

By: Canales

H.B. No. 551

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

1 (6-APDB);
2 5-(2-aminopropyl)indole (5-IT,5-API);
3 6-(2-aminopropyl)indole (6-IT,6-API);
4 1-(benzofuran-5-yl)-N-methylpropan-2-amine
5 (5-MAPB);
6 1-(benzofuran-6-yl)-N-methylpropan-2-amine
7 (6-MAPB);
8 Benzothiophenylcyclohexylpiperidine (BTCP);
9 8-bromo-alpha-methyl-benzo[1,2-b:4,5-b']difuran-
10 4-ethanamine (trade or other name: Bromo-DragonFLY);
11 Desoxypipradrol (2-benzhydrylpiperidine);
12 2, 5-dimethoxyamphetamine (some trade or other
13 names: 2, 5-dimethoxy-alpha-methylphenethylamine; 2, 5-DMA);
14 Diphenylprolinol (diphenyl(pyrrolidin-2-yl)
15 methanol, D2PM);
16 Dronabinol (synthetic) in sesame oil and
17 encapsulated in a soft gelatin capsule in a U.S. Food and Drug
18 Administration approved drug product (some trade or other names for
19 Dronabinol: (a6aR-trans)-6a,7,8,10a-tetrahydro- 6,6, 9-
20 trimethyl-3-pentyl-6H- dibenzo [b,d]pyran-1-ol or (-)-delta-9-
21 (trans)- tetrahydrocannabinol);
22 Ethylamine Analog of Phencyclidine (some trade or
23 other names: N-ethyl-1-phenylcyclohexylamine, (1-
24 phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine,
25 cyclohexamine, PCE);
26 2-ethylamino-2-(3-methoxyphenyl)cyclohexanone
27 (trade or other name: methoxetamine);

1 Ibogaine (some trade or other names: 7-Ethyl-6, 6,
2 beta 7, 8, 9, 10, 12, 13-octahydro-2-methoxy-6, 9-methano-5H-
3 pyrido [1', 2':1, 2] azepino [5, 4-b] indole; tabernanthe iboga.);
4 5-iodo-2-aminoindane (5-IAI);
5 Mescaline;
6 5-methoxy-3, 4-methylenedioxy amphetamine;
7 4-methoxyamphetamine (some trade or other names:
8 4-methoxy-alpha-methylphenethylamine; paramethoxyamphetamine;
9 PMA);
10 4-methoxymethamphetamine (PMMA);
11 2-(2-methoxyphenyl)-2-(methylamino)cyclohexanone
12 (some trade and other names: 2-MeO-ketamine; methoxyketamine);
13 1-methyl- 4-phenyl-4-propionoxypiperidine (MPPP,
14 PPMP);
15 4-methyl-2, 5-dimethoxyamphetamine (some trade
16 and other names: 4-methyl-2, 5-dimethoxy-alpha-
17 methylphenethylamine; "DOM"; "STP");
18 3,4-methylenedioxy methamphetamine (MDMA, MDM);
19 3,4-methylenedioxy amphetamine;
20 3,4-methylenedioxy N-ethylamphetamine (Also
21 known as N-ethyl MDA);
22 5,6-methylenedioxy-2-aminoindane (MDAI);
23 Nabilone (Another name for nabilone: (+)-trans-
24 3-(1,1-dimethylheptyl)- 6,6a, 7,8,10,10a-hexahydro-1-hydroxy- 6,
25 6-dimethyl-9H-dibenzo[b,d] pyran-9-one;
26 N-benzylpiperazine (some trade or other names:
27 BZP; 1-benzylpiperazine);

