

By: Bell of Kaufman, Wray, Perez, Murr,
Pacheco

H.B. No. 1261

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

By: Murr

C.S.H.B. No. 1261

A BILL TO BE ENTITLED

1 AN ACT

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

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

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

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

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

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

21 [~~(3) the person injected, ingested, inhaled, or~~
22 ~~otherwise introduced a controlled substance listed in Penalty Group~~
23 ~~1, Section 481.102, Health and Safety Code, into the human body when~~
24 ~~the person was not in lawful possession of the substance as defined~~

1 ~~by Section 481.002(24) of that code].~~

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

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

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

10 (3) the actor:

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

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

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

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

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