

SENATE AMENDMENTS

2nd Printing

By: Meyer, Thompson of Harris, Parker, Dale,
Moody

H.B. No. 1808

A BILL TO BE ENTITLED

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) Section 21.16(g), Penal Code, as added by Chapter 852
22 (S.B. 1135), Acts of the 84th Legislature, Regular Session, 2015,
23 is amended to read as follows:

24 (g) An offense under this section is a state jail felony
25 [~~Class A misdemeanor~~].

26 (c) Chapter 21, Penal Code, is amended by adding Section
27 21.18 to read as follows:

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

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

4 (2) "Sexual conduct" has the meaning assigned by
5 Section 43.25.

6 (b) A person commits an offense if the person intentionally
7 threatens, including by coercion or extortion, to commit an offense
8 under Chapter 43 or Section 20A.02(a)(3), (4), (7), or (8), 21.02,
9 21.08, 21.11, 21.12, 21.15, 21.16, 21.17, 22.011, or 22.021 to
10 obtain, in return for not committing the threatened offense or in
11 connection with the threatened offense, any of the following
12 benefits:

13 (1) intimate visual material;

14 (2) an act involving sexual conduct causing arousal or
15 gratification; or

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

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

23 (1) intimate visual material; or

24 (2) an act involving sexual conduct causing arousal or
25 gratification.

26 (d) This section applies to a threat regardless of how that
27 threat is communicated, including a threat transmitted through

1 e-mail or an Internet website, social media account, or chat room
2 and a threat made by other electronic or technological means.

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

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

11 (b) Section 21.16(g), Penal Code, as added by Chapter 852
12 (S.B. 1135), Acts of the 84th Legislature, Regular Session, 2015,
13 is amended to read as follows:

14 (g) An offense under this section is a state jail felony
15 ~~[Class A misdemeanor]~~.

16 (c) Chapter 21, Penal Code, is amended by adding Section
17 21.18 to read as follows:

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

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

23 (2) "Sexual conduct" has the meaning assigned by
24 Section 43.25.

25 (b) A person commits an offense if the person intentionally
26 threatens, including by coercion or extortion, to commit an offense
27 under Chapter 43 or Section 20A.02(a)(3), (4), (7), or (8), 21.02,

1 21.08, 21.11, 21.12, 21.15, 21.16, as added by Chapter 852 (S.B.
2 1135), Acts of the 84th Legislature, Regular Session, 2015, 21.16,
3 as added by Chapter 676 (H.B. 207), Acts of the 84th Legislature,
4 Regular Session, 2015, 22.011, or 22.021 to obtain, in return for
5 not committing the threatened offense or in connection with the
6 threatened offense, any of the following benefits:

7 (1) intimate visual material;

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

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

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

17 (1) intimate visual material; or

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

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

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

1 SECTION 6. Section 22.011(a), Penal Code, is amended to
2 read as follows:

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

4 (1) the person intentionally or knowingly:

5 (A) causes the penetration of the anus or sexual
6 organ of another person by any means, without that person's
7 consent;

8 (B) causes the penetration of the mouth of
9 another person by the sexual organ of the actor, without that
10 person's consent; or

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

14 (2) regardless of whether the person knows the age of
15 the child at the time of the offense, the person intentionally or
16 knowingly:

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

19 (B) causes the penetration of the mouth of a
20 child by the sexual organ of the actor;

21 (C) causes the sexual organ of a child to contact
22 or penetrate the mouth, anus, or sexual organ of another person,
23 including the actor;

24 (D) causes the anus of a child to contact the
25 mouth, anus, or sexual organ of another person, including the
26 actor; or

27 (E) causes the mouth of a child to contact the

1 anus or sexual organ of another person, including the actor.

