86R6691 GCB-D

By:  Johnson S.B. No. 760

A BILL TO BE ENTITLED

AN ACT

relating to the prosecution of and criminal penalties for the possession of marihuana concentrate; creating criminal offenses.

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

ARTICLE 1. AMENDMENTS TO TEXAS CONTROLLED SUBSTANCES ACT

SECTION 1.01.  Section 481.002, Health and Safety Code, is amended by adding Subdivision (57) to read as follows:

(57)  "Marihuana concentrate" means the resin extracted from a part of the plant Cannabis sativa L., or a compound, manufacture, salt, derivative, mixture, or preparation of the resin.

SECTION 1.02.  Section 481.103(a), Health and Safety Code, is amended to read as follows:

(a)  Penalty Group 2 consists of:

(1)  any quantity of the following hallucinogenic substances, their salts, isomers, and salts of isomers, unless specifically excepted, if the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

5-(2-aminopropyl)benzofuran (5-APB);

6-(2-aminopropyl)benzofuran (6-APB);

5-(2-aminopropyl)-2,3-dihydrobenzofuran (5-APDB);

6-(2-aminopropyl)-2,3-dihydrobenzofuran (6-APDB);

5-(2-aminopropyl)indole (5-IT,5-API);

6-(2-aminopropyl)indole (6-IT,6-API);

1-(benzofuran-5-yl)-N-methylpropan-2-amine (5-MAPB);

1-(benzofuran-6-yl)-N-methylpropan-2-amine (6-MAPB);

Benzothiophenylcyclohexylpiperidine (BTCP);

8-bromo-alpha-methyl-benzo[1,2-b:4,5-b']difuran- 4-ethanamine (trade or other name: Bromo-DragonFLY);

Desoxypipradrol (2-benzhydrylpiperidine);

2, 5-dimethoxyamphetamine (some trade or other names: 2, 5-dimethoxy-alpha-methylphenethylamine; 2, 5-DMA);

Diphenylprolinol (diphenyl(pyrrolidin-2-yl) methanol, D2PM);

Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a U.S. Food and Drug Administration approved drug product (some trade or other names for Dronabinol: (a6aR-trans)-6a,7,8,10a-tetrahydro- 6,6, 9- trimethyl-3-pentyl-6H- dibenzo [b,d]pyran-1-ol or (-)-delta-9- (trans)- tetrahydrocannabinol);

Ethylamine Analog of Phencyclidine (some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1- phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE);

2-ethylamino-2-(3-methoxyphenyl)cyclohexanone (trade or other name: methoxetamine);

Ibogaine (some trade or other names: 7-Ethyl-6, 6, beta 7, 8, 9, 10, 12, 13-octahydro-2-methoxy-6, 9-methano-5H- pyrido [1', 2':1, 2] azepino [5, 4-b] indole; tabernanthe iboga.);

5-iodo-2-aminoindane (5-IAI);

Mescaline;

5-methoxy-3, 4-methylenedioxy amphetamine;

4-methoxyamphetamine (some trade or other names: 4-methoxy-alpha-methylphenethylamine; paramethoxyamphetamine; PMA);

4-methoxymethamphetamine (PMMA);

2-(2-methoxyphenyl)-2-(methylamino)cyclohexanone (some trade and other names: 2-MeO-ketamine; methoxyketamine);

1-methyl- 4-phenyl-4-propionoxypiperidine (MPPP, PPMP);

4-methyl-2, 5-dimethoxyamphetamine (some trade and other names: 4-methyl-2, 5-dimethoxy-alpha- methylphenethylamine; "DOM"; "STP");

3,4-methylenedioxy methamphetamine (MDMA, MDM);

3,4-methylenedioxy amphetamine;

3,4-methylenedioxy N-ethylamphetamine (Also known as N-ethyl MDA);

5,6-methylenedioxy-2-aminoindane (MDAI);

Nabilone (Another name for nabilone: (+)-trans- 3-(1,1-dimethylheptyl)- 6,6a, 7,8,10,10a-hexahydro-1-hydroxy- 6, 6-dimethyl-9H-dibenzo[b,d] pyran-9-one;

N-benzylpiperazine (some trade or other names: BZP; 1-benzylpiperazine);

N-ethyl-3-piperidyl benzilate;

N-hydroxy-3,4-methylenedioxyamphetamine (Also known as N-hydroxy MDA);

4-methylaminorex;

N-methyl-3-piperidyl benzilate;

Parahexyl (some trade or other names: 3-Hexyl-1- hydroxy-7, 8, 9, 10-tetrahydro-6, 6, 9-trimethyl-6H-dibenzo [b, d] pyran; Synhexyl);

1-Phenylcyclohexylamine;

1-Piperidinocyclohexanecarbonitrile (PCC);

Pyrrolidine Analog of Phencyclidine (some trade or other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP);

Tetrahydrocannabinols, other than marihuana or marihuana concentrate, and synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as:

delta-1 cis or trans tetrahydrocannabinol, and their optical isomers;

delta-6 cis or trans tetrahydrocannabinol, and their optical isomers;

delta-3, 4 cis or trans tetrahydrocannabinol, and its optical isomers; or

compounds of these structures, regardless of numerical designation of atomic positions, since nomenclature of these substances is not internationally standardized;

