86R19691 GCB-F

By:  Bell of Kaufman, Wray, Perez, Murr, H.B. No. 1261

     Pacheco

Substitute the following for H.B. No. 1261:

By:  Murr C.S.H.B. No. 1261

A BILL TO BE ENTITLED

AN ACT

relating to a presumption that applies to certain conduct involving certain controlled substances that endangers a child.

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

SECTION 1.  Section 22.041, Penal Code, is amended by amending Subsection (c-1) and adding Subsection (c-2) to read as follows:

(c-1)  For purposes of Subsection (c), it is presumed that a person engaged in conduct that places a child in imminent danger of death, bodily injury, or physical or mental impairment if:

(1)  in the presence of the child, the person manufactured, possessed, or in any way introduced into the body of any person the controlled substances [~~substance~~] methamphetamine or cocaine [~~in the presence of the child~~]; or

(2)  the person's conduct related to the proximity or accessibility to the child of the controlled substances [~~substance~~] methamphetamine or cocaine [~~to the child~~] and an analysis of a specimen of the child's blood, urine, or other bodily substance indicates the presence of either substance [~~methamphetamine~~] in the child's body[~~; or~~

[~~(3)  the person injected, ingested, inhaled, or otherwise introduced a controlled substance listed in Penalty Group 1, Section 481.102, Health and Safety Code, into the human body when the person was not in lawful possession of the substance as defined by Section 481.002(24) of that code~~].

(c-2)  The presumption under Subsection (c-1)(2) does not apply if:

(1)  the actor's conduct relates to ingesting methamphetamine or cocaine while pregnant with the child;

(2)  immediately following the child's birth, an analysis of a specimen of the child's blood, urine, or other bodily substance indicates the presence of methamphetamine or cocaine in the child's body; and

(3)  the actor:

(A)  was enrolled in a chemical dependency treatment program or substance abuse treatment program before the child's birth;

(B)  continued participating in the program while pregnant with the child; and

(C)  successfully completed the program after giving birth to the child.

SECTION 2.  The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 3.  This Act takes effect September 1, 2019.