86R3690 JSC-D

By:  Moody H.B. No. 4169

A BILL TO BE ENTITLED

AN ACT

relating to the criminal penalties for certain criminal offenses.

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

SECTION 1.  Section 502.001(c), Business & Commerce Code, is amended to read as follows:

(c)  A restaurant or bar owner shall display in a prominent place on the premises of the restaurant or bar a sign stating in letters at least one-half inch high: "UNDER SECTION 32.51, PENAL CODE, IT IS A [~~STATE JAIL~~] FELONY OF THE FOURTH DEGREE (PUNISHABLE BY IMPRISONMENT IN THE TEXAS DEPARTMENT OF CRIMINAL JUSTICE [~~CONFINEMENT IN A STATE JAIL~~] FOR NOT MORE THAN TWO YEARS) TO OBTAIN, POSSESS, TRANSFER, OR USE A CUSTOMER'S DEBIT CARD OR CREDIT CARD NUMBER WITHOUT THE CUSTOMER'S CONSENT."

SECTION 2.  Section 101.029, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 101.029.  LIABILITY FOR CERTAIN CONDUCT OF STATE PRISON INMATES. (a) The Texas Department of Criminal Justice is liable for property damage, personal injury, and death proximately caused by the wrongful act or omission or the negligence of an inmate [~~or state jail defendant~~] housed in a facility operated by the department if:

(1)  the property damage, personal injury, or death arises from the operation or use of a motor-driven vehicle or motor-driven equipment;

(2)  the inmate [~~or defendant~~] would be personally liable to the claimant for the property damage, personal injury, or death according to Texas law were the inmate [~~or defendant~~] a private person acting in similar circumstances; and

(3)  the act, omission, or negligence was committed by the inmate [~~or defendant~~] acting in the course and scope of a task or activity that:

(A)  the inmate [~~or defendant~~] performed at the request of an employee of the department; and

(B)  the inmate [~~or defendant~~] performed under the control or supervision of the department.

(b)  A claimant may not name the inmate [~~or state jail defendant~~] whose act or omission gave rise to the claim as a codefendant in an action brought under this section.

(c)  A judgment in an action or a settlement of a claim against the Texas Department of Criminal Justice under this section bars any action involving the same subject matter by the claimant against the inmate [~~or state jail defendant~~] whose act or omission gave rise to the claim. A judgment in an action or a settlement of a claim against an inmate [~~or state jail defendant~~] bars any action involving the same subject matter by the claimant against the Texas Department of Criminal Justice under this section.

(d)  This section does not apply to property damage, personal injury, or death sustained by an inmate [~~or state jail defendant~~].

SECTION 3.  Article 42A.056, Code of Criminal Procedure, is amended to read as follows:

Art. 42A.056.  LIMITATION ON JURY-RECOMMENDED COMMUNITY SUPERVISION.  A defendant is not eligible for community supervision under Article 42A.055 if the defendant:

(1)  is sentenced to a term of imprisonment that exceeds 10 years;

(2)  [~~is convicted of a state jail felony for which suspension of the imposition of the sentence occurs automatically under Article 42A.551;~~

[~~(3)~~]  is adjudged guilty of an offense under Section 19.02, Penal Code;

(3) [~~(4)~~]  is convicted of an offense under Section 21.11(a)(1), 22.011, or 22.021, Penal Code, if the victim of the offense was younger than 14 years of age at the time the offense was committed;

(4) [~~(5)~~]  is convicted of an offense under Section 20.04, Penal Code, if:

(A)  the victim of the offense was younger than 14 years of age at the time the offense was committed; and

(B)  the actor committed the offense with the intent to violate or abuse the victim sexually;

(5) [~~(6)~~]  is convicted of an offense under Section 20A.02, 43.05, or 43.25, Penal Code; or

(6) [~~(7)~~]  is convicted of an offense for which punishment is increased under Section 481.134(c), (d), (e), or (f), Health and Safety Code, if it is shown that the defendant has been previously convicted of an offense for which punishment was increased under any of those subsections.

SECTION 4.  Articles 56.12(a) and (a-1), Code of Criminal Procedure, are amended to read as follows:

(a)  The Texas Department of Criminal Justice shall immediately notify the victim of an offense, the victim's guardian, or the victim's close relative, if the victim is deceased, if the victim, victim's guardian, or victim's close relative has notified the department as provided by Subsection (b), whenever the defendant:

(1)  escapes from a facility operated by the department for the imprisonment of individuals convicted of felonies [~~other than state jail felonies~~]; or

(2)  is transferred from the custody of a facility operated by the department for the imprisonment of individuals convicted of felonies [~~other than state jail felonies~~] to the custody of a peace officer under a writ of attachment or a bench warrant.

(a-1)  The Texas Department of Criminal Justice shall immediately notify a witness who testified against a defendant at the trial for the offense for which the defendant is incarcerated, the witness's guardian, or the witness's close relative, if the witness is deceased, if the witness, witness's guardian, or witness's close relative has notified the department as provided by Subsection (b), whenever the defendant:

(1)  escapes from a facility operated by the department for the imprisonment of individuals convicted of felonies [~~other than state jail felonies~~]; or

(2)  is transferred from the custody of a facility operated by the department for the imprisonment of individuals convicted of felonies [~~other than state jail felonies~~] to the custody of a peace officer under a writ of attachment or a bench warrant.

SECTION 5.  Article 57.02(i), Code of Criminal Procedure, as added by Chapter 619 (H.B. 433), Acts of the 80th Legislature, Regular Session, 2007, is amended to read as follows:

(i)  This article does not prohibit the inspector general of the Texas Department of Criminal Justice from disclosing a victim's identifying information to an employee of the department if the victim is an inmate [~~or state jail defendant~~] confined in a facility operated by or under contract with the department.

SECTION 6.  Article 57.02(i), Code of Criminal Procedure, as added by Chapter 1217 (H.B. 1944), Acts of the 80th Legislature, Regular Session, 2007, is redesignated as Article 57.02(j), Code of Criminal Procedure, and amended to read as follows:

(j) [~~(i)~~]  This article does not prohibit the inspector general of the Texas Department of Criminal Justice from disclosing a victim's identifying information to the department's ombudsperson if the victim is an inmate [~~or state jail defendant~~] confined in a facility operated by or under contract with the department.