Thiophene Analog of Phencyclidine (some trade or other names: 1-[1-(2-thienyl) cyclohexyl] piperidine; 2-Thienyl Analog of Phencyclidine; TPCP, TCP);

1-pyrrolidine (some trade or other name: TCPy);

1-(3-trifluoromethylphenyl)piperazine (trade or other name: TFMPP); and

3,4,5-trimethoxy amphetamine;

(2)  Phenylacetone (some trade or other names: Phenyl-2-propanone; P2P, Benzymethyl ketone, methyl benzyl ketone);

(3)  unless specifically excepted or unless listed in another Penalty Group, a material, compound, mixture, or preparation that contains any quantity of the following substances having a potential for abuse associated with a depressant or stimulant effect on the central nervous system:

Aminorex (some trade or other names: aminoxaphen; 2-amino-5-phenyl-2-oxazoline; 4,5-dihydro-5- phenyl-2-oxazolamine);

Amphetamine, its salts, optical isomers, and salts of optical isomers;

Cathinone (some trade or other names: 2-amino-1- phenyl-1-propanone, alpha-aminopropiophenone, 2- aminopropiophenone);

Etaqualone and its salts;

Etorphine Hydrochloride;

Fenethylline and its salts;

Lisdexamfetamine, including its salts, isomers, and salts of isomers;

Mecloqualone and its salts;

Methaqualone and its salts;

Methcathinone (some trade or other names: 2- methylamino-propiophenone; alpha-(methylamino)propriophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N- methylaminopropriophenone; monomethylpropion; ephedrone, N- methylcathinone; methylcathinone; AL-464; AL-422; AL-463; and UR 1431);

N-Ethylamphetamine, its salts, optical isomers, and salts of optical isomers; and

N,N-dimethylamphetamine (some trade or other names: N,N,alpha-trimethylbenzeneethanamine; N,N,alpha-trimethylphenethylamine), its salts, optical isomers, and salts of optical isomers;

(4)  any compound structurally derived from 2-aminopropanal by substitution at the 1-position with any monocyclic or fused-polycyclic ring system, including:

(A)  compounds further modified by:

(i)  substitution in the ring system to any extent (including alkyl, alkoxy, alkylenedioxy, haloalkyl, or halide substituents), whether or not further substituted in the ring system by other substituents;

(ii)  substitution at the 3-position with an alkyl substituent; or

(iii)  substitution at the 2-amino nitrogen atom with alkyl, benzyl, dialkyl, or methoxybenzyl groups, or inclusion of the 2-amino nitrogen atom in a cyclic structure; and

(B)  by example, compounds such as:

4-Methylmethcathinone (Also known as Mephedrone);

3,4-Dimethylmethcathinone (Also known as 3,4-DMMC);

3-Fluoromethcathinone (Also known as 3-FMC);

4-Fluoromethcathinone (Also known as Flephedrone);

3,4-Methylenedioxy-N-methylcathinone (Also known as Methylone);

3,4-Methylenedioxypyrovalerone (Also known as MDPV);

alpha-Pyrrolidinopentiophenone (Also known as alpha-PVP);

Naphthylpyrovalerone (Also known as Naphyrone);

alpha-Methylamino-valerophenone (Also known as Pentedrone);

beta-Keto-N-methylbenzodioxolylpropylamine (Also known as Butylone);

beta-Keto-N-methylbenzodioxolylpentanamine (Also known as Pentylone);

beta-Keto-Ethylbenzodioxolylbutanamine (Also known as Eutylone); and

3,4-methylenedioxy-N-ethylcathinone (Also known as Ethylone);

(5)  any compound structurally derived from tryptamine (3-(2-aminoethyl)indole) or a ring-hydroxy tryptamine:

(A)  by modification in any of the following ways:

(i)  by substitution at the amine nitrogen atom of the sidechain to any extent with alkyl or alkenyl groups or by inclusion of the amine nitrogen atom of the side chain (and no other atoms of the side chain) in a cyclic structure;

(ii)  by substitution at the carbon atom adjacent to the nitrogen atom of the side chain (alpha-position) with an alkyl or alkenyl group;

(iii)  by substitution in the 6-membered ring to any extent with alkyl, alkoxy, haloalkyl, thioaklyl, alkylenedioxy, or halide substituents; or

(iv)  by substitution at the 2-position of the tryptamine ring system with an alkyl substituent; and

(B)  including:

(i)  ethers and esters of the controlled substances listed in this subdivision; and

(ii)  by example, compounds such as:

alpha-ethyltryptamine;

alpha-methyltryptamine;

Bufotenine (some trade and other names: 3-(beta-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)- 5- indolol; N, N-dimethylserotonin; 5-hydroxy-N, N- dimethyltryptamine; mappine);

Diethyltryptamine (some trade and other names: N, N-Diethyltryptamine, DET);

Dimethyltryptamine (trade or other name: DMT);

5-methoxy-N, N-diisopropyltryptamine (5-MeO-DiPT);

O-Acetylpsilocin (Trade or other name: 4-Aco-DMT);

