By: Metcalf

H.B. No. 1498

A BILL TO BE ENTITLED

1   AN ACT

2 relating to the prosecution of the offense of continuous sexual

3 abuse of a young child or children.

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

5   SECTION 1. Sections 21.02(b), (c), and (e), Penal Code, are

6 amended to read as follows:

7   (b) A person commits an offense if:

8   (1) during a period that is 30 or more days in duration

9 and regardless of whether the acts are committed against one or more

10 victims, the person commits two or more acts of sexual abuse, at

11 least one of which occurs in this state [regardless of whether the

12 acts of sexual abuse are committed against one or more victims]; and

13   (2) at the time of the commission of each of the acts

14 of sexual abuse, the actor is 17 years of age or older and the victim

15 is a child younger than 14 years of age, regardless of whether the

16 actor knows the age of the victim at the time of the offense.

17   (c) For purposes of this section, "act of sexual abuse"

18 means any act that is a violation of:

19   (1) one or more of the following penal laws of this

20 state:

21   (A) [(1)] aggravated kidnapping under Section

22 20.04(a)(4), if the actor committed the offense with the intent to

23 violate or abuse the victim sexually;

24   (B) [(2)] indecency with a child under Section

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1   21.11(a)(1), if the actor committed the offense in a manner other

2   than by touching, including touching through clothing, the breast

3   of a child;

4   (C) [(3)] sexual assault under Section 22.011;

5   (D) [(4)] aggravated sexual assault under

6   Section 22.021;

7   (E) [(5)] burglary under Section 30.02, if the

8   offense is punishable under Subsection (d) of that section and the

9   actor committed the offense with the intent to commit an offense

10   listed in Paragraphs (A)-(D) [Subdivisions (1)-(4)];

11   (F) [(6)] sexual performance by a child under

12   Section 43.25;

13   (G) [(7)] trafficking of persons under Section

14   20A.02(a)(7) or (8); and

15   (H) [(8)] compelling prostitution under Section

16   43.05(a)(2); or

17   (2) a penal law of another state containing elements

18   that are substantially similar to the elements of an offense listed

19   in Subdivision (1).

20   (e) A defendant may not be convicted in the same criminal

21   action of an offense listed under Subsection (c)(1) [(c)] the

22   victim of which is the same victim as a victim of the offense

23   alleged under Subsection (b) unless the offense listed in

24   Subsection (c)(1) [(c)]:

25   (1) is charged in the alternative;

26   (2) occurred outside the period in which the offense

27   alleged under Subsection (b) was committed; or

1   (3)   is considered by the trier of fact to be a lesser

2   included offense of the offense alleged under Subsection (b).

3   SECTION 2.   The change in law made by this Act applies only

4   to an offense committed on or after the effective date of this Act.

5   An offense committed before the effective date of this Act is

6   governed by the law in effect on the date the offense was committed,

7   and the former law is continued in effect for that purpose.   For

8   purposes of this section, an offense was committed before the

9   effective date of this Act if any element of the offense was

10   committed before that date.

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