SECTION 7.  Article 57.03(c-1), Code of Criminal Procedure, as added by Chapter 619 (H.B. 433), Acts of the 80th Legislature, Regular Session, 2007, is amended to read as follows:

(c-1)  It is an exception to the application of this article that:

(1)  the person who discloses the name, address, or telephone number of a victim is the inspector general of the Texas Department of Criminal Justice;

(2)  the victim is an inmate [~~or state jail defendant~~] confined in a facility operated by or under contract with the Texas Department of Criminal Justice; and

(3)  the person to whom the disclosure is made is an employee of the department.

SECTION 8.  Article 57.03(c-1), Code of Criminal Procedure, as added by Chapter 1217 (H.B. 1944), Acts of the 80th Legislature, Regular Session, 2007, is redesignated as Article 57.03(c-2), Code of Criminal Procedure, and amended to read as follows:

(c-2) [~~(c-1)~~]  It is an exception to the application of this article that:

(1)  the person who discloses the name, address, or telephone number of a victim is the inspector general of the Texas Department of Criminal Justice;

(2)  the victim is an inmate [~~or state jail defendant~~] confined in a facility operated by or under contract with the department; and

(3)  the person to whom the disclosure is made is the department's ombudsperson.

SECTION 9.  Article 62.001(5), Code of Criminal Procedure, is amended to read as follows:

(5)  "Reportable conviction or adjudication" means a conviction or adjudication, including an adjudication of delinquent conduct or a deferred adjudication, that, regardless of the pendency of an appeal, is a conviction for or an adjudication for or based on:

(A)  a violation of Section 21.02 (Continuous sexual abuse of young child or children), 21.09 (Bestiality), 21.11 (Indecency with a child), 22.011 (Sexual assault), 22.021 (Aggravated sexual assault), or 25.02 (Prohibited sexual conduct), Penal Code;

(B)  a violation of Section 43.05 (Compelling prostitution), 43.25 (Sexual performance by a child), or 43.26 (Possession or promotion of child pornography), Penal Code;

(B-1)  a violation of Section 43.02 (Prostitution), Penal Code, if the offense is punishable under Subsection (c-1)(2) [~~(c-1)(3)~~] of that section;

(C)  a violation of Section 20.04(a)(4) (Aggravated kidnapping), Penal Code, if the actor committed the offense or engaged in the conduct with intent to violate or abuse the victim sexually;

(D)  a violation of Section 30.02 (Burglary), Penal Code, if the offense or conduct is punishable under Subsection (d) of that section and the actor committed the offense or engaged in the conduct with intent to commit a felony listed in Paragraph (A) or (C);

(E)  a violation of Section 20.02 (Unlawful restraint), 20.03 (Kidnapping), or 20.04 (Aggravated kidnapping), Penal Code, if, as applicable:

(i)  the judgment in the case contains an affirmative finding under Article 42.015; or

(ii)  the order in the hearing or the papers in the case contain an affirmative finding that the victim or intended victim was younger than 17 years of age;

(F)  the second violation of Section 21.08 (Indecent exposure), Penal Code, but not if the second violation results in a deferred adjudication;

(G)  an attempt, conspiracy, or solicitation, as defined by Chapter 15, Penal Code, to commit an offense or engage in conduct listed in Paragraph (A), (B), (C), (D), (E), (K), or (L);

(H)  a violation of the laws of another state, federal law, the laws of a foreign country, or the Uniform Code of Military Justice for or based on the violation of an offense containing elements that are substantially similar to the elements of an offense listed under Paragraph (A), (B), (B-1), (C), (D), (E), (G), (J), (K), or (L), but not if the violation results in a deferred adjudication;

(I)  the second violation of the laws of another state, federal law, the laws of a foreign country, or the Uniform Code of Military Justice for or based on the violation of an offense containing elements that are substantially similar to the elements of the offense of indecent exposure, but not if the second violation results in a deferred adjudication;

(J)  a violation of Section 33.021 (Online solicitation of a minor), Penal Code;

(K)  a violation of Section 20A.02(a)(3), (4), (7), or (8) (Trafficking of persons), Penal Code; or

(L)  a violation of Section 20A.03 (Continuous trafficking of persons), Penal Code, if the offense is based partly or wholly on conduct that constitutes an offense under Section 20A.02(a)(3), (4), (7), or (8) of that code.

SECTION 10.  Sections 76.010(a), (c), (d), (e), and (f), Government Code, are amended to read as follows:

(a)  In this section, "community [~~:~~

[~~(1)  "Community~~] corrections facility" has the meaning assigned by Section 509.001.

[~~(2)  "State jail felony facility" means a facility operated or contracted for by the Texas Department of Criminal Justice under Subchapter A, Chapter 507, for the confinement of individuals convicted of state jail felonies.~~]

(c)  The department may authorize expenditures of funds provided by the division to the department for the purposes of providing facilities, equipment, and utilities for community corrections facilities [~~or state jail felony facilities~~] if:

(1)  the judges described by Section 76.002 recommend the expenditures; and

(2)  the division[~~, or the correctional institutions division of the Texas Department of Criminal Justice in the case of a state jail felony facility,~~] provides funds for the purpose of assisting in the establishment or improvement of the facilities.

(d)  A department may acquire, hold title to, and own real property for the purpose of establishing a community corrections facility [~~or a state jail felony facility~~].

(e)  A department, county, municipality, or a combination involving more than one of those entities may not use a facility or real property purchased, acquired, or improved with state funds unless the division[~~, or the correctional institutions division of the Texas Department of Criminal Justice in the case of a state jail felony facility,~~] first approves the use.

(f)  The division [~~or the correctional institutions division of the Texas Department of Criminal Justice, in the case of a state jail felony facility,~~] is entitled to reimbursement from an entity described by Subsection (e) of all state funds used by the entity without the approval required by Subsection (e).