1 N-ethyl-3-piperidyl benzilate;
2 N-hydroxy-3,4-methylenedioxyamphetamine (Also
3 known as N-hydroxy MDA);
4 4-methylaminorex;
5 N-methyl-3-piperidyl benzilate;
6 Parahexyl (some trade or other names: 3-Hexyl-1-
7 hydroxy-7, 8, 9, 10-tetrahydro-6, 6, 9-trimethyl-6H-dibenzo [b, d]
8 pyran; Synhexyl);
9 1-Phenylcyclohexylamine;
10 1-Piperidinocyclohexanecarbonitrile (PCC);
11 Pyrrolidine Analog of Phencyclidine (some trade
12 or other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP);
13 Tetrahydrocannabinols, other than marihuana or
14 marihuana concentrate, and synthetic equivalents of the substances
15 contained in the plant, or in the resinous extractives of Cannabis,
16 or synthetic substances, derivatives, and their isomers with
17 similar chemical structure and pharmacological activity such as:
18 delta-1 cis or trans tetrahydrocannabinol,
19 and their optical isomers;
20 delta-6 cis or trans tetrahydrocannabinol,
21 and their optical isomers;
22 delta-3, 4 cis or trans
23 tetrahydrocannabinol, and its optical isomers; or
24 compounds of these structures, regardless of
25 numerical designation of atomic positions, since nomenclature of
26 these substances is not internationally standardized;
27 Thiophene Analog of Phencyclidine (some trade or

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

3 1-pyrrolidine (some trade or other name: TCPy);

4 1-(3-trifluoromethylphenyl)piperazine (trade or
5 other name: TFMPP); and

6 3,4,5-trimethoxy amphetamine;

7 (2) Phenylacetone (some trade or other names:
8 Phenyl-2-propanone; P2P, Benzylmethyl ketone, methyl benzyl
9 ketone);

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

15 Aminorex (some trade or other names: aminoxaphen;
16 2-amino-5-phenyl-2-oxazoline; 4,5-dihydro-5-
17 phenyl-2-oxazolamine);

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

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

23 Etaqualone and its salts;

24 Etorphine Hydrochloride;

25 Fenethylline and its salts;

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

1 Mecloqualone and its salts;
2 Methaqualone and its salts;
3 Methcathinone (some trade or other names: 2-
4 methylamino-propiofenone; alpha-(methylamino)propiofenone;
5 2-(methylamino)-1-phenylpropan-1-one; alpha-N-
6 methylaminopropiofenone; monomethylpropion; ephedrone, N-
7 methylcathinone; methylcathinone; AL-464; AL-422; AL-463; and UR
8 1431);

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

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

15 (4) any compound structurally derived from
16 2-aminopropanal by substitution at the 1-position with any
17 monocyclic or fused-polycyclic ring system, including:

18 (A) compounds further modified by:

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

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

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

- 1 (B) by example, compounds such as:
- 2 4-Methylmethcathinone (Also known as
- 3 Mephedrone);
- 4 3,4-Dimethylmethcathinone (Also known as
- 5 3,4-DMMC);
- 6 3-Fluoromethcathinone (Also known as 3-FMC);
- 7 4-Fluoromethcathinone (Also known as
- 8 Flephedrone);
- 9 3,4-Methylenedioxy-N-methylcathinone (Also
- 10 known as Methylone);
- 11 3,4-Methylenedioxypropylvalerone (Also known
- 12 as MDPV);
- 13 alpha-Pyrrolidinopentiophenone (Also known
- 14 as alpha-PVP);
- 15 Naphthylpropylvalerone (Also known as
- 16 Naphyrone);
- 17 alpha-Methylamino-valerophenone (Also known
- 18 as Pentedrone);
- 19 beta-Keto-N-methylbenzodioxolylpropylamine
- 20 (Also known as Butylone);
- 21 beta-Keto-N-methylbenzodioxolylpentanamine
- 22 (Also known as Pentylone);
- 23 beta-Keto-Ethylbenzodioxolylbutanamine
- 24 (Also known as Eutylone); and
- 25 3,4-methylenedioxy-N-ethylcathinone (Also
- 26 known as Ethylone);
- 27 (5) any compound structurally derived from tryptamine

1 (3-(2-aminoethyl)indole) or a ring-hydroxy tryptamine:

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

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

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

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

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

15 (B) including:

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

18 (ii) by example, compounds such as:

19 alpha-ethyltryptamine;

20 alpha-methyltryptamine;

21 Bufotenine (some trade and other names:

22 3-(beta-Dimethylaminoethyl)-5-hydroxyindole;

23 3-(2-dimethylaminoethyl)- 5- indolol; N, N-dimethylserotonin;

24 5-hydroxy-N, N- dimethyltryptamine; mappine);