Psilocin; and

Psilocybin;

(6)  2,5-Dimethoxyphenethylamine and any compound structurally derived from 2,5-Dimethoxyphenethylamine by substitution at the 4-position of the phenyl ring to any extent (including alkyl, alkoxy, alkylenedioxy, haloalkyl, or halide substituents), including, by example, compounds such as:

4-Bromo-2,5-dimethoxyphenethylamine (trade or other name: 2C-B);

4-Chloro-2,5-dimethoxyphenethylamine (trade or other name: 2C-C);

2,5-Dimethoxy-4-methylphenethylamine (trade or other name: 2C-D);

4-Ethyl-2,5-dimethoxyphenethylamine (trade or other name: 2C-E);

4-Iodo-2,5-dimethoxyphenethylamine (trade or other name: 2C-I);

2,5-Dimethoxy-4-nitrophenethylamine (trade or other name: 2C-N);

2,5-Dimethoxy-4-(n)-propylphenethylamine (trade or other name: 2C-P);

4-Ethylthio-2,5-dimethoxyphenethylamine (trade or other name: 2C-T-2);

4-Isopropylthio-2,5-dimethoxyphenethylamine (trade or other name: 2C-T-4); and

2,5-Dimethoxy-4-(n)-propylthiophenethylamine (trade or other name: 2C-T-7); and

(7)  2,5-Dimethoxyamphetamine and any compound structurally derived from 2,5-Dimethoxyamphetamine by substitution at the 4-position of the phenyl ring to any extent (including alkyl, alkoxy, alkylenedioxy, haloalkyl, or halide substituents), including, by example, compounds such as:

4-Ethylthio-2,5-dimethoxyamphetamine (trade or other name: Aleph-2);

4-Isopropylthio-2,5-dimethoxyamphetamine (trade or other name: Aleph-4);

4-Bromo-2,5-dimethoxyamphetamine (trade or other name: DOB);

4-Chloro-2,5-dimethoxyamphetamine (trade or other name: DOC);

2,5-Dimethoxy-4-ethylamphetamine (trade or other name: DOET);

4-Iodo-2,5-dimethoxyamphetamine (trade or other name: DOI);

2,5-Dimethoxy-4-methylamphetamine (trade or other name: DOM);

2,5-Dimethoxy-4-nitroamphetamine (trade or other name: DON);

4-Isopropyl-2,5-dimethoxyamphetamine (trade or other name: DOIP); and

2,5-Dimethoxy-4-(n)-propylamphetamine (trade or other name: DOPR).

SECTION 1.03.  Sections 481.111(c) and (e), Health and Safety Code, are amended to read as follows:

(c)  A person does not violate Section 481.113, 481.1132, 481.116, 481.1161, 481.121, 481.1211, or 481.125 if the person possesses or delivers tetrahydrocannabinols or their derivatives, or drug paraphernalia to be used to introduce tetrahydrocannabinols or their derivatives into the human body, for use in a federally approved therapeutic research program.

(e)  Sections 481.120, 481.121, 481.1211, 481.122, and 481.125 do not apply to a person who engages in the acquisition, possession, production, cultivation, delivery, or disposal of a raw material used in or by-product created by the production or cultivation of low-THC cannabis if the person:

(1)  for an offense involving possession only of marihuana, marihuana concentrate, or drug paraphernalia, is a patient for whom low-THC cannabis is prescribed under Chapter 169, Occupations Code, or the patient's legal guardian, and the person possesses low-THC cannabis obtained under a valid prescription from a dispensing organization; or

(2)  is a director, manager, or employee of a dispensing organization and the person, solely in performing the person's regular duties at the organization, acquires, possesses, produces, cultivates, dispenses, or disposes of:

(A)  in reasonable quantities, any low-THC cannabis or raw materials used in or by-products created by the production or cultivation of low-THC cannabis; or

(B)  any drug paraphernalia used in the acquisition, possession, production, cultivation, delivery, or disposal of low-THC cannabis.

SECTION 1.04.  Subchapter D, Chapter 481, Health and Safety Code, is amended by adding Section 481.1132 to read as follows:

Sec. 481.1132.  OFFENSE: MANUFACTURE OR DELIVERY OF MARIHUANA CONCENTRATE. (a) Except as authorized by this chapter, a person commits an offense if the person knowingly manufactures, delivers, or possesses with intent to deliver marihuana concentrate.

(b)  An offense under Subsection (a) is a Class B misdemeanor if the amount of marihuana concentrate is less than two grams and the person committing the offense does not receive remuneration for the manufacture or delivery of the marihuana concentrate.

(c)  An offense under Subsection (a) is a Class A misdemeanor if the amount of marihuana concentrate is less than two grams and the person committing the offense receives remuneration for the manufacture or delivery of the marihuana concentrate.

(d)  An offense under Subsection (a) is a state jail felony if the amount of marihuana concentrate is two grams or more but less than 12 grams.

(e)  An offense under Subsection (a) is a felony of the third degree if the amount of marihuana concentrate is 12 grams or more but less than 200 grams.