SECTION 11.  Section 402.035(d), Government Code, is amended to read as follows:

(d)  The task force shall:

(1)  collaborate, as needed to fulfill the duties of the task force, with:

(A)  United States attorneys' offices for all of the federal districts of Texas; and

(B)  special agents or customs and border protection officers and border patrol agents of:

(i)  the Federal Bureau of Investigation;

(ii)  the United States Drug Enforcement Administration;

(iii)  the Bureau of Alcohol, Tobacco, Firearms and Explosives;

(iv)  United States Immigration and Customs Enforcement; or

(v)  the United States Department of Homeland Security;

(2)  collect, organize, and periodically publish statistical data on the nature and extent of human trafficking in this state, including data described by Subdivisions (4)(A), (B), (C), (D), and (E);

(3)  solicit cooperation and assistance from state and local governmental agencies, political subdivisions of the state, nongovernmental organizations, and other persons, as appropriate, for the purpose of collecting and organizing statistical data under Subdivision (2);

(4)  ensure that each state or local governmental agency and political subdivision of the state and each state or local law enforcement agency, district attorney, or county attorney that assists in the prevention of human trafficking collects statistical data related to human trafficking, including, as appropriate:

(A)  the number of investigations concerning, arrests and prosecutions for, and convictions of:

(i)  the offense of trafficking of persons;

(ii)  the offense of forgery or an offense under Chapter 43, Penal Code, if the offense was committed as part of a criminal episode involving the trafficking of persons; and

(iii)  an offense punishable under Section 43.02(c-1)(2) [~~43.02(c-1)(3)~~], Penal Code, regardless of whether the offense was committed as part of a criminal episode involving the trafficking of persons;

(B)  demographic information on persons who are convicted of offenses described by Paragraph (A) and persons who are the victims of those offenses;

(C)  geographic routes by which human trafficking victims are trafficked, including routes by which victims are trafficked across this state's international border, and geographic patterns in human trafficking, including the country or state of origin and the country or state of destination;

(D)  means of transportation and methods used by persons who engage in trafficking to transport their victims; and

(E)  social and economic factors that create a demand for the labor or services that victims of human trafficking are forced to provide;

(5)  work with the Texas Commission on Law Enforcement to develop and conduct training for law enforcement personnel, victim service providers, and medical service providers to identify victims of human trafficking;

(6)  work with the Texas Education Agency, the Department of Family and Protective Services, and the Health and Human Services Commission to:

(A)  develop a list of key indicators that a person is a victim of human trafficking;

(B)  develop a standardized curriculum for training doctors, nurses, emergency medical services personnel, teachers, school counselors, school administrators, and personnel from the Department of Family and Protective Services and the Health and Human Services Commission to identify and assist victims of human trafficking;

(C)  train doctors, nurses, emergency medical services personnel, teachers, school counselors, school administrators, and personnel from the Department of Family and Protective Services and the Health and Human Services Commission to identify and assist victims of human trafficking;

(D)  develop and conduct training for personnel from the Department of Family and Protective Services and the Health and Human Services Commission on methods for identifying children in foster care who may be at risk of becoming victims of human trafficking; and

(E)  develop a process for referring identified human trafficking victims and individuals at risk of becoming victims to appropriate entities for services;

(7)  on the request of a judge of a county court, county court at law, or district court or a county attorney, district attorney, or criminal district attorney, assist and train the judge or the judge's staff or the attorney or the attorney's staff in the recognition and prevention of human trafficking;

(8)  examine training protocols related to human trafficking issues, as developed and implemented by federal, state, and local law enforcement agencies;

(9)  collaborate with state and local governmental agencies, political subdivisions of the state, and nongovernmental organizations to implement a media awareness campaign in communities affected by human trafficking;

(10)  develop recommendations on how to strengthen state and local efforts to prevent human trafficking, protect and assist human trafficking victims, curb markets and other economic avenues that facilitate human trafficking and investigate and prosecute human trafficking offenders;

(11)  examine the extent to which human trafficking is associated with the operation of sexually oriented businesses, as defined by Section 243.002, Local Government Code, and the workplace or public health concerns that are created by the association of human trafficking and the operation of sexually oriented businesses;

(12)  develop recommendations for addressing the demand for forced labor or services or sexual conduct involving victims of human trafficking, including recommendations for increased penalties for individuals who engage or attempt to engage in prostitution with victims younger than 18 years of age; and

(13)  identify and report to the governor and legislature on laws, licensure requirements, or other regulations that can be passed at the state and local level to curb trafficking using the Internet and in sexually oriented businesses.

SECTION 12.  Section 411.172(b), Government Code, is amended to read as follows:

(b)  For the purposes of this section, an offense under the laws of this state, another state, or the United States is:

(1)  except as provided by Subsection (b-1), a felony if the offense, at the time the offense is committed:

(A)  is designated by a law of this state as a felony;

(B)  contains all the elements of an offense designated by a law of this state as a felony; or

(C)  is punishable by confinement for one year or more in a penitentiary; and

(2)  a Class A misdemeanor if the offense is not a felony and confinement in a jail [~~other than a state jail felony facility~~] is affixed as a possible punishment.

SECTION 13.  Section 493.002(a), Government Code, is amended to read as follows:

(a)  The following divisions are within the department:

(1)  the community justice assistance division;

(2)  the institutional division;

(3)  the pardons and paroles division;

(4)  [~~the state jail division;~~

[~~(5)~~]  the internal audit division; and

(5) [~~(6)~~]  the programs and services division.

SECTION 14.  Section 493.0021(a), Government Code, is amended to read as follows:

(a)  Notwithstanding Sections 493.002, 493.003, 493.004, 493.005, [~~493.0051,~~] 493.0052, [~~as added by Chapter 1360, Acts of the 75th Legislature, Regular Session, 1997,~~] and 493.0053 [~~493.0052, as added by Chapter 490, Acts of the 75th Legislature, Regular Session, 1997~~], the executive director, with the approval of the board, may:

(1)  create divisions in addition to those listed in Section 493.002 and assign to the newly created divisions any duties and powers imposed on or granted to an existing division or to the department generally;

(2)  eliminate any division listed in Section 493.002 or created under this section and assign any duties or powers previously assigned to the eliminated division to another division listed in Section 493.002 or created under this section; or

(3)  eliminate all divisions listed in Section 493.002 or created under this section and reorganize the distribution of powers and duties granted to or imposed on a division in any manner the executive director determines is best for the proper administration of the department.