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

27 Dimethyltryptamine (trade or other

1 name: DMT);
2 5-methoxy-N, N-diisopropyltryptamine
3 (5-MeO-DiPT);
4 O-Acetylpsilocin (Trade or other name:
5 4-Aco-DMT);
6 Psilocin; and
7 Psilocybin;
8 (6) 2,5-Dimethoxyphenethylamine and any compound
9 structurally derived from 2,5-Dimethoxyphenethylamine by
10 substitution at the 4-position of the phenyl ring to any extent
11 (including alkyl, alkoxy, alkylendioxy, haloalkyl, or halide
12 substituents), including, by example, compounds such as:
13 4-Bromo-2,5-dimethoxyphenethylamine (trade or
14 other name: 2C-B);
15 4-Chloro-2,5-dimethoxyphenethylamine (trade or
16 other name: 2C-C);
17 2,5-Dimethoxy-4-methylphenethylamine (trade or
18 other name: 2C-D);
19 4-Ethyl-2,5-dimethoxyphenethylamine (trade or
20 other name: 2C-E);
21 4-Iodo-2,5-dimethoxyphenethylamine (trade or
22 other name: 2C-I);
23 2,5-Dimethoxy-4-nitrophenethylamine (trade or
24 other name: 2C-N);
25 2,5-Dimethoxy-4-(n)-propylphenethylamine (trade
26 or other name: 2C-P);
27 4-Ethylthio-2,5-dimethoxyphenethylamine (trade

1 or other name: 2C-T-2);
2 4-Isopropylthio-2,5-dimethoxyphenethylamine
3 (trade or other name: 2C-T-4); and
4 2,5-Dimethoxy-4-(n)-propylthiophenethylamine
5 (trade or other name: 2C-T-7); and
6 (7) 2,5-Dimethoxyamphetamine and any compound
7 structurally derived from 2,5-Dimethoxyamphetamine by substitution
8 at the 4-position of the phenyl ring to any extent (including alkyl,
9 alkoxy, alkylendioxy, haloalkyl, or halide substituents),
10 including, by example, compounds such as:
11 4-Ethylthio-2,5-dimethoxyamphetamine (trade or
12 other name: Aleph-2);
13 4-Isopropylthio-2,5-dimethoxyamphetamine (trade
14 or other name: Aleph-4);
15 4-Bromo-2,5-dimethoxyamphetamine (trade or other
16 name: DOB);
17 4-Chloro-2,5-dimethoxyamphetamine (trade or
18 other name: DOC);
19 2,5-Dimethoxy-4-ethylamphetamine (trade or other
20 name: DOET);
21 4-Iodo-2,5-dimethoxyamphetamine (trade or other
22 name: DOI);
23 2,5-Dimethoxy-4-methylamphetamine (trade or
24 other name: DOM);
25 2,5-Dimethoxy-4-nitroamphetamine (trade or other
26 name: DON);
27 4-Isopropyl-2,5-dimethoxyamphetamine (trade or

1 other name: DOIP); and

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

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

6 (c) A person does not violate Section 481.113, 481.1132,
7 481.116, 481.1161, 481.121, 481.1211, or 481.125 if the person
8 possesses or delivers tetrahydrocannabinols or their derivatives,
9 or drug paraphernalia to be used to introduce tetrahydrocannabinols
10 or their derivatives into the human body, for use in a federally
11 approved therapeutic research program.

12 (e) Sections 481.120, 481.121, 481.1211, 481.122, and
13 481.125 do not apply to a person who engages in the acquisition,
14 possession, production, cultivation, delivery, or disposal of a raw
15 material used in or by-product created by the production or
16 cultivation of low-THC cannabis if the person:

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

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

27 (A) in reasonable quantities, any low-THC

1 cannabis or raw materials used in or by-products created by the
2 production or cultivation of low-THC cannabis; or

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

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

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

13 (b) An offense under Subsection (a) is a state jail felony
14 if the amount of marihuana concentrate is, by aggregate weight,
15 including adulterants or dilutants, less than four grams.

16 (c) An offense under Subsection (a) is a felony of the
17 second degree if the amount of marihuana concentrate is, by
18 aggregate weight, including adulterants or dilutants, four grams or
19 more but less than eight grams.

20 (d) An offense under Subsection (a) is a felony of the first
21 degree if the amount of marihuana concentrate is, by aggregate
22 weight, including adulterants or dilutants, eight grams or more but
23 less than 400 grams.