2 SECTION 7. Section 22.011, Penal Code, is amended by
3 amending Subsection (b) and adding Subsection (e-1) to read as
4 follows:

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

7 (1) the actor compels the other person to submit or
8 participate by the use of physical force, ~~or~~ violence, or
9 coercion;

10 (2) the actor compels the other person to submit or
11 participate by threatening to use force or violence against the
12 other person or to cause harm to the other person, and the other
13 person believes that the actor has the present ability to execute
14 the threat;

15 (3) the other person has not consented and the actor
16 knows the other person is:

17 (A) unconscious;

18 (B) ~~or~~ physically unable to resist;

19 (C) incapable of appraising the nature of the
20 act; or

21 (D) unaware that the sexual assault is occurring;

22 (4) the actor knows that as a result of mental disease
23 or defect the other person is at the time of the sexual assault
24 incapable either of appraising the nature of the act or of resisting
25 it;

26 (5) ~~[the other person has not consented and the actor~~
27 ~~knows the other person is unaware that the sexual assault is~~

1 ~~occurring,~~

2 ~~[(6) the actor has intentionally impaired the other~~
3 ~~person's power to appraise or control the other person's conduct by~~
4 ~~administering any substance without the other person's knowledge,~~

5 ~~[(7)]~~ the actor compels the other person to submit or
6 participate by threatening to use force or violence against any
7 person, and the other person believes that the actor has the ability
8 to execute the threat;

9 (6) ~~[(8) the actor is a public servant who coerces the~~
10 ~~other person to submit or participate,~~

11 ~~[(9)]~~ the actor is a mental health services provider
12 or a health care services provider who causes the other person, who
13 is a patient or former patient of the actor, to submit or
14 participate by exploiting the other person's emotional dependency
15 on the actor;

16 (7) ~~[(10)]~~ the actor is a clergyman who causes the
17 other person to submit or participate by exploiting the other
18 person's emotional dependency on the clergyman in the clergyman's
19 professional character as spiritual adviser; ~~[or]~~

20 (8) ~~[(11)]~~ the actor is an employee of a facility
21 where the other person is a resident, unless the employee and
22 resident are formally or informally married to each other under
23 Chapter 2, Family Code; or

24 (9) the actor knows that the other person has
25 withdrawn consent to the act and the actor persists in the act after
26 consent is withdrawn.

27 (e-1) It is not a defense to prosecution under this section

1 that the actor mistakenly believed that the other person consented
2 to the conduct if a reasonable person should have known or
3 understood that the other person did not consent to the conduct.

4 SECTION 8. Section 22.021(a), Penal Code, is amended to
5 read as follows:

6 (a) A person commits an offense:

7 (1) if the person:

8 (A) intentionally or knowingly:

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

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

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

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

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

24 (ii) causes the penetration of the mouth of
25 a child by the sexual organ of the actor;

26 (iii) causes the sexual organ of a child to
27 contact or penetrate the mouth, anus, or sexual organ of another

1 person, including the actor;

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

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

7 (2) if:

8 (A) the person:

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

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

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

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

24 (v) acts in concert with another who
25 engages in conduct described by Subdivision (1) directed toward the
26 same victim and occurring during the course of the same criminal
27 episode; or

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

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

11 (C) the victim is an elderly individual or a
12 disabled individual.

13 SECTION 9. Section 22.021, Penal Code, is amended by adding
14 Subsection (d-1) to read as follows:

15 (d-1) It is not a defense to prosecution under this section
16 that the actor mistakenly believed that the other person consented
17 to the conduct if a reasonable person should have known or
18 understood that the other person did not consent to the conduct.

19 SECTION 10. 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 reenacting
22 Subsection (c) and reenacting and amending Subsection (c-1) to read
23 as follows:

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

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

1 or

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

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

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

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

12 (3) a felony of the second degree if the person
13 solicited is:

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

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

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

21 SECTION 11. Section 43.03(b), Penal Code, is amended to
22 read as follows:

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

5 SECTION 12. Section 43.04(b), Penal Code, is amended to
6 read as follows:

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

13 SECTION 13. Section 43.05(a), Penal Code, is amended to
14 read as follows:

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

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

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

21 SECTION 14. Section 43.25, Penal Code, is amended by
22 amending Subsections (c) and (e) and adding Subsection (h) to read
23 as follows:

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

1 of the victim at the time of the offense.

