child by any means;

4-33 (ii) causes the penetration of the mouth of
4-34 a child by the sexual organ of the actor;

4-35 (iii) causes the sexual organ of a child to
4-36 contact or penetrate the mouth, anus, or sexual organ of another
4-37 person, including the actor;

4-38 (iv) causes the anus of a child to contact
4-39 the mouth, anus, or sexual organ of another person, including the
4-40 actor; or

4-41 (v) causes the mouth of a child to contact
4-42 the anus or sexual organ of another person, including the actor; and

4-43 (2) if:

4-44 (A) the person:

4-45 (i) causes serious bodily injury or
4-46 attempts to cause the death of the victim or another person in the
4-47 course of the same criminal episode;

4-48 (ii) by acts or words places the victim in
4-49 fear that any person will become the victim of an offense under
4-50 Section 20A.02(a)(3), (4), (7), or (8) or that death, serious
4-51 bodily injury, or kidnapping will be imminently inflicted on any
4-52 person;

4-53 (iii) by acts or words occurring in the
4-54 presence of the victim threatens to cause any person to become the
4-55 victim of an offense under Section 20A.02(a)(3), (4), (7), or (8) or
4-56 to cause the death, serious bodily injury, or kidnapping of any
4-57 person;

4-58 (iv) uses or exhibits a deadly weapon in the
4-59 course of the same criminal episode;

4-60 (v) acts in concert with another who
4-61 engages in conduct described by Subdivision (1) directed toward the
4-62 same victim and occurring during the course of the same criminal
4-63 episode; or

4-64 (vi) with the intent of facilitating the
4-65 commission of the offense, administers or provides [~~flunitrazepam,~~
4-66 ~~otherwise known as rohypnol, gamma hydroxybutyrate, or ketamine~~]
4-67 to the victim of the offense any substance capable of impairing the
4-68 victim's ability to appraise the nature of the act or to resist the
4-69 act [~~with the intent of facilitating the commission of the~~

5-1 offense];

5-2 (B) the victim is younger than 14 years of age,
5-3 regardless of whether the person knows the age of the victim at the
5-4 time of the offense; or

5-5 (C) the victim is an elderly individual or a
5-6 disabled individual.

5-7 SECTION 8. Section 43.02, Penal Code, as amended by
5-8 Chapters 332 (H.B. 10) and 1273 (S.B. 825), Acts of the 84th
5-9 Legislature, Regular Session, 2015, is amended by reenacting
5-10 Subsection (c) and reenacting and amending Subsection (c-1) to read
5-11 as follows:

5-12 (c) An offense under Subsection (a) is a Class B
5-13 misdemeanor, except that the offense is:

5-14 (1) a Class A misdemeanor if the actor has previously
5-15 been convicted one or two times of an offense under Subsection (a);
5-16 or

5-17 (2) a state jail felony if the actor has previously
5-18 been convicted three or more times of an offense under Subsection
5-19 (a).

5-20 (c-1) An offense under Subsection (b) is a Class B
5-21 misdemeanor, except that the offense is:

5-22 (1) a Class A misdemeanor if the actor has previously
5-23 been convicted one or two times of an offense under Subsection (b);

5-24 (2) a state jail felony if the actor has previously
5-25 been convicted three or more times of an offense under Subsection
5-26 (b); or

5-27 (3) a felony of the second degree if the person
5-28 solicited is:

5-29 (A) younger than 18 years of age, regardless of
5-30 whether the actor knows the age of the person solicited at the time
5-31 of [the actor commits] the offense;

5-32 (B) represented to the actor as being younger
5-33 than 18 years of age; or

5-34 (C) believed by the actor to be younger than 18
5-35 years of age.

5-36 SECTION 9. Section 43.03(b), Penal Code, is amended to read
5-37 as follows:

5-38 (b) An offense under this section is a Class A misdemeanor,
5-39 except that the offense is:

5-40 (1) a state jail felony if the actor has been
5-41 previously convicted of an offense under this section; or

5-42 (2) a felony of the second degree if the actor engages
5-43 in conduct described by Subsection (a)(1) or (2) involving a person
5-44 younger than 18 years of age engaging in prostitution, regardless
5-45 of whether the actor knows the age of the person at the time of of [the
5-46 actor commits] the offense.

5-47 SECTION 10. Section 43.04(b), Penal Code, is amended to
5-48 read as follows:

5-49 (b) An offense under this section is a felony of the third
5-50 degree, except that the offense is a felony of the first degree if
5-51 the prostitution enterprise uses as a prostitute one or more
5-52 persons younger than 18 years of age, regardless of whether the
5-53 actor knows the age of the person at the time of of [the actor commits]
5-54 the offense.

5-55 SECTION 11. Section 43.05(a), Penal Code, is amended to
5-56 read as follows:

5-57 (a) A person commits an offense if the person knowingly:

5-58 (1) causes another by force, threat, or fraud to
5-59 commit prostitution; or

5-60 (2) causes by any means a child younger than 18 years
5-61 to commit prostitution, regardless of whether the actor knows the
5-62 age of the child at the time of of [the actor commits] the offense.

5-63 SECTION 12. Section 43.25, Penal Code, is amended by
5-64 amending Subsections (c) and (e) and adding Subsection (h) to read
5-65 as follows:

5-66 (c) An offense under Subsection (b) is a felony of the
5-67 second degree, except that the offense is a felony of the first
5-68 degree if the victim is younger than 14 years of age at the time the
5-69 offense is committed, regardless of whether the actor knows the age

6-1 of the victim at the time of the offense.

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

6-7 (h) Conduct under this section constitutes an offense
6-8 regardless of whether the actor knows the age of the victim at the
6-9 time of the offense.

6-10 SECTION 13. Section 43.251, Penal Code, is amended by
6-11 amending Subsection (c) and adding Subsection (d) to read as
6-12 follows:

6-13 (c) An offense under this section is a felony of the second
6-14 degree, except that the offense is a felony of the first degree if
6-15 the victim [~~child~~] is younger than 14 years of age at the time the
6-16 offense is committed, regardless of whether the actor knows the age
6-17 of the victim at the time of the offense.

6-18 (d) Conduct under this section constitutes an offense
6-19 regardless of whether the actor knows the age of the victim at the
6-20 time of the offense.

6-21 SECTION 14. The changes in law made by this Act apply only
6-22 to an offense committed on or after the effective date of this Act.
6-23 An offense committed before the effective date of this Act is
6-24 governed by the law in effect on the date the offense was committed,
6-25 and the former law is continued in effect for that purpose. For
6-26 purposes of this section, an offense was committed before the
6-27 effective date of this Act if any element of the offense occurred
6-28 before that date.

6-29 SECTION 15. This Act takes effect September 1, 2017.

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