24 (e) An offense under Subsection (a) is punishable by
25 imprisonment in the Texas Department of Criminal Justice for life
26 or for a term of not more than 99 years or less than 10 years, and a
27 fine not to exceed \$100,000, if the amount of marihuana concentrate

1 is, by aggregate weight, including adulterants or dilutants, 400
2 grams or more.

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

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

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

10 (1) a Class B misdemeanor if the amount of marihuana
11 concentrate possessed is four grams or less;

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

15 (3) a state jail felony if the amount of marihuana
16 concentrate possessed is 400 grams or less but more than eight
17 grams;

18 (4) a felony of the third degree if the amount of
19 marihuana concentrate possessed is four kilograms or less but more
20 than 400 grams;

21 (5) a felony of the second degree if the amount of
22 marihuana concentrate possessed is 160 kilograms or less but more
23 than four kilograms; and

24 (6) punishable by imprisonment in the Texas Department
25 of Criminal Justice for life or for a term of not more than 99 years
26 or less than 5 years, and a fine not to exceed \$50,000, if the amount
27 of marihuana concentrate possessed is more than 160 kilograms.

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

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

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

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

12 (1) who is a child;

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

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

18 SECTION 1.08. Section 481.126(a), Health and Safety Code,
19 is amended to read as follows:

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

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

25 (2) barter property or expends funds the person knows
26 are derived from the commission of:

27 (A) an offense under Section 481.121(a) that is

1 punishable under Section [481.121\(b\)\(5\)](#); or

2 (B) an offense under Section 481.1211(a) that is
3 punishable under Section 481.1211(b)(5);

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

8 (4) barter property or finances or invests funds the
9 person knows or believes are intended to further the commission of:

10 (A) an offense under Section [481.121\(a\)](#) that is
11 punishable under Section [481.121\(b\)\(5\)](#); or

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

14 SECTION 1.09. Section [481.133\(c\)](#), Health and Safety Code,
15 is amended to read as follows:

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

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

21 (b) An offense otherwise punishable as a state jail felony
22 under Section [481.112](#), [481.1121](#), [481.113](#), [481.1132](#), [481.114](#), or
23 [481.120](#) is punishable as a felony of the third degree, and an
24 offense otherwise punishable as a felony of the second degree under
25 any of those sections is punishable as a felony of the first degree,
26 if it is shown at the punishment phase of the trial of the offense
27 that the offense was committed:

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

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

7 (c) The minimum term of confinement or imprisonment for an
8 offense otherwise punishable under Section 481.112(c), (d), (e), or
9 (f), 481.1121(b)(2), (3), or (4), 481.113(c), (d), or (e),
10 481.1132(c), (d), or (e), 481.114(c), (d), or (e), 481.115(c)-(f),
11 481.1151(b)(2), (3), (4), or (5), 481.116(c), (d), or (e),
12 481.1161(b)(4), (5), or (6), 481.117(c), (d), or (e), 481.118(c),
13 (d), or (e), 481.120(b)(4), (5), or (6), [~~or~~] 481.121(b)(4), (5),
14 or (6), or 481.1211(b)(4), (5), or (6) is increased by five years
15 and the maximum fine for the offense is doubled if it is shown on the
16 trial of the offense that the offense was committed:

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

20 (2) on a school bus.

21 (d) An offense otherwise punishable under Section
22 481.112(b), 481.1121(b)(1), 481.113(b), 481.1132(b), 481.114(b),
23 481.115(b), 481.1151(b)(1), 481.116(b), 481.1161(b)(3),
24 481.120(b)(3), [~~or~~] 481.121(b)(3), or 481.1211(b)(3) is a felony of
25 the third degree if it is shown on the trial of the offense that the
26 offense was committed:

27 (1) in, on, or within 1,000 feet of any real property

1 that is owned, rented, or leased to a school or school board, the
2 premises of a public or private youth center, or a playground; or

3 (2) on a school bus.

4 (e) An offense otherwise punishable under Section
5 [481.117\(b\)](#), [481.119\(a\)](#), [481.120\(b\)\(2\)](#), [~~or~~] [481.121\(b\)\(2\)](#), or
6 [481.1211\(b\)\(2\)](#) is a state jail felony if it is shown on the trial of
7 the offense that the offense was committed:

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

11 (2) on a school bus.