(f)  An offense under Subsection (a) is a felony of the first degree if the amount of marihuana concentrate is 200 grams or more but less than 500 grams.

(g)  An offense under Subsection (a) is 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 10 years, and a fine not to exceed $100,000, if the amount of marihuana concentrate is 500 grams or more.

(h)  For purposes of the prosecution of an offense under this section, the amount of marihuana concentrate manufactured, delivered, or possessed is the weight of the marihuana concentrate, excluding adulterants or dilutants.

(i)  The director shall adopt rules for determining the amount of marihuana concentrate in a product that contains a combination of marihuana concentrate and adulterants or dilutants.

SECTION 1.05.  Subchapter D, Chapter 481, Health and Safety Code, is amended by adding Section 481.1211 to read as follows:

Sec. 481.1211.  OFFENSE: POSSESSION OF MARIHUANA CONCENTRATE. (a) Except as authorized by this chapter, a person commits an offense if the person knowingly or intentionally possesses a usable quantity of marihuana concentrate.

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

(1)  a Class B misdemeanor if the amount of marihuana concentrate possessed is less than six grams;

(2)  a Class A misdemeanor if the amount of marihuana concentrate possessed is six grams or more but less than 12 grams;

(3)  a state jail felony if the amount of marihuana concentrate possessed is 12 grams or more but less than 200 grams;

(4)  a felony of the third degree if the amount of marihuana concentrate possessed is 200 grams or more but less than 500 grams; and

(5)  a felony of the first degree if the amount of marihuana concentrate possessed is 500 grams or more.

(c)  For purposes of the prosecution of an offense under this section, the amount of marihuana concentrate possessed is the weight of the marihuana concentrate, excluding adulterants or dilutants.

(d)  The director shall adopt rules for determining the amount of marihuana concentrate in a product that contains a combination of marihuana concentrate and adulterants or dilutants.

SECTION 1.06.  The heading to Section 481.122, Health and Safety Code, is amended to read as follows:

Sec. 481.122.  OFFENSE: DELIVERY OF CONTROLLED SUBSTANCE, MARIHUANA, OR MARIHUANA CONCENTRATE TO CHILD.

SECTION 1.07.  Section 481.122(a), Health and Safety Code, is amended to read as follows:

(a)  A person commits an offense if the person knowingly delivers a controlled substance listed in Penalty Group 1, 1-A, 2, or 3 or knowingly delivers marihuana or marihuana concentrate and the person delivers the controlled substance, marihuana, or marihuana concentrate to a person:

(1)  who is a child;

(2)  who is enrolled in a public or private primary or secondary school; or

(3)  who the actor knows or believes intends to deliver the controlled substance, marihuana, or marihuana concentrate to a person described by Subdivision (1) or (2).

SECTION 1.08.  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:

(A)  an offense under Section 481.121(a) that is punishable under Section 481.121(b)(5); or

(B)  an offense under Section 481.1211(a) that is punishable under Section 481.1211(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:

(A)  an offense under Section 481.121(a) that is punishable under Section 481.121(b)(5); or

(B)  an offense under Section 481.1211(a) that is punishable under Section 481.1211(b)(5).

SECTION 1.09.  Section 481.133(c), Health and Safety Code, is amended to read as follows:

(c)  In this section, "drug test" means a lawfully administered test designed to detect the presence of a controlled substance, marihuana, or marihuana concentrate.

SECTION 1.10.  Sections 481.134(b), (c), (d), (e), and (f), Health and Safety Code, are amended to read as follows:

(b)  An offense otherwise punishable as a state jail felony under Section 481.112, 481.1121, 481.113, 481.1132, 481.114, or 481.120 is punishable as a felony of the third degree, an offense otherwise punishable as a felony of the third degree under any of those sections is punishable as a felony of the second degree, and an offense otherwise punishable as a felony of the second degree under any of those sections is punishable as a felony of the first degree, if it is shown at the punishment phase of the trial of the offense that the offense was committed:

(1)  in, on, or within 1,000 feet of premises owned, rented, or leased by an institution of higher education [~~learning~~], the premises of a public or private youth center, or a playground; or

(2)  in, on, or within 300 feet of the premises of a public swimming pool or video arcade facility.

(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), 481.1132(e), (f), or (g), 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)(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)(4), (5), or (6), or 481.1211(b)(4) or (5) 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), 481.1132(d), 481.114(b), 481.115(b), 481.1151(b)(1), 481.116(b), 481.1161(b)(3), 481.120(b)(3), [~~or~~] 481.121(b)(3), or 481.1211(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 481.1132(c), 481.117(b), 481.119(a), 481.120(b)(2), [~~or~~] 481.121(b)(2), or 481.1211(b)(2) is a state jail felony 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.

(f)  An offense otherwise punishable under Section 481.1132(b), 481.118(b), 481.119(b), 481.120(b)(1), [~~or~~] 481.121(b)(1), or 481.1211(b)(1) is a Class A misdemeanor 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 1.11.  Section 481.140(a), Health and Safety Code, is amended to read as follows:

(a)  If it is shown at the punishment phase of the trial of an offense otherwise punishable as a state jail felony, felony of the third degree, or felony of the second degree under Section 481.112, 481.1121, 481.113, 481.1132, 481.114, 481.120, or 481.122 that the defendant used or attempted to use a child younger than 18 years of age to commit or assist in the commission of the offense, the punishment is increased by one degree, unless the defendant used or threatened to use force against the child or another to gain the child's assistance, in which event the punishment for the offense is a felony of the first degree.