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

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

10 SECTION 15. Section 43.251, Penal Code, is amended by
11 amending Subsection (c) and adding Subsection (d) to read as
12 follows:

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

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

21 SECTION 16. The changes in law made by this Act apply only
22 to an offense committed on or after the effective date of this Act.
23 An offense committed before the effective date of this Act is
24 governed by the law in effect on the date the offense was committed,
25 and the former law is continued in effect for that purpose. For
26 purposes of this section, an offense was committed before the
27 effective date of this Act if any element of the offense occurred

1 before that date.

2 SECTION 17. This Act takes effect September 1, 2017.

ADOPTED

MAY 24 2017

Letay Law
Secretary of the Senate

By: *Stephen R. Garcia*

H.B. No. 1808

Substitute the following for H.B. No. 1808:

By: *[Signature]*

C.S.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; creating a criminal offense.

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. (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.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 25, 2017

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1808 by Meyer (Relating to the prosecution and punishment of certain trafficking and sexual offenses; creating a criminal offense.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend the Penal Code as it relates to the certain trafficking and sexual offenses. Under the provisions of the bill, certain behaviors would constitute an offense regardless of whether the actor knows the age of the victim at the time of the offense. The bill would also create the offense of sexual coercion.

This analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on the demand for state correctional resources.

The bill would take effect on September 1, 2017 and apply only to offenses committed on or after the effective date of the Act.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: UP, SD, KJo, LM

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 17, 2017

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1808 by Meyer (relating to the prosecution and punishment of certain trafficking and sexual offenses; creating a criminal offense.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Penal Code as it relates to the certain trafficking and sexual offenses. Under the provisions of the bill, certain behaviors would constitute an offense regardless of whether the actor knows the age of the victim at the time of the offense. The bill would also create the offense of sexual coercion.

This analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on the demand for state correctional resources.

The bill would take effect on September 1, 2017 and apply only to offenses committed on or after the effective date of the Act.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: UP, KJo, LM

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 9, 2017

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1808 by Meyer (Relating to the prosecution and punishment of certain trafficking and sexual offenses; creating a criminal offense.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Penal Code as it relates to the certain trafficking and sexual offenses. Under the provisions of the bill, certain behaviors would constitute an offense regardless of whether the actor knows the age of the victim at the time of the offense and the punishment for the offense of unlawful disclosure or promotion of intimate visual material would be increased from a Class A misdemeanor to a state jail felony. The bill would also create the offense of sexual coercion and make engaging in certain activities with someone who is incapable of providing consent or where consent has been withdrawn an offense.

This analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on the demands for state correctional resources.

The bill would take effect on September 1, 2017 and apply only to offenses committed on or after the effective date of the Act.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: UP, KJo, LM

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

March 21, 2017

TO: Honorable Byron Cook, Chair, House Committee on State Affairs

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1808 by Meyer (Relating to the prosecution and punishment of certain trafficking and sexual offenses.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Penal Code as it relates to the prosecution and punishment of certain trafficking and sexual offenses. Under the provisions of the bill, certain behaviors would constitute an offense regardless of whether the actor knows the age of the victim at the time of the offense.

This analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on the demands for state correctional resources.

The bill would take effect on September 1, 2017 and apply only to offenses committed on or after the effective date of the Act.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: UP, AG, LM, KJo

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

CRIMINAL JUSTICE IMPACT STATEMENT

85TH LEGISLATIVE REGULAR SESSION

May 17, 2017

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1808 by Meyer (relating to the prosecution and punishment of certain trafficking and sexual offenses; creating a criminal offense.), **Committee Report 2nd House, Substituted**

The bill would amend the Penal Code as it relates to the certain trafficking and sexual offenses. Under the provisions of the bill, certain behaviors would constitute an offense regardless of whether the actor knows the age of the victim at the time of the offense. The bill would also create the offense of sexual coercion. The criminal penalties associated with the modified provisions are punishable as felonies and range from a state jail felony to first degree felony.