12 (f) An offense otherwise punishable under Section
13 [481.118\(b\)](#), [481.119\(b\)](#), [481.120\(b\)\(1\)](#), [~~or~~] [481.121\(b\)\(1\)](#), or
14 [481.1211\(b\)\(1\)](#) is a Class A misdemeanor if it is shown on the trial
15 of the offense that the offense was committed:

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

19 (2) on a school bus.

20 SECTION 1.11. Section [481.140\(a\)](#), Health and Safety Code,
21 is amended to read as follows:

22 (a) If it is shown at the punishment phase of the trial of an
23 offense otherwise punishable as a state jail felony, felony of the
24 third degree, or felony of the second degree under Section [481.112](#),
25 [481.1121](#), [481.113](#), [481.1132](#), [481.114](#), [481.120](#), or [481.122](#) that the
26 defendant used or attempted to use a child younger than 18 years of
27 age to commit or assist in the commission of the offense, the

1 punishment is increased by one degree, unless the defendant used or
2 threatened to use force against the child or another to gain the
3 child's assistance, in which event the punishment for the offense
4 is a felony of the first degree.

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

7 (b) This section applies to an offense otherwise punishable
8 as a state jail felony, felony of the third degree, or felony of the
9 second degree under Section 481.112, 481.1121, 481.113, 481.1132,
10 481.114, or 481.122.

11 ARTICLE 2. CONFORMING AMENDMENTS

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

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

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

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

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

27 (1-a) Section 481.1161, Health and Safety Code, if the

1 offense is punishable under Subsection (b)(1) or (2) of that
2 section;

3 (1-b) Section 481.1211, Health and Safety Code, if the
4 offense is punishable under Subsection (b)(1) or (2) of that
5 section;

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

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

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

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

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

16 (7) Section 521.457, Transportation Code.

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

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

21 (1) an offense under Section 20.02, 21.08, 22.01,
22 22.05, 22.07, or 71.02, Penal Code;

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

26 (3) the unlawful possession of any of the weapons or
27 devices listed in Sections 46.01(1)-(14) or Section 46.01(16)

1 [~~16~~], Penal Code, or a weapon listed as a prohibited weapon under
2 Section 46.05, Penal Code.

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

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

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

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

14 (B) Chapter 483; or

15 (C) Section 485.032;

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

18 (A) Section 19.02;

19 (B) Section 19.03;

20 (C) Section 20.03;

21 (D) Section 20.04;

22 (E) Chapter 20A;

23 (F) Chapter 34, if the criminal activity giving

24 rise to the proceeds involves the commission of an offense under

25 Title 5, Penal Code, or an offense under federal law or the laws of

26 another state containing elements that are substantially similar to

27 the elements of an offense under Title 5;

- 1 (G) Section 38.11;
- 2 (H) Section 43.04;
- 3 (I) Section 43.05; or
- 4 (J) Section 43.26; or

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

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

9 (a) If a judge grants community supervision to a defendant
10 younger than 18 years of age convicted of an alcohol-related
11 offense under Section 106.02, 106.025, 106.04, 106.041, 106.05, or
12 106.07, Alcoholic Beverage Code, or Section 49.02, Penal Code, or
13 an offense involving possession of a controlled substance, ~~or~~
14 marihuana, or marihuana concentrate under Section 481.115,
15 481.1151, 481.116, 481.1161, 481.117, 481.118, ~~or~~ 481.121, or
16 481.1211, Health and Safety Code, the judge may require the
17 defendant as a condition of community supervision to attend, as
18 appropriate:

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

21 (2) a drug education program that is designed to
22 educate persons on the dangers of drug abuse and is approved by the
23 Department of State Health Services in accordance with Section
24 521.374, Transportation Code.

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

27 (a) Except as otherwise provided by Subsection (b) or (c),

1 on conviction of a state jail felony under Section 481.115(b),
2 481.1151(b)(1), 481.116(b), 481.1161(b)(3), 481.121(b)(3),
3 481.1211(b)(3), or 481.129(g)(1), Health and Safety Code, that is
4 punished under Section 12.35(a), Penal Code, the judge shall
5 suspend the imposition of the sentence and place the defendant on
6 community supervision.