SECTION 15.  Chapter 493, Government Code, is amended by adding Section 493.0095 to read as follows:

Sec. 493.0095.  USE OF FORMER STATE JAIL FELONY FACILITIES. Notwithstanding any other law, the department may use a state jail felony facility established under former Chapter 507 for any purpose the department determines appropriate, including the confinement of inmates serving a sentence for a felony of the fourth degree.

SECTION 16.  Section 493.015(b), Government Code, is amended to read as follows:

(b)  The department shall identify those inmates who are imprisoned in the institutional division or confined in a transfer facility, a substance abuse treatment facility, [~~a state jail felony facility,~~] or a county jail awaiting transfer to the institutional division and for whom the department is unable to reasonably ascertain whether or not the person is an illegal criminal alien.

SECTION 17.  Section 496.007, Government Code, is amended to read as follows:

Sec. 496.007.  LOCATION OF NEW FACILITIES. In determining the location of a facility to be built, the department, in evaluating the advantages and disadvantages of the proposed location, shall consider whether the proposed location is:

(1)  close enough to a county with 100,000 or more inhabitants to provide access to services and other resources provided in such a county;

(2)  cost-effective with respect to its proximity to other facilities of the department;

(3)  close to an area that would facilitate release of inmates [~~or persons confined in state jail felony facilities~~] to their area of residence; and

(4)  close to an area that provides adequate educational opportunities and medical care.

SECTION 18.  Section 497.010(d), Government Code, is amended to read as follows:

(d)  It is an exception to the application of this section that the actor was an inmate [~~or state jail defendant~~] confined in a facility operated by or under contract with the department who sold or offered to sell an art or craft in the manner authorized under Section 501.013(b).

SECTION 19.  Section 497.094(b), Government Code, is amended to read as follows:

(b)  The department and the Texas Workforce Investment Council by rule shall adopt a memorandum of understanding that establishes the respective responsibility of those entities to provide through local workforce development boards job training and employment assistance to persons formerly sentenced to the institutional division [~~or the state jail division~~] and information on services available to employers or potential employers of those persons. The department shall coordinate the development of the memorandum of understanding.

SECTION 20.  Section 499.155(a), Government Code, is amended to read as follows:

(a)  Except as provided by Subsection (b), the institutional division may not confine an inmate described by Section 499.152 in a transfer facility authorized by this subchapter for a period that exceeds the maximum period for which a person [~~state jail felon~~] may be confined [~~in a state jail felony facility~~] under Section 12.35, Penal Code.

SECTION 21.  Section 501.015(f), Government Code, is amended to read as follows:

(f)  Subsection (a)(3) does not apply to an inmate [~~who on discharge or release on parole, mandatory supervision, or conditional pardon is transferred from the custody of the institutional division to a state jail felony facility or~~] who is subject to a felony detainer and is released to the custody of another jurisdiction.

SECTION 22.  Section 501.054(g), Government Code, is amended to read as follows:

(g)  The department shall maintain the confidentiality of test results of an inmate indicating HIV infection at all times, including after the inmate's discharge[~~, release from a state jail,~~] or release on parole or mandatory supervision. The department may not honor the request of an agency of the state or any person who requests a test result as a condition of housing or supervising the inmate while the inmate is on community supervision or parole or mandatory supervision, unless honoring the request would improve the ability of the inmate to obtain essential health and social services.

SECTION 23.  Section 501.091, Government Code, as added by Chapter 643 (H.B. 1711), Acts of the 81st Legislature, Regular Session, 2009, is reenacted and amended to read as follows:

Sec. 501.091.  DEFINITIONS. In this subchapter:

(1)  "Correctional facility" means a facility operated by or under contract with the department.

(2)  "Offender" means an inmate [~~or state jail defendant~~] confined in a correctional facility.

SECTION 24.  Section 501.171(2), Government Code, is amended to read as follows:

(2)  "Inmate" means an inmate [~~or state jail defendant~~] confined in a facility operated by or under contract with the department.

SECTION 25.  Section 1232.114(b), Government Code, is amended to read as follows:

(b)  This section does not apply to a minor renovation, repair, or construction project at a facility operated by the Texas Department of Criminal Justice for the imprisonment of individuals convicted of felonies [~~other than state jail felonies~~], as defined by the department in cooperation with the commission.  Instead of submitting a project analysis, the department may substitute the master plan required to be submitted by Section 1401.121 if the master plan contains information substantially equivalent to the information required to be in a project analysis under Sections 2166.151-2166.155.

SECTION 26.  Section 2166.003(b), Government Code, is amended to read as follows:

(b)  Only Sections 2166.104, 2166.151, 2166.152, 2166.153, 2166.154, 2166.155, 2166.251, 2166.252, and Subchapter H apply to a construction project undertaken by or for the Texas Department of Criminal Justice for the imprisonment of individuals convicted of felonies [~~other than state jail felonies~~].

SECTION 27.  Section 2303.402(c), Government Code, is amended to read as follows:

(c)  For the purposes of this section, an economically disadvantaged individual is an individual who:

(1)  was unemployed for at least three months before obtaining employment with the qualified business;

(2)  receives public assistance benefits, including welfare payments or food stamps, based on need and intended to alleviate poverty;

(3)  is a low-income individual, as defined by Section 101, Workforce Investment Act of 1998 (29 U.S.C. Section 2801(25));

(4)  is an individual with a disability, as defined by  29 U.S.C.  Section 705(20)(A);

(5)  is an inmate, as defined by Section 498.001;

(6)  is entering the workplace after being confined in a facility operated by or under contract with the Texas Department of Criminal Justice for the imprisonment of individuals convicted of felonies [~~other than state jail felonies~~];

(7)  has been released by the Texas Juvenile Justice Department and is on parole, if state law provides for such a person to be on parole;

(8)  meets the current low income or moderate income limits developed under Section 8, United States Housing Act of 1937 (42 U.S.C. Section 1437f et seq.); or

(9)  was under the permanent managing conservatorship of the Department of Family and Protective Services on the day preceding the individual's 18th birthday.