SECTION 1.12.  Section 481.141(b), Health and Safety Code, is amended to read as follows:

(b)  This section applies to an offense otherwise punishable as a state jail felony, felony of the third degree, or felony of the second degree under Section 481.112, 481.1121, 481.113, 481.1132, 481.114, or 481.122.

ARTICLE 2. CONFORMING AMENDMENTS

SECTION 2.01.  Article 13.22, Code of Criminal Procedure, is amended to read as follows:

Art. 13.22.  POSSESSION AND DELIVERY OF MARIHUANA OR MARIHUANA CONCENTRATE. An offense of possession or delivery of marihuana or marihuana concentrate may be prosecuted in the county where the offense was committed or with the consent of the defendant in a county that is adjacent to and in the same judicial district as the county where the offense was committed.

SECTION 2.02.  Article 14.06(d), Code of Criminal Procedure, is amended to read as follows:

(d)  Subsection (c) applies only to a person charged with committing an offense under:

(1)  Section 481.121, Health and Safety Code, if the offense is punishable under Subsection (b)(1) or (2) of that section;

(1-a)  Section 481.1161, Health and Safety Code, if the offense is punishable under Subsection (b)(1) or (2) of that section;

(1-b)  Section 481.1211, Health and Safety Code, if the offense is punishable under Subsection (b)(1) or (2) of that section;

(2)  Section 28.03, Penal Code, if the offense is punishable under Subsection (b)(2) of that section;

(3)  Section 28.08, Penal Code, if the offense is punishable under Subsection (b)(2) or (3) of that section;

(4)  Section 31.03, Penal Code, if the offense is punishable under Subsection (e)(2)(A) of that section;

(5)  Section 31.04, Penal Code, if the offense is punishable under Subsection (e)(2) of that section;

(6)  Section 38.114, Penal Code, if the offense is punishable as a Class B misdemeanor; or

(7)  Section 521.457, Transportation Code.

SECTION 2.03.  Article 15.27(h), Code of Criminal Procedure, is amended to read as follows:

(h)  This article applies to any felony offense and the following misdemeanors:

(1)  an offense under Section 20.02, 21.08, 22.01, 22.05, 22.07, or 71.02, Penal Code;

(2)  the unlawful use, sale, or possession of a controlled substance, drug paraphernalia, marihuana, or marihuana concentrate, as defined by Chapter 481, Health and Safety Code; or

(3)  the unlawful possession of any of the weapons or devices listed in Sections 46.01(1)-(14) or Section 46.01(16) [~~(16)~~], Penal Code, or a weapon listed as a prohibited weapon under Section 46.05, Penal Code.

SECTION 2.04.  Article 18A.101, Code of Criminal Procedure, is amended to read as follows:

Art. 18A.101.  OFFENSES FOR WHICH INTERCEPTION ORDER MAY BE ISSUED. A judge of competent jurisdiction may issue an interception order only if the prosecutor applying for the order shows probable cause to believe that the interception will provide evidence of the commission of:

(1)  a felony under any of the following provisions of the Health and Safety Code:

(A)  Chapter 481, other than felony possession of marihuana or marihuana concentrate;

(B)  Chapter 483; or

(C)  Section 485.032;

(2)  an offense under any of the following provisions of the Penal Code:

(A)  Section 19.02;

(B)  Section 19.03;

(C)  Section 20.03;

(D)  Section 20.04;

(E)  Chapter 20A;

(F)  Chapter 34, if the criminal activity giving rise to the proceeds involves the commission of an offense under Title 5, Penal Code, or an offense under federal law or the laws of another state containing elements that are substantially similar to the elements of an offense under Title 5;

(G)  Section 38.11;

(H)  Section 43.04;

(I)  Section 43.05; or

(J)  Section 43.26; or

(3)  an attempt, conspiracy, or solicitation to commit an offense listed in Subdivision (1) or (2).

SECTION 2.05.  Article 42A.514(a), Code of Criminal Procedure, is amended to read as follows:

(a)  If a judge grants community supervision to a defendant younger than 18 years of age convicted of an alcohol-related offense under Section 106.02, 106.025, 106.04, 106.041, 106.05, or 106.07, Alcoholic Beverage Code, or Section 49.02, Penal Code, or an offense involving possession of a controlled substance, [~~or~~] marihuana, or marihuana concentrate under Section 481.115, 481.1151, 481.116, 481.1161, 481.117, 481.118, [~~or~~] 481.121, or 481.1211, Health and Safety Code, the judge may require the defendant as a condition of community supervision to attend, as appropriate:

(1)  an alcohol awareness program approved under Section 106.115, Alcoholic Beverage Code; or

(2)  a drug education program that is designed to educate persons on the dangers of drug abuse and is approved by the Department of State Health Services in accordance with Section 521.374, Transportation Code.

