

By: Parker

H.B. No. 2960

A BILL TO BE ENTITLED

AN ACT

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

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. 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 33.021(a)(1), Penal Code, is amended to
25 read as follows:

26 (1) "Minor" means:

27 (A) an individual who is younger than 17 years of

1 age regardless of whether the actor knows the age of the individual
2 at the time of the offense; or

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

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

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

15 SECTION 8. Section 43.01, Penal Code, is amended by adding
16 Subdivision (1-a) to read as follows:

17 (1-a) "Item of value" means money or a good, service,
18 or object that functions as consideration.

19 SECTION 9. Section 43.02, Penal Code, as amended by
20 Chapters 332 (H.B. 10) and 1273 (S.B. 825), Acts of the 84th
21 Legislature, Regular Session, 2015, is amended by amending
22 Subsections (a), (b), and (b-1), reenacting Subsection (c), and
23 reenacting and amending Subsection (c-1) to read as follows:

24 (a) A person commits an offense if, in return for receipt of
25 an item of value [~~a fee~~], the person knowingly:

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

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

3 (b) A person commits an offense if, based on the exchange
4 [~~payment~~] of an item of value [~~a fee~~] by the actor or another person
5 on behalf of the actor, the person knowingly:

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

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

10 (b-1) An offense is established under Subsection (a)
11 regardless of whether the actor is offered or actually receives the
12 item of value [~~fee~~]. An offense is established under Subsection (b)
13 regardless of whether the actor or another person on behalf of the
14 actor offers or actually exchanges the item of value [~~pays the fee~~].

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

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

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

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

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

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

4 (3) a felony of the second degree if the person
5 solicited is:

6 (A) younger than 18 years of age, regardless of
7 whether the actor knows the age of the person solicited at the time
8 of [the actor commits] the offense;

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

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

13 SECTION 10. Section 43.03, Penal Code, is amended to read as
14 follows:

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

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

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

23 (3) provides a person or premises for prostitution
24 purposes;

25 (4) operates or assists in the operation of a
26 prostitution enterprise; or

27 (5) engages in other conduct designed to institute,

1 aid, or facilitate an act or enterprise of prostitution.

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

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

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

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

23 SECTION 11. Section 43.04, Penal Code, is amended to read as
24 follows:

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

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

3 (2) while engaged in the conduct:

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

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

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

16 SECTION 12. Section 43.05(a), Penal Code, is amended to
17 read as follows:

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

19 (1) causes another by force, threat, or fraud to
20 commit prostitution; or

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

24 SECTION 13. Section 43.25, Penal Code, is amended by
25 amending Subsections (c) and (e) and adding Subsection (h) to read
26 as follows:

27 (c) An offense under Subsection (b) is a felony of the

1 second degree, except that the offense is a felony of the first
2 degree if the victim is younger than 14 years of age at the time the
3 offense is committed, regardless of whether the actor knows the age
4 of the victim at the time of the offense.

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

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

13 SECTION 14. Section [43.251](#), Penal Code, is amended by
14 amending Subsection (c) and adding Subsection (d) to read as
15 follows:

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

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

24 SECTION 15. The changes in law made by this Act apply only
25 to an offense committed on or after the effective date of this Act.
26 An offense committed before the effective date of this Act is
27 governed by the law in effect on the date the offense was committed,

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

5 SECTION 16. This Act takes effect September 1, 2017.