SECTION 28.  Section 481.115(b), Health and Safety Code, is amended to read as follows:

(b)  An offense under Subsection (a) is a Class A misdemeanor [~~state jail felony~~] if the amount of the controlled substance possessed is, by aggregate weight, including adulterants or dilutants, less than one gram.

SECTION 29.  Section 481.1151(b), Health and Safety Code, is amended to read as follows:

(b)  An offense under this section is:

(1)  a Class A misdemeanor [~~state jail felony~~] if the number of abuse units of the controlled substance is fewer than 20;

(2)  a felony of the third degree if the number of abuse units of the controlled substance is 20 or more but fewer than 80;

(3)  a felony of the second degree if the number of abuse units of the controlled substance is 80 or more but fewer than 4,000;

(4)  a felony of the first degree if the number of abuse units of the controlled substance is 4,000 or more but fewer than 8,000; and

(5)  punishable by imprisonment in the Texas Department of Criminal Justice for life or for a term of not more than 99 years or less than 15 years and a fine not to exceed $250,000, if the number of abuse units of the controlled substance is 8,000 or more.

SECTION 30.  Section 481.116(b), Health and Safety Code, is amended to read as follows:

(b)  An offense under Subsection (a) is a Class A misdemeanor [~~state jail felony~~] if the amount of the controlled substance possessed is, by aggregate weight, including adulterants or dilutants, less than one gram.

SECTION 31.  Section 481.1161(b), Health and Safety Code, is amended to read as follows:

(b)  An offense under this section is:

(1)  a Class B misdemeanor if the amount of the controlled substance possessed is, by aggregate weight, including adulterants or dilutants, four [~~two~~] ounces or less;

(2)  [~~a Class A misdemeanor if the amount of the controlled substance possessed is, by aggregate weight, including adulterants or dilutants, four ounces or less but more than two ounces;~~

[~~(3)~~]  a Class A misdemeanor [~~state jail felony~~] if the amount of the controlled substance possessed is, by aggregate weight, including adulterants or dilutants, five pounds or less but more than four ounces;

(3) [~~(4)~~]  a felony of the third degree if the amount of the controlled substance possessed is, by aggregate weight, including adulterants or dilutants, 50 pounds or less but more than 5 pounds;

(4) [~~(5)~~]  a felony of the second degree if the amount of the controlled substance possessed is, by aggregate weight, including adulterants or dilutants, 2,000 pounds or less but more than 50 pounds; and

(5) [~~(6)~~]  punishable by imprisonment in the Texas Department of Criminal Justice for life or for a term of not more than 99 years or less than 5 years, and a fine not to exceed $50,000, if the amount of the controlled substance possessed is, by aggregate weight, including adulterants or dilutants, more than 2,000 pounds.

SECTION 32.  Section 481.121(b), Health and Safety Code, is amended to read as follows:

(b)  An offense under Subsection (a) is:

(1)  a Class B misdemeanor if the amount of marihuana possessed is four [~~two~~] ounces or less;

(2)  [~~a Class A misdemeanor if the amount of marihuana possessed is four ounces or less but more than two ounces;~~

[~~(3)~~]  a Class A misdemeanor [~~state jail felony~~] if the amount of marihuana possessed is five pounds or less but more than four ounces;

(3) [~~(4)~~]  a felony of the third degree if the amount of marihuana possessed is 50 pounds or less but more than 5 pounds;

(4) [~~(5)~~]  a felony of the second degree if the amount of marihuana possessed is 2,000 pounds or less but more than 50 pounds; and

(5) [~~(6)~~]  punishable by imprisonment in the Texas Department of Criminal Justice for life or for a term of not more than 99 years or less than 5 years, and a fine not to exceed $50,000, if the amount of marihuana possessed is more than 2,000 pounds.

SECTION 33.  Section 481.126(a), Health and Safety Code, is amended to read as follows:

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

(1)  barters property or expends funds the person knows are derived from the commission of an offense under this chapter punishable by imprisonment in the Texas Department of Criminal Justice for life;

(2)  barters property or expends funds the person knows are derived from the commission of an offense under Section 481.121(a) that is punishable under Section 481.121(b)(4) [~~481.121(b)(5)~~];

(3)  barters property or finances or invests funds the person knows or believes are intended to further the commission of an offense for which the punishment is described by Subdivision (1); or

(4)  barters property or finances or invests funds the person knows or believes are intended to further the commission of an offense under Section 481.121(a) that is punishable under Section 481.121(b)(4) [~~481.121(b)(5)~~].

SECTION 34.  Section 481.129(g), Health and Safety Code, is amended to read as follows:

(g)  An offense under Subsection (c)(2) is:

(1)  a Class A misdemeanor [~~state jail felony~~] if the defendant possesses:

(A)  a prescription form; or

(B)  a prescription for a controlled substance listed in Schedule II or III; and

(2)  a Class B misdemeanor if the defendant possesses a prescription for a controlled substance listed in Schedule IV or V.

SECTION 35.  Sections 481.134(c), (d), and (e), Health and Safety Code, are amended to read as follows:

(c)  The minimum term of confinement or imprisonment for an offense otherwise punishable under Section 481.112(c), (d), (e), or (f), 481.1121(b)(2), (3), or (4), 481.113(c), (d), or (e), 481.114(c), (d), or (e), 481.115(c)-(f), 481.1151(b)(2), (3), (4), or (5), 481.116(c), (d), or (e), 481.1161(b)(3), (4), or (5) [~~481.1161(b)(4), (5), or (6)~~], 481.117(c), (d), or (e), 481.118(c), (d), or (e), 481.120(b)(4), (5), or (6), or 481.121(b)(3), (4), or (5) [~~481.121(b)(4), (5), or (6)~~] is increased by five years and the maximum fine for the offense is doubled if it is shown on the trial of the offense that the offense was committed:

(1)  in, on, or within 1,000 feet of the premises of a school, the premises of a public or private youth center, or a playground; or

(2)  on a school bus.