SECTION 2.06.  Articles 42A.551(a) and (c), Code of Criminal Procedure, are amended to read as follows:

(a)  Except as otherwise provided by Subsection (b) or (c), on conviction of a state jail felony under Section 481.115(b), 481.1151(b)(1), 481.116(b), 481.1161(b)(3), 481.121(b)(3), 481.1211(b)(3), or 481.129(g)(1), Health and Safety Code, that is punished under Section 12.35(a), Penal Code, the judge shall suspend the imposition of the sentence and place the defendant on community supervision.

(c)  Subsection (a) does not apply to a defendant who:

(1)  under Section 481.1151(b)(1), Health and Safety Code, possessed more than five abuse units of the controlled substance;

(2)  under Section 481.1161(b)(3), Health and Safety Code, possessed more than one pound, by aggregate weight, including adulterants or dilutants, of the controlled substance; [~~or~~]

(3)  under Section 481.121(b)(3), Health and Safety Code, possessed more than one pound of marihuana; or

(4)  under Section 481.1211(b)(3), Health and Safety Code, possessed more than 40 grams of marihuana concentrate.

SECTION 2.07.  Article 42A.555(a), Code of Criminal Procedure, is amended to read as follows:

(a)  A judge assessing punishment in a state jail felony case may impose as a condition of community supervision that a defendant submit at the beginning of the period of community supervision to a term of confinement in a state jail felony facility for a term of:

(1)  not less than 90 days or more than 180 days; or

(2)  not less than 90 days or more than one year, if the defendant is convicted of an offense punishable as a state jail felony under Section 481.112, 481.1121, 481.113, 481.1132, or 481.120, Health and Safety Code.

SECTION 2.08.  Section 37.005(c), Education Code, is amended to read as follows:

(c)  A student who is enrolled in a grade level below grade three may not be placed in out-of-school suspension unless while on school property or while attending a school-sponsored or school-related activity on or off of school property, the student engages in:

(1)  conduct that contains the elements of an offense related to weapons under Section 46.02 or 46.05, Penal Code;

(2)  conduct that contains the elements of a violent offense under Section 22.01, 22.011, 22.02, or 22.021, Penal Code; or

(3)  selling, giving, or delivering to another person or possessing, using, or being under the influence of any amount of:

(A)  marihuana, marihuana concentrate, or a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. Section 801 et seq.;

(B)  a dangerous drug, as defined by Chapter 483, Health and Safety Code; or

(C)  an alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code.

SECTION 2.09.  Section 37.006(a), Education Code, is amended to read as follows:

(a)  A student shall be removed from class and placed in a disciplinary alternative education program as provided by Section 37.008 if the student:

(1)  engages in conduct involving a public school that contains the elements of the offense of false alarm or report under Section 42.06, Penal Code, or terroristic threat under Section 22.07, Penal Code; or

(2)  commits the following on or within 300 feet of school property, as measured from any point on the school's real property boundary line, or while attending a school-sponsored or school-related activity on or off of school property:

(A)  engages in conduct punishable as a felony;

(B)  engages in conduct that contains the elements of the offense of assault under Section 22.01(a)(1), Penal Code;

(C)  sells, gives, or delivers to another person or possesses or uses or is under the influence of:

(i)  marihuana, marihuana concentrate, or a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. Section 801 et seq.; or

(ii)  a dangerous drug, as defined by Chapter 483, Health and Safety Code;

(D)  sells, gives, or delivers to another person an alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code, commits a serious act or offense while under the influence of alcohol, or possesses, uses, or is under the influence of an alcoholic beverage;

(E)  engages in conduct that contains the elements of an offense relating to an abusable volatile chemical under Sections 485.031 through 485.034, Health and Safety Code; or

(F)  engages in conduct that contains the elements of the offense of public lewdness under Section 21.07, Penal Code, or indecent exposure under Section 21.08, Penal Code.

SECTION 2.10.  Section 37.007(b), Education Code, is amended to read as follows:

(b)  A student may be expelled if the student:

(1)  engages in conduct involving a public school that contains the elements of the offense of false alarm or report under Section 42.06, Penal Code, or terroristic threat under Section 22.07, Penal Code;

(2)  while on or within 300 feet of school property, as measured from any point on the school's real property boundary line, or while attending a school-sponsored or school-related activity on or off of school property:

(A)  sells, gives, or delivers to another person or possesses, uses, or is under the influence of any amount of:

(i)  marihuana, marihuana concentrate, or a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. Section 801 et seq.;

(ii)  a dangerous drug, as defined by Chapter 483, Health and Safety Code; or

(iii)  an alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code;

(B)  engages in conduct that contains the elements of an offense relating to an abusable volatile chemical under Sections 485.031 through 485.034, Health and Safety Code;

(C)  engages in conduct that contains the elements of an offense under Section 22.01(a)(1), Penal Code, against a school district employee or a volunteer as defined by Section 22.053 of this code; or

(D)  engages in conduct that contains the elements of the offense of deadly conduct under Section 22.05, Penal Code;

(3)  subject to Subsection (d), while within 300 feet of school property, as measured from any point on the school's real property boundary line:

(A)  engages in conduct specified by Subsection (a); or

(B)  possesses a firearm, as defined by 18 U.S.C. Section 921;

(4)  engages in conduct that contains the elements of any offense listed in Subsection (a)(2)(A) or (C) or the offense of aggravated robbery under Section 29.03, Penal Code, against another student, without regard to whether the conduct occurs on or off of school property or while attending a school-sponsored or school-related activity on or off of school property; or

(5)  engages in conduct that contains the elements of the offense of breach of computer security under Section 33.02, Penal Code, if:

(A)  the conduct involves accessing a computer, computer network, or computer system owned by or operated on behalf of a school district; and

(B)  the student knowingly:

(i)  alters, damages, or deletes school district property or information; or

(ii)  commits a breach of any other computer, computer network, or computer system.