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

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

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

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

16 (4) under Section 481.1211(b)(3), Health and Safety
17 Code, possessed more than 80 grams of marihuana concentrate.

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

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

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

25 (2) not less than 90 days or more than one year, if the
26 defendant is convicted of an offense punishable as a state jail
27 felony under Section 481.112, 481.1121, 481.113, 481.1132, or

1 481.120, Health and Safety Code.

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

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

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

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

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

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

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

21 (C) an alcoholic beverage, as defined by Section
22 1.04, Alcoholic Beverage Code.

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

25 (a) A student shall be removed from class and placed in a
26 disciplinary alternative education program as provided by Section
27 37.008 if the student:

1 (1) engages in conduct involving a public school that
2 contains the elements of the offense of false alarm or report under
3 Section 42.06, Penal Code, or terroristic threat under Section
4 22.07, Penal Code; or

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

9 (A) engages in conduct punishable as a felony;

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

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

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

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

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

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

27 (F) engages in conduct that contains the elements

1 of the offense of public lewdness under Section 21.07, Penal Code,
2 or indecent exposure under Section 21.08, Penal Code.

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

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

6 (1) engages in conduct involving a public school that
7 contains the elements of the offense of false alarm or report under
8 Section 42.06, Penal Code, or terroristic threat under Section
9 22.07, Penal Code;

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

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

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

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

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

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

26 (C) engages in conduct that contains the elements
27 of an offense under Section 22.01(a)(1), Penal Code, against a

1 school district employee or a volunteer as defined by Section
2 [22.053](#) of this code; or

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

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

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

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

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

18 (5) engages in conduct that contains the elements of
19 the offense of breach of computer security under Section [33.02](#),
20 Penal Code, if:

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

24 (B) the student knowingly:

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

27 (ii) commits a breach of any other

1 computer, computer network, or computer system.

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

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

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

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

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

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

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

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

27 (7) conduct that may constitute a criminal offense for

1 which a student may be expelled under Section 37.007(a), (d), or
2 (e).

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

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

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

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

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

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

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

25 (h-1) If the child is alleged to have engaged in delinquent
26 conduct or conduct indicating a need for supervision that violates
27 Section 481.115, 481.1151, 481.116, 481.1161, 481.117, 481.118,

1 [~~or~~] [481.121](#), or 481.1211, Health and Safety Code, deferred
2 prosecution under this section may include a condition that the
3 child attend a drug education program that is designed to educate
4 persons on the dangers of drug abuse and is approved by the
5 Department of State Health Services in accordance with Section
6 [521.374](#), Transportation Code.

7 SECTION 2.14. Section [54.047](#)(a), Family Code, is amended to
8 read as follows:

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

18 SECTION 2.15. Section [76.017](#)(b), Government Code, is
19 amended to read as follows:

20 (b) The program must:

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

26 (2) include automatic screening and evaluation of a
27 person arrested for an offense, other than a Class C misdemeanor, in

1 which the use of alcohol or drugs is suspected to have significantly
2 contributed to the offense for which the individual has been
3 arrested;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (4) family dependency drug treatment courts for family

1 members involved in a suit affecting the parent-child relationship
2 in which a parent's use of alcohol or a controlled substance is a
3 primary consideration in the outcome of the suit; or

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

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

9 (a) This section applies only to a person:

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

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

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

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

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

21 (D) Section 43.02, Penal Code; or

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

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

27 SECTION 2.18. Section 31.0031(d), Human Resources Code, is

1 amended to read as follows:

2 (d) The responsibility agreement shall require that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (2) mental illness that results from the use of a

1 controlled substance, marihuana, or marihuana concentrate in
2 violation of law.

3 ARTICLE 3. TRANSITION PROVISION; EFFECTIVE DATE

4 SECTION 3.01. The change in law made by this Act applies
5 only to an offense committed on or after the effective date of this
6 Act. An offense committed before the effective date of this Act is
7 governed by the law in effect on the date the offense was committed,
8 and the former law is continued in effect for that purpose. For
9 purposes of this section, an offense was committed before the
10 effective date of this Act if any element of the offense occurred
11 before that date.

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