(d)  An offense otherwise punishable under Section 481.112(b), 481.1121(b)(1), 481.113(b), 481.114(b), or [~~481.115(b), 481.1151(b)(1), 481.116(b), 481.1161(b)(3),~~] 481.120(b)(3)[~~, or 481.121(b)(3)~~] is a felony of the third degree if it is shown on the trial of the offense that the offense was committed:

(1)  in, on, or within 1,000 feet of any real property that is owned, rented, or leased to a school or school board, the premises of a public or private youth center, or a playground; or

(2)  on a school bus.

(e)  An offense otherwise punishable under Section 481.115(b), 481.1151(b)(1), 481.116(b), 481.117(b), 481.119(a), 481.120(b)(2), or 481.121(b)(2) is a [~~state jail~~] felony of the fourth degree if it is shown on the trial of the offense that the offense was committed:

(1)  in, on, or within 1,000 feet of any real property that is owned, rented, or leased to a school or school board, the premises of a public or private youth center, or a playground; or

(2)  on a school bus.

SECTION 36.  Section 614.0032(a), Health and Safety Code, is amended to read as follows:

(a)  The office shall[~~:~~

[~~(1)~~]  perform duties imposed on the office by Section 508.146, Government Code[~~; and~~

[~~(2)  periodically identify state jail felony defendants suitable for release under Article 42A.561, Code of Criminal Procedure, and perform other duties imposed on the office by that article~~].

SECTION 37.  Section 306.007(b), Labor Code, is amended to read as follows:

(b)  The commission shall adopt a memorandum of understanding with each of the following agencies that establishes the respective responsibilities of the commission and the agencies in providing information described by Subsection (a) to persons formerly sentenced to the institutional division [~~or the state jail division~~] of the Texas Department of Criminal Justice, to employers or potential employers of those persons, and to local workforce development boards:

(1)  the Department of State Health Services;

(2)  the Texas Department of Housing and Community Affairs;

(3)  the Texas Veterans Commission; and

(4)  the Health and Human Services Commission.

SECTION 38.  Section 244.006, Local Government Code, is amended to read as follows:

Sec. 244.006.  EXEMPTIONS.  This subchapter does not apply to the operation of a correctional or rehabilitation facility at a location subject to this subchapter if:

(1)  on September 1, 1997, the correctional or rehabilitation facility was in operation, under construction, under contract for operation or construction, or planned for construction at the location on land owned or leased by an agency or political subdivision of the state and designated for use as a correctional or rehabilitation facility;

(2)  the correctional or rehabilitation facility was in operation or under construction before the establishment of a residential area the location of which makes the facility subject to this subchapter;

(3)  the correctional or rehabilitation facility is a temporary correctional or rehabilitation facility that will be operated at the location for less than one year;

(4)  the correctional or rehabilitation facility is required to obtain a special use permit or a conditional use permit from the municipality in which the facility is located before beginning operation;

(5)  the correctional or rehabilitation facility is an expansion of a facility operated by the correctional institutions division of the Texas Department of Criminal Justice for the imprisonment of individuals convicted of felonies [~~other than state jail felonies~~] or by the Texas Juvenile Justice Department;

(6)  the correctional or rehabilitation facility is a county jail or a pre-adjudication or post-adjudication juvenile detention facility operated by a county or county juvenile board;

(7)  the facility is:

(A)  a juvenile probation office located at, and operated in conjunction with, a juvenile justice alternative education center; and

(B)  used exclusively by students attending the juvenile justice alternative education center;

(8)  the facility is a public or private institution of higher education or vocational training to which admission is open to the general public;

(9)  the facility is operated primarily as a treatment facility for juveniles under contract with the Health and Human Services Commission, [~~Department of Aging and Disability Services or~~] the Department of State Health Services, a local intellectual and developmental disability authority, or a local mental health [~~or mental retardation~~] authority;

(10)  the facility is operated as a juvenile justice alternative education program;

(11)  the facility:

(A)  is not operated primarily as a correctional or rehabilitation facility; and

(B)  only houses persons or children described by Section 244.001(1)(B) for a purpose related to treatment or education; or

(12)  the facility is a probation or parole office located in a commercial use area.

SECTION 39.  Section 331.010(b), Local Government Code, is amended to read as follows:

(b)  The governor and the Texas Board of Criminal Justice may permit the use of state inmates [~~and defendants confined in state jail felony facilities~~] for the improvement and maintenance of parks acquired under this chapter under agreements made by the Parks and Wildlife Department and the municipality or county.

SECTION 40.  Section 12.4061, Parks and Wildlife Code, is amended to read as follows:

Sec. 12.4061.  PARKS AND WILDLIFE CODE FOURTH DEGREE [~~STATE JAIL~~] FELONY. (a) An individual adjudged guilty of a Parks and Wildlife Code [~~state jail~~] felony of the fourth degree shall be punished by imprisonment in the Texas Department of Criminal Justice [~~confinement in a state jail~~] for a term of not more than two years or less than 180 days.

(b)  In addition to imprisonment [~~confinement~~], an individual adjudged guilty of a Parks and Wildlife Code [~~state jail~~] felony of the fourth degree may be punished by a fine of not less than $1,500 and not more than $10,000.

(c)  For purposes of this code, "Parks and Wildlife Code state jail felony" means a Parks and Wildlife Code felony of the fourth degree.

SECTION 41.  Section 76.118(e-1), Parks and Wildlife Code, is amended to read as follows:

(e-1)  If it is shown at the trial of a defendant for a violation of Section 76.116 that the defendant has been convicted once within five years before the trial date of a violation of Section 76.116, the defendant is guilty of a Class A Parks and Wildlife Code misdemeanor [~~state jail felony~~].

SECTION 42.  Section 12.04, Penal Code, is amended to read as follows:

Sec. 12.04.  CLASSIFICATION OF FELONIES. (a) Felonies are classified according to the relative seriousness of the offense into five categories:

(1)  capital felonies;

(2)  felonies of the first degree;

(3)  felonies of the second degree;

(4)  felonies of the third degree; and

(5)  [~~state jail~~] felonies of the fourth degree.

(b)  An offense designated a felony in this code without specification as to category is a [~~state jail~~] felony of the fourth degree.