SECTION 2.11.  Section 37.015(a), Education Code, is amended to read as follows:

(a)  The principal of a public or private primary or secondary school, or a person designated by the principal under Subsection (d), shall notify any school district police department and the police department of the municipality in which the school is located or, if the school is not in a municipality, the sheriff of the county in which the school is located if the principal has reasonable grounds to believe that any of the following activities occur in school, on school property, or at a school-sponsored or school-related activity on or off school property, whether or not the activity is investigated by school security officers:

(1)  conduct that may constitute an offense listed under Section 508.149, Government Code;

(2)  deadly conduct under Section 22.05, Penal Code;

(3)  a terroristic threat under Section 22.07, Penal Code;

(4)  the use, sale, or possession of a controlled substance, drug paraphernalia, marihuana, or marihuana concentrate under Chapter 481, Health and Safety Code;

(5)  the possession of any of the weapons or devices listed under Sections 46.01(1)-(14) or Section 46.01(16), Penal Code;

(6)  conduct that may constitute a criminal offense under Section 71.02, Penal Code; or

(7)  conduct that may constitute a criminal offense for which a student may be expelled under Section 37.007(a), (d), or (e).

SECTION 2.12.  Section 37.016, Education Code, is amended to read as follows:

Sec. 37.016.  REPORT OF DRUG OFFENSES; LIABILITY. A teacher, school administrator, or school employee is not liable in civil damages for reporting to a school administrator or governmental authority, in the exercise of professional judgment within the scope of the teacher's, administrator's, or employee's duties, a student whom the teacher suspects of using, passing, or selling, on school property:

(1)  marihuana, marihuana concentrate, or a controlled substance, as defined by Chapter 481, Health and Safety Code;

(2)  a dangerous drug, as defined by Chapter 483, Health and Safety Code;

(3)  an abusable volatile chemical [~~glue or aerosol paint~~], as defined by Chapter 485, Health and Safety Code, [~~or a volatile chemical, as listed in Chapter 484, Health and Safety Code,~~] if the substance is used or sold for the purpose of inhaling its fumes or vapors; or

(4)  an alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code.

SECTION 2.13.  Section 53.03(h-1), Family Code, is amended to read as follows:

(h-1)  If the child is alleged to have engaged in delinquent conduct or conduct indicating a need for supervision that violates Section 481.115, 481.1151, 481.116, 481.1161, 481.117, 481.118, [~~or~~] 481.121, or 481.1211, Health and Safety Code, deferred prosecution under this section may include a condition that the child attend a drug education program that is designed to educate persons on the dangers of drug abuse and is approved by the Department of State Health Services in accordance with Section 521.374, Transportation Code.

SECTION 2.14.  Section 54.047(a), Family Code, is amended to read as follows:

(a)  If the court or jury finds at an adjudication hearing for a child that the child engaged in delinquent conduct or conduct indicating a need for supervision that constitutes a violation of Section 481.115, 481.1151, 481.116, 481.1161, 481.117, 481.118, [~~or~~] 481.121, or 481.1211, Health and Safety Code, the court may order that the child attend a drug education program that is designed to educate persons on the dangers of drug abuse and is approved by the Department of State Health Services in accordance with Section 521.374, Transportation Code.

SECTION 2.15.  Section 76.017(b), Government Code, is amended to read as follows:

(b)  The program must:

(1)  include automatic screening and evaluation of a person arrested for an offense, other than a Class C misdemeanor, in which an element of the offense is the use or possession of alcohol or the use, possession, or sale of a controlled substance, marihuana, or marihuana concentrate;

(2)  include automatic screening and evaluation of a person arrested for an offense, other than a Class C misdemeanor, in which the use of alcohol or drugs is suspected to have significantly contributed to the offense for which the individual has been arrested;

(3)  coordinate the evaluation and referral to treatment services; and

(4)  make referrals for the appropriate treatment of a person determined to be in need of treatment, including referrals to a community corrections facility as defined by Section 509.001.

