

By: Parker, Meyer, Burkett

H.B. No. 2960

Substitute the following for H.B. No. 2960:

By: Moody

C.S.H.B. No. 2960

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the prosecution and punishment of certain trafficking
3 and sexual offenses; increasing a criminal penalty.

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) with the intent of facilitating the
16 commission of the offense, administers or provides [~~flunitrazepam,~~
17 ~~otherwise known as rohypnol, gamma hydroxybutyrate, or ketamine~~] to
18 the victim of the offense any substance capable of impairing the
19 victim's ability to appreciate the nature of the applicable conduct
20 described by Subdivision (1) or to resist the conduct [~~with the~~
21 ~~intent of facilitating the commission of the offense~~];

22 (B) the victim is younger than 14 years of age,
23 regardless of whether the person knows the age of the victim at the
24 time of the offense; or

25 (C) the victim is an elderly individual or a
26 disabled individual.

27 SECTION 6. Section 33.021(a)(1), Penal Code, is amended to

1 read as follows:

2 (1) "Minor" means:

3 (A) an individual who is younger than 17 years of
4 age regardless of whether the actor knows the age of the individual
5 at the time of the offense; or

6 (B) an individual whom the actor believes to be
7 younger than 17 years of age.

8 SECTION 7. Section 33.021(f), Penal Code, is amended to
9 read as follows:

10 (f) An offense under Subsection (b) is a felony of the third
11 degree, except that the offense is a felony of the second degree if,
12 at the time of the offense, the minor is younger than 14 years of
13 age, regardless of whether the actor knows the age of the minor at
14 that time, or is an individual whom the actor believes to be younger
15 than 14 years of age at that ~~[the]~~ time ~~[of the commission of the~~
16 ~~offense]~~. An offense under Subsection (c) is a felony of the second
17 degree.

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

23 (a) A person commits an offense if, in return for receipt of
24 a fee, the person knowingly:

25 (1) offers to engage, agrees to engage, or engages in
26 sexual conduct; or

27 (2) solicits another ~~[in a public place]~~ to engage

1 with the actor in sexual conduct [~~for hire~~].

2 (b) A person commits an offense if, based on the payment of a
3 fee by the actor or another person on behalf of the actor, the
4 person knowingly:

5 (1) offers to engage, agrees to engage, or engages in
6 sexual conduct; or

7 (2) solicits another [~~in a public place~~] to engage
8 with the actor in sexual conduct [~~for hire~~].

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

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

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

17 (c-1) An offense under Subsection (b) is a Class A [~~B~~]
18 misdemeanor, except that the offense is:

19 (1) a state jail felony [~~Class A misdemeanor~~] if the
20 actor has previously been convicted one or two times of an offense
21 under Subsection (b);

22 (2) a [~~state jail~~] felony of the third degree if the
23 actor has previously been convicted three or more times of an
24 offense under Subsection (b); or

25 (3) a felony of the first [~~second~~] degree if the person
26 solicited is:

27 (A) younger than 18 years of age, regardless of

1 whether the actor knows the age of the person solicited at the time
2 of [~~the actor commits~~] the offense;

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

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

7 SECTION 9. Section 43.03, Penal Code, is amended to read as
8 follows:

9 Sec. 43.03. PROMOTION OF PROSTITUTION. (a) A person
10 commits an offense if, acting other than as a prostitute receiving
11 compensation for personally rendered prostitution services, the
12 actor [~~he or she~~] knowingly:

13 (1) receives money or other property pursuant to an
14 agreement to participate in the proceeds of prostitution; ~~or~~

15 (2) solicits or procures another to engage in sexual
16 conduct with another person for compensation;

17 (3) provides a person or premises for prostitution
18 purposes;

19 (4) operates or assists in the operation of a
20 prostitution enterprise; or

21 (5) engages in other conduct designed to institute,
22 aid, or facilitate an act or enterprise of prostitution.

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

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

27 (2) a felony of the second degree if the actor engages

1 in conduct described by Subsection (a) [~~(a)(1) or (2)~~] involving a
2 person younger than 18 years of age engaging in prostitution,
3 regardless of whether the actor knows the age of the person at the
4 time of the actor commits the offense.

5 (c) A conviction may be used for purposes of enhancement
6 under this section or enhancement under Subchapter D, Chapter 12,
7 but not under both this section and Subchapter D, Chapter 12. For
8 purposes of enhancement of penalties under this section or
9 Subchapter D, Chapter 12, a defendant is previously convicted of an
10 offense under this section if the defendant was adjudged guilty of
11 the offense or entered a plea of guilty or nolo contendere in return
12 for a grant of deferred adjudication community supervision,
13 regardless of whether the sentence for the offense was ever imposed
14 or whether the sentence was probated and the defendant was
15 subsequently discharged from deferred adjudication community
16 supervision.

17 (d) If conduct constituting an offense under this section
18 also constitutes an offense under another section of this code, the
19 actor may be prosecuted under either section or under both
20 sections.

21 SECTION 10. Section 43.04, Penal Code, is amended to read as
22 follows:

23 Sec. 43.04. AGGRAVATED PROMOTION OF PROSTITUTION. (a) A
24 person commits an offense if the person engages in conduct that
25 constitutes an offense under Section 43.03 and the person:

26 (1) engages in the conduct with respect to two or more
27 prostitutes; or

1 (2) while engaged in the conduct:

2 (A) causes serious bodily injury to another; or

3 (B) uses or exhibits a deadly weapon [~~he~~
4 ~~knowingly owns, invests in, finances, controls, supervises, or~~
5 ~~manages a prostitution enterprise that uses two or more~~
6 ~~prostitutes~~].

7 (b) An offense under this section is a felony of the third
8 degree, except that an [~~the~~] offense under Subsection (a)(1) is a
9 felony of the first degree if the applicable conduct involves the
10 use of [~~prostitution enterprise uses as a prostitute~~] one or more
11 persons younger than 18 years of age as a prostitute, regardless of
12 whether the actor knows the age of the person at the time of [~~the~~
13 ~~actor commits~~] the offense.

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

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

17 (1) causes another by force, threat, or fraud to
18 commit prostitution; or

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

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

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

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

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

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

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

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

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

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

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1 effective date of this Act if any element of the offense occurred
2 before that date.

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