(c)  For purposes of this code and any other laws of this state, "state jail felony" means a felony of the fourth degree.

(d)  For purposes of enhancing a penalty under this code or any other laws of this state:

(1)  a person is considered to have been previously convicted of a felony of the fourth degree if the person has a final conviction for a state jail felony; and

(2)  a person is considered to have previously received a discharge and dismissal under Article 42A.111, Code of Criminal Procedure, for a felony of the fourth degree if the person received a discharge and dismissal under that article for a state jail felony.

SECTION 43.  Section 12.35, Penal Code, is amended to read as follows:

Sec. 12.35.  FOURTH DEGREE [~~STATE JAIL~~] FELONY PUNISHMENT. (a) Except as provided by Subsection (c), an individual adjudged guilty of a [~~state jail~~] felony of the fourth degree shall be punished by imprisonment in the Texas Department of Criminal Justice [~~confinement in a state jail~~] for any term of not more than two years or less than 180 days.

(b)  In addition to imprisonment [~~confinement~~], an individual adjudged guilty of a [~~state jail~~] felony of the fourth degree may be punished by a fine not to exceed $10,000.

(c)  An individual adjudged guilty of a [~~state jail~~] felony of the fourth degree shall be punished for a third degree felony if it is shown on the trial of the offense that:

(1)  a deadly weapon as defined by Section 1.07 was used or exhibited during the commission of the offense or during immediate flight following the commission of the offense, and that the individual used or exhibited the deadly weapon or was a party to the offense and knew that a deadly weapon would be used or exhibited; or

(2)  the individual has previously been finally convicted of any felony:

(A)  under Section 20A.03 or 21.02 or listed in Article 42A.054(a), Code of Criminal Procedure; or

(B)  for which the judgment contains an affirmative finding under Article 42A.054(c) or (d), Code of Criminal Procedure.

SECTION 44.  Sections 12.42(a), (b), and (d), Penal Code, are amended to read as follows:

(a)  Except as provided by Subsection (c)(2), if it is shown on the trial of a felony of the third degree that the defendant has previously been finally convicted of a felony other than a [~~state jail~~] felony of the fourth degree punishable under Section 12.35(a), on conviction the defendant shall be punished for a felony of the second degree.

(b)  Except as provided by Subsection (c)(2) or (c)(4), if it is shown on the trial of a felony of the second degree that the defendant has previously been finally convicted of a felony other than a [~~state jail~~] felony of the fourth degree punishable under Section 12.35(a), on conviction the defendant shall be punished for a felony of the first degree.

(d)  Except as provided by Subsection (c)(2) or (c)(4), if it is shown on the trial of a felony offense other than a [~~state jail~~] felony of the fourth degree punishable under Section 12.35(a) that the defendant has previously been finally convicted of two felony offenses, and the second previous felony conviction is for an offense that occurred subsequent to the first previous conviction having become final, on conviction the defendant shall be punished by imprisonment in the Texas Department of Criminal Justice for life, or for any term of not more than 99 years or less than 25 years. A previous conviction for a [~~state jail~~] felony of the fourth degree punishable under Section 12.35(a) may not be used for enhancement purposes under this subsection.

SECTION 45.  Sections 12.42(c)(1) and (5), Penal Code, are amended to read as follows:

(1)  If it is shown on the trial of a felony of the first degree that the defendant has previously been finally convicted of a felony other than a [~~state jail~~] felony of the fourth degree punishable under Section 12.35(a), on conviction the defendant shall be punished by imprisonment in the Texas Department of Criminal Justice for life, or for any term of not more than 99 years or less than 15 years. In addition to imprisonment, an individual may be punished by a fine not to exceed $10,000.

(5)  A previous conviction for a [~~state jail~~] felony of the fourth degree punishable under Section 12.35(a) may not be used for enhancement purposes under Subdivision (2).

SECTION 46.  Section 12.425, Penal Code, is amended to read as follows:

Sec. 12.425.  PENALTIES FOR REPEAT AND HABITUAL FELONY OFFENDERS ON TRIAL FOR FOURTH DEGREE [~~STATE JAIL~~] FELONY. (a)  If it is shown on the trial of a [~~state jail~~] felony of the fourth degree punishable under Section 12.35(a) that the defendant has previously been finally convicted of two [~~state jail~~] felonies of the fourth degree punishable under Section 12.35(a), on conviction the defendant shall be punished for a felony of the third degree.

(b)  If it is shown on the trial of a [~~state jail~~] felony of the fourth degree punishable under Section 12.35(a) that the defendant has previously been finally convicted of two felonies other than a [~~state jail~~] felony of the fourth degree punishable under Section 12.35(a), and the second previous felony conviction is for an offense that occurred subsequent to the first previous conviction having become final, on conviction the defendant shall be punished for a felony of the second degree.

(c)  If it is shown on the trial of a [~~state jail~~] felony of the fourth degree for which punishment may be enhanced under Section 12.35(c) that the defendant has previously been finally convicted of a felony other than a [~~state jail~~] felony of the fourth degree punishable under Section 12.35(a), on conviction the defendant shall be punished for a felony of the second degree.

SECTION 47.  Section 12.44, Penal Code, is amended to read as follows:

Sec. 12.44.  REDUCTION OF FOURTH DEGREE [~~STATE JAIL~~] FELONY PUNISHMENT TO MISDEMEANOR PUNISHMENT. (a) A court may punish a defendant who is convicted of a [~~state jail~~] felony of the fourth degree by imposing the confinement permissible as punishment for a Class A misdemeanor if, after considering the gravity and circumstances of the felony committed and the history, character, and rehabilitative needs of the defendant, the court finds that such punishment would best serve the ends of justice.

(b)  At the request of the prosecuting attorney, the court may authorize the prosecuting attorney to prosecute a [~~state jail~~] felony of the fourth degree as a Class A misdemeanor.

SECTION 48.  Section 22.11(b), Penal Code, is amended to read as follows:

(b)  An offense under this section is a Class A misdemeanor [~~felony of the third degree~~].