SECTION 2.16.  Section 123.002, Government Code, is amended to read as follows:

Sec. 123.002.  AUTHORITY TO ESTABLISH PROGRAM. The commissioners court of a county or governing body of a municipality may establish the following types of drug court programs:

(1)  drug courts for persons arrested for, charged with, or convicted of:

(A)  an offense in which an element of the offense is the use or possession of alcohol or the use, possession, or sale of a controlled substance, a controlled substance analogue, marihuana, or marihuana concentrate; or

(B)  an offense in which the use of alcohol or a controlled substance is suspected to have significantly contributed to the commission of the offense and the offense did not involve:

(i)  carrying, possessing, or using a firearm or other dangerous weapon;

(ii)  the use of force against the person of another; or

(iii)  the death of or serious bodily injury to another;

(2)  drug courts for juveniles detained for, taken into custody for, or adjudicated as having engaged in:

(A)  delinquent conduct, including habitual felony conduct, or conduct indicating a need for supervision in which an element of the conduct is the use or possession of alcohol or the use, possession, or sale of a controlled substance, a controlled substance analogue, marihuana, or marihuana concentrate; or

(B)  delinquent conduct, including habitual felony conduct, or conduct indicating a need for supervision in which the use of alcohol or a controlled substance is suspected to have significantly contributed to the commission of the conduct and the conduct did not involve:

(i)  carrying, possessing, or using a firearm or other dangerous weapon;

(ii)  the use of force against the person of another; or

(iii)  the death of or serious bodily injury to another;

(3)  reentry drug courts for persons with a demonstrated history of using alcohol or a controlled substance who may benefit from a program designed to facilitate the person's transition and reintegration into the community on release from a state or local correctional facility;

(4)  family dependency drug treatment courts for family members involved in a suit affecting the parent-child relationship in which a parent's use of alcohol or a controlled substance is a primary consideration in the outcome of the suit; or

(5)  programs for other persons not precisely described by Subdivisions (1)-(4) who may benefit from a program that has the essential characteristics described by Section 123.001.

SECTION 2.17.  Section 411.0728(a), Government Code, is amended to read as follows:

(a)  This section applies only to a person:

(1)  who is placed on community supervision under Chapter 42A, Code of Criminal Procedure, after conviction for an offense under:

(A)  Section 481.120, Health and Safety Code, if the offense is punishable under Subsection (b)(1);

(B)  Section 481.121, Health and Safety Code, if the offense is punishable under Subsection (b)(1);

(B-1)  Section 481.1211, Health and Safety Code, if the offense is punishable under Subsection (b)(1);

(C)  Section 31.03, Penal Code, if the offense is punishable under Subsection (e)(1) or (2);

(D)  Section 43.02, Penal Code; or

(E)  Section 43.03(a)(2), Penal Code, if the offense is punishable as a Class A misdemeanor; and

(2)  with respect to whom the conviction is subsequently set aside by the court under Article 42A.701, Code of Criminal Procedure.

SECTION 2.18.  Section 31.0031(d), Human Resources Code, is amended to read as follows:

(d)  The responsibility agreement shall require that:

(1)  the parent of a dependent child cooperate with the commission and the Title IV-D agency if necessary to establish the paternity of the dependent child and to establish or enforce child support;

(2)  if adequate and accessible providers of the services are available in the geographic area and subject to the availability of funds, each dependent child, as appropriate, complete early and periodic screening, diagnosis, and treatment checkups on schedule and receive the immunization series prescribed by Section 161.004, Health and Safety Code, unless the child is exempt under that section;

(3)  each adult recipient, or teen parent recipient who has completed the requirements regarding school attendance in Subdivision (6), not voluntarily terminate paid employment of at least 30 hours each week without good cause in accordance with rules adopted by the executive commissioner;

(4)  each adult recipient for whom a needs assessment is conducted participate in an activity to enable that person to become self-sufficient by:

(A)  continuing the person's education or becoming literate;

(B)  entering a job placement or employment skills training program;

(C)  serving as a volunteer in the person's community; or

(D)  serving in a community work program or other work program approved by the commission;

(5)  each caretaker relative or parent receiving assistance not use, sell, or possess marihuana, marihuana concentrate, or a controlled substance in violation of Chapter 481, Health and Safety Code, or abuse alcohol;

(6)  each dependent child younger than 18 years of age or teen parent younger than 19 years of age attend school regularly, unless the child has a high school diploma or high school equivalency certificate or is specifically exempted from school attendance under Section 25.086, Education Code;

(7)  each recipient comply with commission rules regarding proof of school attendance; and

(8)  each recipient attend appropriate parenting skills training classes, as determined by the needs assessment.

SECTION 2.19.  Section 1355.006, Insurance Code, is amended to read as follows:

Sec. 1355.006.  COVERAGE FOR CERTAIN CONDITIONS RELATED TO CONTROLLED SUBSTANCE, MARIHUANA, OR MARIHUANA CONCENTRATE NOT REQUIRED. (a) In this section, "controlled substance," [~~and~~] "marihuana," and "marihuana concentrate" have the meanings assigned by Section 481.002, Health and Safety Code.

(b)  This subchapter does not require a group health benefit plan to provide coverage for the treatment of:

(1)  addiction to a controlled substance, marihuana, or marihuana concentrate that is used in violation of law; or

(2)  mental illness that results from the use of a controlled substance, marihuana, or marihuana concentrate in violation of law.

ARTICLE 3. TRANSITION PROVISION; EFFECTIVE DATE

SECTION 3.01.  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 3.02.  This Act takes effect September 1, 2019.