A first degree felony is punishable by confinement in prison for life or a term from 5 to 99 years; a second degree felony for a term from 2 to 20 years; a third degree felony for a term from 2 to 10 years; and a state jail felony is punishable by confinement in a state jail for a term from 180 days to 2 years or Class A misdemeanor punishment. In addition to confinement, most felony offenses are subject to an optional fine not to exceed \$10,000.

Creating or enhancing penalties are expected to result in an increase in the demand for the correctional resources of the counties or of the State due to a potential increase in the number of individuals placed under supervision in the community or sentenced to a term of confinement within state correctional institutions. In fiscal year 2016, 909 individuals were arrested, 63 were placed under felony community supervision, and 126 were admitted into state correctional institutions for the offense of sexual assault under existing statute. In fiscal year 2016, 333 individuals were arrested and fewer than 10 were placed under felony community supervision, and 83 were admitted into state correctional institutions for the offense of aggravated sexual assault under existing statute. This analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on the demand for state correctional resources.

Source Agencies:

LBB Staff: UP, KJo, LM

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

85TH LEGISLATIVE REGULAR SESSION

May 9, 2017

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1808 by Meyer (Relating to the prosecution and punishment of certain trafficking and sexual offenses; creating a criminal offense.), **As Engrossed**

The bill would amend the Penal Code as it relates to the certain trafficking and sexual offenses. Under the provisions of the bill, certain behaviors would constitute an offense regardless of whether the actor knows the age of the victim at the time of the offense and the punishment for the offense of unlawful disclosure or promotion of intimate visual material would be increased from a Class A misdemeanor to a state jail felony. The bill would also create the offense of sexual coercion and make engaging in certain activities with someone who is incapable of providing consent or where consent has been withdrawn an offense. The criminal penalties associated with the modified provisions are punishable as felonies and range from a third degree to first degree felony.

A first degree felony is punishable by confinement in prison for life or a term from 5 to 99 years; a second degree felony for a term from 2 to 20 years; and a third degree felony for a term from 2 to 10 years. In addition to confinement, most felony offenses are subject to an optional fine not to exceed \$10,000.

Increasing, creating, and enhancing penalties are expected to result in an increase in the demand for the correctional resources of the counties or of the State due to a potential increase in the number of individuals placed under supervision in the community or sentenced to a term of confinement within state correctional institutions. In fiscal year 2016, 88 individuals were arrested and fewer than 10 were placed under misdemeanor community supervision for the offense of unlawful disclosure or promotion of intimate visual material under existing statute. In fiscal year 2016, 909 individuals were arrested, 63 were placed under felony community supervision, and 126 were admitted into state correctional institutions for the offense of sexual assault under existing statute. In fiscal year 2016, 333 individuals were arrested and fewer than 10 were placed under felony community supervision and 83 were admitted into state correctional institutions for the offense of aggravated sexual assault under existing statute. This analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on the demand for state correctional resources.

Source Agencies:

LBB Staff: UP, KJo, LM

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

CRIMINAL JUSTICE IMPACT STATEMENT

85TH LEGISLATIVE REGULAR SESSION

March 21, 2017

TO: Honorable Byron Cook, Chair, House Committee on State Affairs

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1808 by Meyer (Relating to the prosecution and punishment of certain trafficking and sexual offenses.), **As Introduced**

The bill would amend the Penal Code as it relates to the prosecution and punishment of certain trafficking and sexual offenses. Under the provisions of the bill, certain behaviors would constitute an offense regardless of whether the actor knows the age of the victim at the time of the offense. The criminal penalties associated with the modified provisions are punishable as felonies and range from a third degree to first degree felony.

A first degree felony is punishable by confinement in prison for life or a term from 5 to 99 years, a second degree felony for a term from 2 to 20 years, and a third degree felony for a term from 2 to 10 years. In addition to confinement, all felony level offenses are subject to an optional fine not to exceed \$10,000.

This analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on the demand for state correctional resources.

Source Agencies:

LBB Staff: UP, LM, KJo