SECTION 49.  Section 31.03(e), Penal Code, is amended to read as follows:

(e)  Except as provided by Subsection (f), an offense under this section is:

(1)  a Class C misdemeanor if the value of the property stolen is less than $100;

(2)  a Class B misdemeanor if:

(A)  the value of the property stolen is $100 or more but less than $750;

(B)  the value of the property stolen is less than $100 and the defendant has previously been convicted of any grade of theft; or

(C)  the property stolen is a driver's license, commercial driver's license, or personal identification certificate issued by this state or another state;

(3)  a Class A misdemeanor if:

(A)  the value of the property stolen is $750 or more but less than $2,500; or

(B)  the value of the property stolen is less than $750 and the defendant has been previously convicted two or more times of any grade of theft;

(4)  a [~~state jail~~] felony of the fourth degree if:

(A)  the value of the property stolen is $2,500 or more but less than $30,000, or the property is less than 10 head of sheep, swine, or goats or any part thereof under the value of $30,000;

(B)  regardless of value, the property is stolen from the person of another or from a human corpse or grave, including property that is a military grave marker;

(C)  the property stolen is a firearm, as defined by Section 46.01;

(D)  [~~the value of the property stolen is less than $2,500 and the defendant has been previously convicted two or more times of any grade of theft;~~

[~~(E)~~]  the property stolen is an official ballot or official carrier envelope for an election; or

(E) [~~(F)~~]  the value of the property stolen is less than $20,000 and the property stolen is:

(i)  aluminum;

(ii)  bronze;

(iii)  copper; or

(iv)  brass;

(5)  a felony of the third degree if the value of the property stolen is $30,000 or more but less than $150,000, or the property is:

(A)  cattle, horses, or exotic livestock or exotic fowl as defined by Section 142.001, Agriculture Code, stolen during a single transaction and having an aggregate value of less than $150,000;

(B)  10 or more head of sheep, swine, or goats stolen during a single transaction and having an aggregate value of less than $150,000; or

(C)  a controlled substance, having a value of less than $150,000, if stolen from:

(i)  a commercial building in which a controlled substance is generally stored, including a pharmacy, clinic, hospital, nursing facility, or warehouse; or

(ii)  a vehicle owned or operated by a wholesale distributor of prescription drugs;

(6)  a felony of the second degree if:

(A)  the value of the property stolen is $150,000 or more but less than $300,000; or

(B)  the value of the property stolen is less than $300,000 and the property stolen is an automated teller machine or the contents or components of an automated teller machine; or

(7)  a felony of the first degree if the value of the property stolen is $300,000 or more.

SECTION 50.  Sections 31.16(c) and (d), Penal Code, are amended to read as follows:

(c)  An offense under this section is:

(1)  a Class C misdemeanor if the total value of the merchandise involved in the activity is less than $100;

(2)  a Class B misdemeanor if the total value of the merchandise involved in the activity is $100 or more but less than $750;

(3)  a Class A misdemeanor if the total value of the merchandise involved in the activity is $750 or more but less than [~~$2,500;~~

[~~(4)  a state jail felony if the total value of the merchandise involved in the activity is $2,500 or more but less than~~] $30,000;

(4) [~~(5)~~]  a felony of the third degree if the total value of the merchandise involved in the activity is $30,000 or more but less than $150,000;

(5) [~~(6)~~]  a felony of the second degree if the total value of the merchandise involved in the activity is $150,000 or more but less than $300,000; or

(6) [~~(7)~~]  a felony of the first degree if the total value of the merchandise involved in the activity is $300,000 or more.

(d)  An offense described for purposes of punishment by Subsections (c)(1)-(5) [~~(c)(1)-(6)~~] is increased to the next higher category of offense if it is shown on the trial of the offense that:

(1)  the person organized, supervised, financed, or managed one or more other persons engaged in an activity described by Subsection (b); or

(2)  during the commission of the offense, a person engaged in an activity described by Subsection (b) intentionally, knowingly, or recklessly:

(A)  caused a fire exit alarm to sound or otherwise become activated;

(B)  deactivated or otherwise prevented a fire exit alarm or retail theft detector from sounding; or

(C)  used a shielding or deactivation instrument to prevent or attempt to prevent detection of the offense by a retail theft detector.

SECTION 51.  Section 32.32(c), Penal Code, is amended to read as follows:

(c)  An offense under this section is:

(1)  a Class C misdemeanor if the value of the property or the amount of credit is less than $100;

(2)  a Class B misdemeanor if the value of the property or the amount of credit is $100 or more but less than $750;

(3)  a Class A misdemeanor if the value of the property or the amount of credit is $750 or more but less than [~~$2,500;~~

[~~(4)  a state jail felony if the value of the property or the amount of credit is $2,500 or more but less than~~] $30,000;

(4) [~~(5)~~]  a felony of the third degree if the value of the property or the amount of credit is $30,000 or more but less than $150,000;

(5) [~~(6)~~]  a felony of the second degree if the value of the property or the amount of credit is $150,000 or more but less than $300,000; or

(6) [~~(7)~~]  a felony of the first degree if the value of the property or the amount of credit is $300,000 or more.

SECTION 52.  Sections 43.02(c) and (c-1), Penal Code, are amended to read as follows:

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

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

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

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

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

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

[~~(3)~~]  a felony of the second degree if the person with whom the actor agrees to engage in sexual conduct is:

(A)  younger than 18 years of age, regardless of whether the actor knows the age of the person at the time of the offense;

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

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

SECTION 53.  Section 43.23(b), Penal Code, is amended to read as follows:

(b)  Except as provided by Subsection (h), an offense under Subsection (a) is a Class A misdemeanor [~~state jail felony~~].

SECTION 54.  The following provisions are repealed:

(1)  Articles 42.0199 and 42A.104(b), Code of Criminal Procedure;

(2)  Subchapter L, Chapter 42A, Code of Criminal Procedure;

(3)  Sections 491.001(a)(8), 493.0051, 497.097, 499.151(b), 509.006(d) and (e), 509.015, 509.017, and 511.017, Government Code; and

(4)  Chapter 507, Government Code.

SECTION 55.  The changes in law made by this Act apply 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 56.  This Act takes effect September 1, 2019.